

## **Family Friendly Policy**

*This policy should be read alongside the 'Common Principles'.*

### **9.1. Purpose**

The policy advises staff of their entitlements to maternity, paternity, adoption, shared parental and parental leave and pay. This guide is for information only and is not a complete or authoritative statement of the law. This document provides information about statutory rights and provide information about additional benefits the Academy Trust provides in addition to its statutory obligations.

### **9.2. Scope**

This document outlines all the leave arrangements and pay for the following:

- Maternity Leave;
- Adoption Leave (incorporating surrogacy arrangements and overseas adoptions);
- Paternity Leave;
- Shared Parental Leave ;
- Parental Leave (Unpaid);
- Dependency Leave / Time off for Family and Dependents.

### **Related Policies**

Leave of Absence Policy: The Leave of Absence Policy provides further guidance on a wide range of time off entitlements for leave not covered under this policy i.e. Carers' leave;

Compassionate leave; Court / tribunal attendance; Elections; Fertility treatment; Graduation ceremonies; House removal; Jury service; Public duties; Recruitment and selection; Religious leave.

Flexible Working Policy: The Flexible Working Policy outlines the circumstances and process by which staff may apply for flexible working arrangements.

### **9.3. Maternity Leave**

*Note: The maternity entitlements for teaching staff and support staff differ in accordance with their respective terms and conditions. The initial section incorporates aspects that cover all employees. Towards the end of the section, aspects will be grouped in accordance with teacher- specific terms and support staff specific terms accordingly.*

## **Maternity Leave – All Staff**

All employees are entitled to 26 weeks' **Ordinary Maternity Leave** followed by 26 weeks' **Additional Maternity Leave**, giving a total of 52 weeks' continuous leave. From April 2015, employees are entitled to curtail their maternity leave and take **Shared Parental Leave** with their partner or the father of the child. Historically, this applies to any employee whose due date was on or after 5 April 2015. See more details under the Adoption Leave section.

**Maternity Leave** will begin no earlier than 11 weeks before the expected week of childbirth (EWC), or from the day following childbirth if that is earlier.

Payments for employees who have less than one year's continuous local government service at the beginning of the 11th week before EWC shall be the employee's entitlement to Statutory Maternity Pay (**SMP**) where eligible.

Employees who have completed not less than one year's continuous service will receive enhanced maternity payments.

Ordinary Maternity Leave, Additional Maternity Leave and Shared Parental Leave will be regarded as continuous service.

## **Compulsory Leave**

An employee may choose not to take the full 52 weeks leave, but is required to take 2 weeks' maternity leave following childbirth. Eligible employees may also choose not to take the full 52 weeks and opt for **Shared Parental Leave**.

## **Maternity Pay Entitlement**

### Statutory Maternity Pay (SMP)

Employees meeting the criteria below will receive **SMP**, paid by the Academy Trust. Employees who do not meet these criteria may be eligible to claim Maternity Allowance, which is a state benefit and not paid through the Academy Trust's payroll.

An employee who:

- has at least 26 weeks continuous service with the one or more local authorities (or an organisation that is part of the Local Government Modification Order) continuing into the 15th week before the expected week of childbirth. The 15th week is known as the qualifying week;
- has average earnings above the National Insurance (NI) lower earnings limit, during the eight weeks or two months (depending on whether paid weekly or monthly) up to and including the qualifying week;

- is still pregnant in the 11th week before the week her baby is due or who has given birth by this time;
- gives 28 days' notice (to the line manager) of the expected date for the start of SMP. If this is not reasonably practicable, the notice must be given as soon as reasonably practicable. The notice must be in writing if the line manager requests it;
- gives the School the medical evidence (usually a **Form MAT B1**) showing the expected week of childbirth. This medical evidence must be given to the School by the end of the third week of the maternity pay period, although the time limit can be extended if there is good reason for the delay to the end of the thirteenth week of the maternity pay period.

The Academy Trust cannot start paying **SMP** until it has the certificate and the employee has stopped working.

All employees who satisfy these conditions qualify for **SMP**, even if they do not intend to return to work after the baby is born. The only exception is an employee who resigns voluntarily from her job for a reason unconnected with her pregnancy after the start of the qualifying week, but before **Maternity Leave** starts.

#### Payment of SMP

**SMP** cannot start earlier than the 11th week before the expected week of childbirth, unless the baby is born before the 11th week, but a woman has some flexibility as to exactly when it does start.

A woman will not lose any week of **SMP** even if she works up to the date her baby is born, provided her **SMP** period has not started. The latest date the maternity pay period can start is the week immediately following the week in which she gave birth.

A woman who is absent due to a pregnancy related reason (or childbirth) from the fourth week before the expected week of childbirth will be transferred into her **SMP** period and will not be able to get Statutory Sick Pay (**SSP**). Her **SMP** period will start on the day after the first day of that absence because it triggers the start of her maternity leave.

- **Premature births** – if a woman's baby is born before she has notified the School of when she is starting her maternity pay period, or before the notified date, her 26 week maternity pay period will begin the day following the date the childbirth actually occurred.
- **Stillbirths** – **SMP** is paid to a woman who gives birth to a stillborn child after 24 weeks of pregnancy (i.e. from week 16 before the expected week of childbirth).
- **Babies who die shortly after birth** – if a woman's baby survives only for an instant it is always treated as a live birth, and **SMP** is payable.

- **Miscarriages** – if a woman suffers a miscarriage before the 24th week of pregnancy, **SMP** is not payable. A woman in this situation should receive any relevant sick pay entitlement.

No SSP can be paid to a woman during her maternity pay period (i.e. the 39 week period within which she may be eligible to receive SMP), even if she is not in receipt of **SMP**. Where occupational sick pay is payable she should receive this in the ordinary way. **SMP** can be offset against occupational sick pay.

### Occupational Maternity Pay

See teacher/support staff specific related sections for Occupational Maternity Pay entitlements

### **Annual Leave**

See teacher/support staff specific related sections for annual leave entitlements

An employee will accrue annual leave throughout the whole period of their maternity, adoption, paternity leave or Shared Parental.

Where possible and in line with business needs it is advised that employees should take any outstanding annual leave before they go on maternity/adoption/paternity leave.

However, it is recommended that the annual leave that has been accrued during the maternity/adoption/paternity leave period should be taken in one block at the end of the maternity/adoption/paternity leave, before the employee returns to work.

If the employee does not return to work following maternity/adoption/paternity/shared parental leave, payment for any outstanding annual leave will be made.

### **Health and Wellbeing**

#### Ante-natal care

Employees are entitled to be given paid time off to attend ante-natal care, provided in respect of the second and subsequent appointments, she produces evidence of the appointment, if requested to do so by the line manager/headteacher.

#### Health and Safety

The Academy Trust will provide suitable facilities for pregnant women and nursing mothers to rest/express milk, accommodating the need for the expectant/nursing mother's privacy wherever possible. The Academy Trust will also carry out suitable and sufficient risk assessments of the health and safety at work of new and expectant mothers and their babies, and women of childbearing age where the work may involve risk to the woman or to the baby (see Appendix 1 for New and Expectant Mother Risk Assessment).

Where risk cannot be managed or avoided, the School will alter the employee's working conditions or hours of work, if it is reasonable to do so, to ensure the employee can continue to work in a safe environment.

A pregnant employee has the right to:

- request alternative work for the duration of her pregnancy where the working conditions are, or become, hazardous to her health. In such cases, she will be expected to return to her normal duties at the completion of the pregnancy and/or her return from **Maternity Leave**;
- to paid leave (medical suspension), where work related risks or hazards cannot be avoided or managed to safeguard the employee.

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

**KIT** days are intended to facilitate a smooth return to work for women returning from **Maternity Leave**. Before going on leave, line managers should discuss and agree with the employee any voluntary arrangements for **KIT** during the employee's **Maternity Leave**. Up to ten days may be agreed for which payment will be made for the actual hours worked. Payment will not affect **SMP**.

### **Pension**

See teacher/support staff specific related sections for pension information.

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

Employees are entitled to return to their job with the Academy Trust at the end of **Maternity Leave**. Where selection for redundancy makes it impractical for the Academy Trust to allow a woman to return to her job, the employee is entitled to be offered a suitable alternative vacancy, provided one is available.

An employee loses her right to return if and when her contract of employment with the Academy Trust ends. An employee who has indicated she does not intend to work at the end

of her **Maternity Leave** is still entitled to return to her original job in the absence of her giving clear notice of resignation.

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

An employee must notify the Academy Trust in writing, if requested, at least 21 days before the day on which she proposes to return, if this is before the end of the **Maternity Leave** period. Where the notice given is less than 21 days the Academy Trust may postpone the return to ensure 21 days' notice, but not beyond the end of the **Maternity Leave** period.

**If an employee changes her mind about the day she proposes to return**, she must give her line manager/headteacher eight weeks notice of the new date.

Where an employee does not return to work at the end of her **Maternity Leave** period, she will be treated like any other employee who does not return after authorised leave.

If, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect the employee to return on the due date, she may return when work resumes, or as soon as reasonably practicable thereafter.

The employee will be able to exercise their statutory right to apply for flexible working. Where an employee wishes to exercise this right, they should approach their Manager / Headteacher in good time and certainly no later than 3 months before their return to work so the request can be reasonably considered in line with the needs of the Academy Trust.

### **Sickness Leave**

**Maternity Leave** will not be treated as sick leave and will not be taken into account when calculating the period of entitlement to sickness leave.

### **A week's pay**

The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the School to the employee under the current contract of employment for working her normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

### **Role and Responsibilities**

#### Employees

An employee must notify her Manager / Headteacher at least 28 days before her absence begins or as soon as is reasonably practicable:

- that she is pregnant;
- of the expected week of childbirth;
- of the date of the beginning of her absence.
- If she plans to take Shared Parental Leave.

The employee has the right to change her mind about when her **Maternity Leave** starts, provided she gives notice at least 28 days before the date originally notified or before the new start date, whichever is the earlier. Where this is not reasonably practicable, notice of the start date must be given as soon as possible. Where an employee wishes to take Shared Parental Leave, 52 days notice must be given. See Shared Parental Leave below.

**If childbirth occurs before the planned date of absence, Maternity Leave** will begin on the day after the date of the birth. The employee must notify her line manager in writing of the date of childbirth and produce a certificate from a registered medical practitioner or a registered midwife.

The employee must remain absent from work if certified medically unfit to do so and produce evidence of ante-natal appointments, if requested.

The recognised trade unions have agreed that, wherever possible, employees should give more notice than set out in the NJC conditions of service in order to help the Academy Trust arrange temporary cover for **Maternity Leave**, and to give adequate notice to temporary staff.

#### *The Intended Start Date of Maternity Leave*

The maternity leave period normally starts on the date which the employee has notified to her headteacher as the date she intends it to start or, if she has changed this date, the most recent date notified. There are however some exceptions to this rule, which are described below. It may however start on a different day if the baby is born early before the date she has notified or before she has notified.

#### *Change of Leave Dates*

Once the employee has notified the headteacher of the date she wishes to start her ordinary maternity leave, she can change this date as long as she notifies the headteacher of the new start date by whichever is the earlier of:

- 28 days before the date she originally intended to start her leave OR
- 28 days before the new date she wants to start her leave;

unless it is not reasonably practicable to do so, in which case she must notify her employer as soon as is reasonably practicable. The notification should be in writing if the headteacher requests it.

#### *Absence due to Childbirth before the Intended Start Date*

If childbirth occurs before the date the employee has notified as the date she wants SMP to begin (or before she has notified any date) the employee must give her Headteacher written notice stating the date the baby was born and that this is the reason for her absence. "Childbirth" means the birth of a living child or the birth of a child whether living or stillborn after 24 weeks of pregnancy. The notice must be given within 28 days of the birth or, if that is not practicable, as soon as reasonably practicable.

#### Headteachers / Managers

Headteachers/ Managers are responsible for informing pregnant women of their maternity rights. Within 28 days of receipt of initial notification, Managers must write to the employee informing her of the last day of **Maternity Leave** and the expected date of return.

Headteachers / Managers must, on the production of evidence of appointments, allow employees reasonable paid off-time to attend ante-natal clinics, and to take **Maternity Leave, Shared Parental Leave** and the pay to which they are entitled.

If an employee intends to return to work earlier than the due date, and fails to give 21 days' written notice of early return, the line manager may postpone the return date to ensure the 21 days' notice. This postponement may not be extended beyond the due date.

Where a Headteacher / Manager has received notice of the start date of **Maternity Leave and/or Shared Parental Leave**, they must write to the employee within 28 days of receiving the notice stating her expected date of return from **Maternity/SP Leave** if she takes her full entitlement to **Maternity Leave**. Where the employee has exercised her right to change her mind about when she wants to start her leave, the Manager / Headteacher must write to the employee within 28 days of the start of the **Maternity Leave**.

The Manager must inform their payroll of the expected maternity start or return dates and any Shared Parental Leave dates, in order for the correct pay to be processed.

#### **Maternity Leave - Teacher Specific**

##### Continuous service

For teachers, continuous service for Occupational Maternity/Adoption Pay is defined as including employment with one or more local authorities or organisations that are part of the

local government modification order (but not with any other public sector organisation), where there has not been a break in employment. Therefore, previous service with a local authority school or local authority will count for the purposes of Occupational Maternity/Adoption Pay. This is in line with the provisions of the Burgundy Book. The Academy Trust will also recognise service from any other academy school for this purpose so long as there has not been a break in employment.

### Occupational Maternity Pay for Teachers with Not Less than One Year's Service

#### *Employees Who Intend to Return to Work*

Occupational Maternity pay is payable to a teacher provided that she has completed the maternity leave form confirming her return.

Under these circumstances, she is entitled to:

- For the first 4 weeks of absence, full pay, inclusive of Statutory Maternity Pay;
- For the next 2 weeks of absence, 90% of a week's salary, inclusive of Statutory Maternity Pay;
- For the next 12 weeks, half pay plus Statutory Maternity Pay;
- For the next 21 weeks, Statutory Maternity Pay (or up to the point where the Teacher returns to work if the return is sooner than 21 weeks);
- The above payments will also apply to employees who chose to take Shared Parental Leave, who have not less than one year's service and intend to return to work.

Employees who do not return to work for a minimum of 13 weeks immediately following maternity leave will be required to repay the 12 weeks half-pay. Payments made to the employee by way of **SMP** are not refundable.

#### *Teachers who do not intend to return to work*

A teacher who confirms that she does not intend to return to work as defined above, or who is undecided, is entitled to:

- Six weeks' at 9/10 of the average weekly earnings in the eight weeks preceding the end of the 15th week before the week the baby is due. This is inclusive of **SMP** where eligible;
- 33 weeks' **SMP** at the lower rate where eligible.
- The above rates will also be applicable to those employees who meet the same criteria but wish to take Shared Parental Leave.

If the employee decides to return to work, the following criteria must be met to receive the enhanced maternity payments:

- Return to work must be immediately after the end of the maternity leave;
- Return must be for a period of at least 13 weeks.

At the end of the qualifying period payment of the difference between the maternity pay the employee has already received, and the maternity pay as outlined above for employees who confirmed their intention to return to work, will be made.

### Teachers not returning to work

#### *Repayment of Occupational Maternity Pay*

Repayment of Occupational Maternity Pay paid under the Burgundy Book scheme for the seventh to eighteenth week of maternity leave will be required if the employee does not return to work with the School in the job in which she was employed before her absence for a minimum period. The minimum period is as follows:-

- 13 weeks on a full-time basis where the teacher was employed before her absence on a full-time basis or
- 13 weeks on a part-time basis where the teacher was employed before her absence on the same part-time basis
- where the teacher was employed before her absence on a full-time basis and returns to work with the agreement of the headteacher on a part-time basis, a period of such part-
- time service that equates to 13 weeks' of full-time service. For example, the minimum period will be 26 weeks if the teacher returns to work on a 50% Job-Share basis.
- where the teacher was employed before her absence on a part-time basis and returns to work with the agreement of the headteacher on a different part-time basis, a period of such part-time service that equates to 13 weeks' service on the basis on which the teacher was employed before her absence. For example, the minimum period will be 26 weeks if a teacher who worked before her absence 4 days a week returns to work on a 2 day a week basis.

The minimum period will start immediately after the expiry of the teacher's maternity leave except where the teacher's maternity leave expires during a period of school closure. In that case the minimum period will start on the first day the school is open following that period of closure or on the date on which the teacher is declared medically fit to be available to work, whichever is the earlier date. Once it has started the minimum period will include periods of school closure.

Teachers will not have to repay the Statutory Maternity Pay received or the first 6 weeks' Occupational Maternity Pay. If the Teacher should transfer to another school at any time during the minimum period there is no requirement to repay the monies received.

Headteachers have the discretion to decide the amount of repayment required if the necessary period of return to employment is not completed.

### Teachers Obligations

Advise her Headteacher by the end of the 15th week before the EWC, or at a later date if there is good cause for delay, that she is pregnant and of the expected week of childbirth.

The teacher must notify her Headteacher in writing of the date of the beginning of the maternity leave and produce a certificate from a registered medical practitioner or a registered midwife (form MAT B1) stating the expected week of childbirth. (The earliest this is available is the 14th week before the expected week of childbirth).

### Annual Leave

Teachers accrue statutory annual leave during periods of maternity leave. The annual leave will be offset against any period of school closure that has taken place in the leave year in question, which is, both before and after the maternity, adoption, paternity or shared parental leave period.

In the exceptional circumstance where there are insufficient school closures to accommodate the employee's leave in that leave year, the employee will be allowed to take any outstanding leave during the school closure(s) of the following leave year.

If the return from maternity/adoption/paternity/Shared Parental Leave is so close to the end of the leave year that there is not enough school closures and term time for the employee to take all her annual leave entitlement, an employee will be allowed to carry over any balance of her leave to the following leave year. A teacher will then be required to take this leave during the remaining periods of school closure after the annual leave for that leave year has been accommodated.

If the employee does not return to work following maternity/adoption/paternity leave, payment for any outstanding statutory annual leave will be made.

### Contact during Maternity Leave

During the maternity leave period, a Headteacher may make reasonable contact with a teacher, and in the same way a teacher may make contact with the Headteacher. The frequency and nature of the contact will however depend on a number of factors, such as:

- the nature of the work and the teacher's responsibility/post
- any agreement that the Headteacher and teacher have reached before maternity leave began regarding contact

- whether either party needs to communicate important information to the other, such as news of changes at the workplace that might affect the teacher on her return.

It is important to note that the method of contact (e.g. email, telephone, letters, visits to the teacher), the frequency of contact (e.g. once a month, once every three months) and reasons for contact (e.g. new initiatives by the government) should be discussed and agreed prior to the start of maternity leave.

It is equally important to note that in any event, the teacher has to be kept informed of promotion opportunities, reorganisations, redundancy situations, potentially suitable vacancies if her job is being made redundant and other information relating to her job that she would normally be made aware of if she was working.

### Protection against Detriment or Dismissal

Work during maternity leave may only be undertaken by agreement between both the Headteacher and teacher. A Headteacher may not require a teacher to work during maternity leave if she does not wish to, nor does an employee have the right to work Keeping in Touch Days if the Headteacher does not agree to them.

If a Headteacher offers an employee the opportunity to work a Keeping in Touch Day, she is entitled to turn the opportunity down without suffering any consequences as a result. It is unlawful for a teacher to suffer detriment for not agreeing to work Keeping in Touch Days, or for working or considering such work. It is also unlawful to dismiss an employee for not agreeing to work a Keeping in Touch Day, or for working or considering such work.

### Pension

If a member of the Teacher's Pension Scheme begins a period of unpaid maternity/adoption leave, this period will not count towards their length of service for pension purposes (as the employee ceases to be a member of the pension scheme for that period). If the break in service is for more than five years, it can have an impact on the retirement benefit, and how further calculations will be done with regards to the pension contributions.

Members of the Teacher's Pension Scheme do not have the option of paying contributions during unpaid periods of leave. Teachers can however purchase additional pension. Further information is on the Teacher's Pension website.

## **Maternity Leave - Support Staff Specific**

### Occupational Maternity Pay for Support Staff with Not Less than One Year's Service

#### *Support Staff Who Intend to Return to Work*

Occupational Maternity pay is payable to an employee provided that she has completed the maternity leave form confirming her return.

Under these circumstances, she is entitled to:

- For the first **six weeks of absence**: 9/10 of the average weekly earnings in the eight weeks preceding the end of the 15th week before the week the baby is due. This is inclusive of **SMP**
- where eligible; or 9/10th SMP whichever is higher.
- For the next **12 weeks of absence**: half contractual pay plus **SMP** where eligible, except where combined pay and **SMP** exceeds full pay
- After the first 18 weeks SMP only will be paid up to the 39th week or whenever the employee decides to return to work, whichever is the earliest.
- The above payments will also apply to employees who chose to take Shared Parental Leave, who have not less than one year's service and intend to return to work.

Employees who do not return to work for a minimum of three months immediately following maternity leave will be required to repay the 12 weeks half-pay. Payments made to the employee by way of **SMP** are not refundable.

#### *Support Staff who do not intend to return to work*

An employee who confirms that she does not intend to return to work as defined above, or who is undecided, is entitled to:

- Six weeks' at 9/10 of the average weekly earnings in the eight weeks preceding the end of the 15th week before the week the baby is due. This is inclusive of **SMP** where eligible;
- 33 weeks' **SMP** at the lower rate where eligible;
- The above rates will also be applicable to those employees who meet the same criteria but wish to take Shared Parental Leave.

If the employee decides to return to work, the following criteria must be met to receive the enhanced maternity payments:

- Return to work must be immediately after the end of the maternity leave;
- Return must be for a period of at least 13 weeks.

At the end of the qualifying period payment of the difference between the maternity pay the employee has already received, and the maternity pay as outlined above for employees who confirmed their intention to return to work, will be made.

#### Annual Leave

Annual Leave will accrue during the whole period of maternity leave and should be taken within the leave year. **Annual Leave** of up to 5 days may be carried forward to the next year.

In exceptional circumstances, following prior agreement from the Headteacher, additional leave may be carried forward.

### Pension

During any period of paid **Maternity Leave** or additional paid **Maternity Leave** (including any period during which only **SMP** is payable) a member of the Local Government Pension Scheme (LGPS) must pay pension contributions on the pay actually received. The period of service will count as normal for pension purposes i.e. as if the employee had been at work.

Equally during any period of unpaid **Additional Maternity Leave** the unpaid period will not count for pension purposes unless the employee makes an election for it to count. Such an election will have to be made within the period of 30 days, starting with the date the employee returns to work or ceases to be employed (if earlier). If the election is made the employee will have to pay pension contributions for the unpaid period based on the pay they were entitled to receive on the day before the unpaid period began.

## **9.4. Adoption Leave**

Eligible employees who adopt a child from 5 April 2015 onwards are entitled to 26 weeks' **Ordinary Adoption Leave** as well as any entitlements from Shared Parental Leave. The maximum adoption leave entitlement is 52 weeks, consisting of 26 weeks' Ordinary Adoption Leave (OAL) and 26 weeks' Additional Adoption Leave (AAL).

Main adopters are also entitled to paid leave to cover up to five adoption appointments before the final placement. Secondary adopters are entitled to paid leave to cover up to two pre-adoption appointments before the final placement.

Adoption leave may be available if you are adopting through an overseas adoption agency. Please contact the Academy Trust's HR Adviser for information on eligibility and process.

Where an employee intends to adopt a child through surrogacy arrangements, they may be eligible for adoption leave and pay, particularly where they intend to apply for a Parental Order. This will make them the legal parent of the child that they are having with the help of a surrogate mother. The application for a Parental Order must be made within the 6 months of the child's birth. Further information on Surrogacy and adoption can be found at [www.gov.uk](http://www.gov.uk).

### **Eligibility**

To qualify for Statutory Adoption Leave, you must:

- be an employee

- give the correct notice
- give proof of the adoption to your line manager/headteacher

From April 2015, Statutory Adoption Leave legally became a 'day one' right, and employees do not need to have worked for the Local Authority (Local Government Modification Order Employer) for 26 continuous weeks before being eligible (although this is still a requirement for Statutory Adoption Pay). This applies to any adoption placement which began on or after 5 April 2015.

The leave period may commence up to 14 days before the expected date of placement; on the placement date; or one day later if working on the placement date.

Adoption leave applies to one member of a couple, where a couple adopt jointly (the couple must choose which partner is the 'main adopter' and if/how they wish to distribute their Shared Parental Leave). If your spouse or partner takes adoption leave with their employer you will not be entitled to adoption leave but you may be entitled to paternity leave (see our Paternity Leave Policy) and/or shared parental leave (see our Shared Parental Leave (Adoption) Policy).

The right for the parent who is not the primary adopter to take two weeks' ordinary paternity leave (OPL) will remain. However, additional paternity leave (APL) ceases to be available in respect of children who are placed for adoption on or after 5 April 2015. Unless parents qualify for and opt into the Shared Parental Leave scheme the only entitlement that the child's other parent will have will be two weeks' Ordinary Paternity Leave.

### **Statutory Adoption Pay (SAP)**

During **Adoption Leave** employees will be entitled to **SAP**, which will be paid for up to 39 weeks providing:

- they have average weekly earnings not less than the lower earnings limit for national insurance purposes;
- have been continuously employed for **a minimum of 26 weeks** ending with the week in which notification of the adoptive match occurs;
- provide evidence of the adoption.

For these purposes normal weekly earnings are calculated by reference to a period which ends on the nearest pay day before the first day of the week after the week in which the adopter is notified of having been matched with the child for adoption. The calculation period begins on the last pay day which is at least eight weeks prior to the end date.

For those who meet the eligibility criteria above, **SAP** commences on the day **Adoption Leave** begins and continues for 39 weeks, unless an employee returns to work sooner.

**Adoption Pay for Employees with not less than one year's service** Occupational Adoption Pay is payable to an employee with not less than one year's service who has confirmed that they intend to return to work after the birth of their child, provided that:

- they have completed the adoption leave form confirming their return;
- they provide evidence of the adoption.

Under these circumstances, the employee is entitled to:

Teachers:

- For the first 4 weeks of absence, full pay, inclusive of Statutory Adoption Pay (SAP);
- For the next 2 weeks of absence, 90% of a week's salary, inclusive of SAP;
- For the next 12 weeks of absence: half contractual pay plus SAP where eligible, except where combined pay and SAP exceeds full pay ;
- For the next 21 weeks, SAP (or up to the point where the Teacher returns to work if the return is sooner than 21 weeks).

Support Staff:

- For the first **six weeks of absence**: 9/10 of the average weekly earnings in the eight weeks preceding the end of the 15th week before the week the baby is adopted. This is inclusive
- of **SAP** where eligible;
- For the next **12 weeks of absence**: half contractual pay plus **SAP** where eligible, except where combined pay and **SAP** exceeds full pay
- After the first 18 weeks SAP will be paid up to 39 weeks or whenever the employee decides to return to work.

**Adoption Pay** is paid as normal salary would be, with NI, tax and pension deducted. All other terms and conditions remain the same.

For employees who choose to curtail their Adoption Leave in order to take Shared Parental Leave, they will be entitled to Shared Parental Pay which is equal to the rate of SAP and paid in the same way. For more details, see 6.3 below.

For employees who have average weekly earnings **below** the lower earnings limit for NI contributions, and do not qualify for **SAP**, additional support may be available through Housing Benefit, Council Tax Benefit or Tax Credits. For further advice employees should contact their Social Security office or Jobcentre Plus office.

## **Annual Leave**

(See relevant Maternity Leave section as it applies to annual leave in respect of teachers or support staff).

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

**KIT** days are intended to facilitate a smooth return to work from **Adoption Leave**. Before going on leave, line managers should discuss and agree with the employee any voluntary arrangements for **KIT** during the employee's **Adoption Leave**. Up to ten days may be agreed for which payment will be made for the actual hours worked. Payment will not affect **SAP**.

See comments under Maternity KIT for Teachers.

## **Pension**

(See relevant Maternity Leave section as it applies to pension information for teachers or support staff).

## **Returning to Work**

If an employee does not specify when they intend to return to work, the Academy Trust will assume they are taking 52 weeks' leave. An employee is required to give eight weeks' notice if they wish to change the date of their return to work.

An employee has the right, where possible, to return to the same job providing it is practical to do so. If not, an employee may be offered suitable alternative employment (**subject to availability of a suitable post**) and will be consulted in line with Academy Trust policy and procedure. Reasons why an employee may not be able to return to their original job would include reorganisation for business reasons leading to redundancy.

An employee loses the right to return if and when the contract of employment with the Academy trust ends. An employee who has indicated they do not intend to work at the end of **Adoption Leave** is still entitled to return to their original job in the absence of giving clear notice of resignation.

## **A week's pay**

The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the Academy Trust to the employee under the current contract of employment for working her normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

## **Role and Responsibilities**

## Employees

**Adoption Leave** requests should be submitted to the Manager at least 28 days before the chosen date for the start of the leave, or as soon as practical afterwards. Any changes in the starting date for the leave or **SAP** should be notified as soon as possible and at least 28 days in advance where practical.

To access **SAP**, employees must provide evidence of the adoption.

Employees should specify when they intend to return to work, or the Academy Trust will assume they are taking the full 52 weeks leave allowance.

## Headteachers / Managers

Managers are responsible for informing adoptive parents of their adoption leave and SPL rights. Within 28 days of receipt of initial notification, Managers must write to the employee informing them of the last day of **Adoption Leave/SPL** and the expected date of return.

Where a Headteacher / Manager has received notice of the start date of **Adoption Leave**, they must write to the employee within 28 days of receiving the notice stating their expected date of return from **Adoption Leave** if the employee takes their full entitlement to **Adoption Leave**. Where the employee has exercised their right to change their mind about when they want to start their leave, the Manager must write to the employee within 28 days of the start of the **Adoption Leave**.

The Headteacher / Manager must inform their payroll of the expected **Adoption Leave** start date, in order for the **SAP** pay to be processed.

Before leave begins, Headteachers / Managers should discuss and agree with the employee any voluntary arrangements for **KIT** days during the employee's **Adoption Leave**.

## **Adoptions from Overseas**

To qualify for adoption leave and/or pay, an employee (overseas adopter) must:

- Tell their headteacher/line manager the date of the official notification and the estimated date that the child will arrive in Great Britain. This must be done within 28 days of receipt of the official notification.
- Tell their headteacher/line manager the actual date the child arrives in Great Britain within 28 days of this date.
- Give their headteacher/line manager at least 28 days' notice of when they want to start their adoption leave and pay (leave and pay can only be taken from when the child enters Great Britain).

To qualify for adoption leave the employee must also give their Headteacher / Manager proof of the adoption if the employer asks for this.

Where notice of entitlement to adoption leave is given on or after 5 April 2015 there is no qualifying period of service (i.e. adoption leave is a 'day one right' where the employee has given the correct notice).

#### When an overseas adopter qualifies for statutory adoption pay

An employee will be entitled to statutory adoption pay if they have:

- 26 weeks continuous employment with the same employer at the 'qualifying week'.
- Earned, on average, at least the lower earnings level in the 8 weeks leading up to the date of the official notification (see [www.gov.uk](http://www.gov.uk) for the lower earnings level).
- Notified their employer that they are entitled to statutory adoption pay and when this is to begin
- Stopped working for the employer.
- Has elected to receive statutory adoption pay.

To qualify for statutory adoption pay the employee must have worked continuously for their employer for at least 26 weeks by the time they receive the official notification and have earned at least the lower earnings level in the 8 weeks leading up to the date of the official notification.

#### When an overseas adopter can start their adoption leave

An employee can start their adoption leave from up to 2 weeks before the date that the child joins the family but they cannot start their adoption leave until the child is in the United Kingdom.

The employee may be entitled to take other types of leave, e.g. annual leave, before starting their adoption leave. They may also be eligible for other types of leave, e.g. annual leave or shared parental leave after they have finished their adoption leave - but they must take at least 2 weeks of adoption leave before starting any shared parental leave.

### **9.5. Paternity Leave**

To be entitled to statutory **Paternity Leave** and pay an employee must have, or expect to have, responsibility for the child's upbringing. They must also have average weekly earnings of at least the lower earnings limit for National Insurance purposes and have been continuously employed for a minimum of 26 weeks either:

- by the end of the fifteenth week before the child's expected week of birth, or

- by the end of the week in which the child's adopter is notified of having been matched with the child for adoption.

In order to be entitled to Statutory Paternity Pay (**SPP**), the employee should be one or more of the following:

- Father of the child
- Spouse of the child's mother
- Civil partner of the child's mother
- Partner of the child's mother/partner of child's adopter
- One of a couple jointly adopting a child.

Male and female employees may qualify for Statutory Paternity Leave or Pay if they meet the eligibility criteria above. Leave should be taken to support the mother/main adopter and/or child during the first 56 days following the birth/placement.

### **Paternity Leave and Pay**

An employee can take one week or two weeks' consecutive paternity leave, but not odd days. During this time, the employee may also be eligible for Statutory Paternity Pay (SPP) or 90% of their average weekly earnings, whichever is lesser. Employees should give their Manager 15 weeks' notice of their intention to take **Paternity Leave**, which must begin in the first 8 weeks after the birth and be taken within the first 12 weeks after the birth.

Employees still qualify for Paternity Leave and pay if the baby is either:

- stillborn from 24 weeks of pregnancy
- born alive at any point in the pregnancy but later dies

### Shared Parental Leave

For babies born or adopted on or after 5 April 2015, fathers or spouses/civil partners of the mother of the child are no longer entitled to Additional Parental Leave, but may instead be eligible for Shared Parental Leave (and Pay). For more details, see Shared Parental Leave below.

### **Annual Leave**

(See relevant Maternity Leave section as it applies to annual leave for teachers or support staff).

### **Pension**

(See relevant Maternity Leave section as it applies to pension information for teachers or support staff).

### **A week's pay**

The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the Academy Trust to the employee under the current contract of employment for working her normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

### **Roles and Responsibilities**

#### Employees

Employees should give 15 weeks' notice of their intention to take **Paternity Leave** and should include:

- The date the baby is expected
- The date the leave will commence
- Indicate if it is the intention to take the leave as consecutive weeks.

Employees should adhere to the Academy Trust's rules regarding giving notice of intention to return to work.

#### Headteachers / Managers

Headteachers / Managers are responsible for informing applicants of their paternity rights. Within 8 days of receipt of initial notification, Managers must write to the employee informing them of their last day of **Paternity Leave** and the expected date of return.

The Headteacher / Manager must inform their payroll of the expected **Paternity Leave** start date, in order for the paternity pay to be processed.

### **9.6. Shared Parental Leave**

The Shared Parental Leave Regulations 2014 allow any employee whose baby's due date or adoption placement date is on or after 5 April 2015 to take **Shared Parental Leave** with their partner. Shared Parental Leave replaces Additional Paternity Leave. Eligible mothers, fathers, adopters and their partners can choose to be on leave concurrently and/or to take it in turns to have periods of parental leave, up to a maximum of 52 weeks. This includes the two obligatory weeks a mother must take immediately following the birth of her baby.

## Eligibility

To qualify, the mother or adopter must be entitled to, and have given notice to curtail their, maternity or adoption entitlements and must share the main responsibility for caring for the child with the child's father or their partner. For a parent to be eligible to take Shared Parental Leave they must be an employee and they must pass the continuity of employment test. In turn, the other parent in the family must meet the employment and earnings test, even if they are not a School employee.

- Continuity of employment test: the person must have worked for the Local Authority (Local Government Modification Order Employer) for at least 26 weeks at the end of the 15th week before the week in which the child is due (or at the week in which an adopter was notified of having been matched with a child or adoption) and still be employed in the first week that Shared Parental Leave is to be taken.
- Employment and earnings test: the person must have worked for at least 26 weeks in the
- 66 weeks leading up to the due date and have earned above the maternity allowance threshold of £30 week in 13 of the 66 weeks.
- For teachers continuity of employment: see information under Maternity section

If only one parent in a couple is entitled to Shared Parental Leave, they may use this to book their leave in separate blocks.

Employees who wish to use shared parental leave must decide when they will curtail their maternity/adoption leave and how they will divide their remaining entitlement between themselves and their partner.

They must then provide their manager with a notice of entitlement to take **Shared Parental Leave**. The notice must be given at least eight weeks before the start of a period of Shared Parental Leave and must include:

- their partner's name
- maternity/adoption leave start and end dates
- the total amount of Shared Parental Leave and Shared Parental Pay available and how much they and their partner intend to take
- that they're sharing childcare responsibility with their partner

It must also include a signed declaration from the partner stating:

- their name, address and National Insurance number
- that they satisfy the qualifying requirements for a School employee to take Shared Parental Leave and Shared Parental Pay
- that they agree to their partner/spouse/mother of child taking Shared Parental Leave and Shared Parental Pay.

The Academy Trust may request the employee to provide the following further information where necessary:

- 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);
- in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth);
- in the case of an adopted child, 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 **Shared Parental Leave** to start, the mother or adopter must do one of the following:

- end their maternity or adoption leave by returning to work
- give the Academy Trust 'binding notice' (a decision that can't normally be changed) of the date when they'll end their maternity or adoption leave
- end maternity pay or Maternity Allowance (if not entitled to maternity leave, e.g. agency workers)

A mother cannot return to work before the end of the compulsory 2 weeks of maternity leave following the birth.

Any notice booking **Shared Parental Leave** must be given at least eight weeks (56 days) before the leave is due to start. This is the case for both mothers/adopters and their partners.

Fathers and/or partners of mothers or adopters who are entitled to request **Shared Parental Leave** from the School and must also give at least 8 weeks (56 days) notice to the School.

### **Division of leave**

Each eligible parent is entitled to give up to three separate notices booking or varying leave. An employee may take shared leave as one continuous block, or as discontinuous leave blocks over the agreed shared leave time period.

The Academy Trust will not refuse any request for a continuous block of leave to be taken under the Shared Parental Leave arrangements. However, any requests for discontinuous leave will need to be assessed on a case-by-case basis in line with business need. The Headteacher has the right to refuse and ask the employee to take one continuous period of leave.

### **Shared Parental Pay (ShPP)**

Shared parental pay is paid at the same rate as statutory maternity pay, up to 39 weeks (or 37 for non-adopters, taking into account the two weeks leave a mother is obliged to take after birth). If a mother or main adopter take their leave in discontinuous blocks of leave, they will be entitled to the same rates of occupational maternity/adoption pay they would have been eligible for before the introduction of SPL. For example the first six weeks will be paid at 9/10 of full salary regardless of whether those weeks are taken consecutively or interspersed with periods where the employee returns to work.

If an employee who takes adoption leave is entitled to SAP (See section above for eligibility criteria) they are also entitled to ShPP at the same rates as SAP.

If an employee who takes paternity leave is entitled to SPP (see section above) they are also entitled to ShPP at the same rates.

### **Returning to Work**

Employees are entitled to return to their job with the Academy Trust at the end of Shared Parental Leave. Where redundancy makes it impractical for the Academy Trust to allow the employee to return to the same job the employee is entitled to be offered a suitable alternative vacancy where one exists.

An employee loses the right to return if and when the contract of employment with the Academy Trust ends. An employee who has indicated they do not intend to work at the end of Shared Parental Leave is still entitled to return to their original job in the absence of giving clear notice of resignation.

An employee must notify the Academy Trust in writing of the end date of their Shared Parental Leave period(s). The employee is expected to return on the next working day after this date, unless they notify the Academy Trust otherwise.

If the employee wishes to return to work earlier than the expected return date, they must give the Academy Trust at least six weeks' notice of their date of early return, preferably in writing. If they fail to do so, the Academy Trust may postpone their return to such a date as will give the School six weeks' notice, provided that this is not later than the expected return date.

If the employee decides not to return to work after Shared Parental Leave, they must give notice of resignation as soon as possible and in accordance with the terms of their contract of employment. If the notice period would expire after Shared Parental Leave has ended, the Academy Trust may require the employee to return to work for the remainder of the notice period.

### **9.7. Parental Leave (unpaid)**

Eligible employees can take unpaid **Parental Leave** to look after their child's welfare, for example:

- to spend more time with their children
- to look at new schools
- to settle children into new childcare arrangements
- to spend more time with family.

Employment rights will remain protected.

## **Eligibility Criteria**

Employees qualify for unpaid **Parental Leave** if all below apply:

- they have been employed for more than a year;
- they are named on the child's birth certificate;
- they have, or expect to have, **parental responsibility\*** (see below for definition of parental responsibility);
- they are not self-employed or a 'worker' (e.g. contractor/agency worker);
- they are not a foster parent (unless with court secured PR);
- the child is below 18 (see **Entitlement**).

The School has the discretion to ask for proof of a child's age where it considers it reasonable to do so.

## **Entitlement**

**Parental leave** is unpaid. You are entitled to 18 weeks' **leave** for each child and adopted child, up to their 18th birthday.

Leave entitlement is as follows:

### **Child Entitlement**

For each child 18 weeks up to their 18th birthday

For each adopted child 18 weeks up to their 18th birthday,

For each child who qualifies for Disability Living Allowance 18 weeks up to their 18th birthday

18 weeks is the total allowance over the prescribed period. The **maximum Parental Leave** entitlement each year is 4 weeks, unless agreed otherwise with the Headteacher.

Leave should be taken in **blocks of one week**, unless agreed otherwise with the Headteacher. One week is equivalent to the hours normally worked each week by the employee. Therefore, if an employee normally works three days per week, then their Parental Leave entitlement is the equivalent.

Leave is applicable to each child, not the parent's job. If, for example, an employee uses 10 weeks of the **Parental Leave** entitlement with a previous employer, they would be entitled to 8 weeks **Parental Leave** with the School.

### **Notice to Request Parental Leave**

Employees must give 21 days' notice prior to the date they wish the **Parental Leave** to start.

If they or their partner are having a baby or adopting, then the employee must provide 21 days' notice before the expected arrival of the baby/child.

Employees must confirm start and end dates in their notice. **Parental Leave** requests should be in writing to the employee's Manager.

### \*Parental Responsibility Definition

Parental responsibility is defined as "all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to a child and his or her property". Parental responsibility is concerned with bringing the child up, caring for him or her and making decisions about him or her, but does not affect the relationship of parent and child for other purposes.

### **Who has Parental Responsibility?**

1. The mother of the child automatically has Parental Responsibility;
2. the father usually has Parental Responsibility, especially if married to the child's mother, or listed on the birth certificate;
3. unmarried parents;
4. fathers can get legal responsibility by:

- jointly registering the child's birth with child's mother (since December 2003)
- getting Parental Responsibility agreement with mother getting Parental Responsibility order in court; same sex parents
- civil partners/spouses - same-sex partners who were civil partners or married at the time of the treatment/birth will both have Parental Responsibility.
- non-civil partners - the 2nd parent can get Parental Responsibility by: applying for Parental Responsibility if parental agreement was made or becoming a civil partner or spouse of the other partner and making Parental Responsibility agreement, or jointly registering the birth.

### **9.8. Dependency Leave / Time off for family and dependents**

Employees are allowed a reasonable amount of time off to deal with an emergency involving a dependent.

A dependent could be a:

- spouse;
- partner;
- child;
- grandchild;
- parent; or
- someone who depends on the employee for care.

Examples where a dependent may require the employees support include (but not limited to):

- Illness, injury or assault;
- Having a baby;
- Disruption of care arrangements;
- If the employees child is involved in an incident during school time.

### **Eligibility Criteria**

There is no qualifying service period required to entitle an employee to take Dependency Leave. Continuity of service will continue to accrue.

### **Entitlement**

There is no set amount of time as it depends on the situation and there is no paid entitlement for such leave. However it is anticipated that leave of no more than 1-2 days is granted per occurrence.

### **Notice to Request Dependency Leave**

There is no notice requirement to request time off for Dependency Leave since it is in an emergency only. The very nature of this means that there should be no planning of the leave in advance.

### **Pension Implications**

Due to the short nature of Dependency Leave there are no pension implications for unpaid leave.

For teaching staff in the Teachers' Pension Scheme unpaid leave will be reflected as a loss of service for those days.

Refer to the Leave of Absence Policy for further detail on the application of the Dependency Policy.

