

Family Leave Policy and Procedure

Version 2.1

<p>Important: This document can only be considered valid when viewed on the Trust website. If this document has been printed or saved to another location, you must check that the version number on your copy matches that of the document online.</p>	
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Contents

	Page
Policy Statement	3
1. Purpose and Scope	3
2. Roles and Responsibilities	3
3. Equality and Diversity	4
4. Maternity Leave	4
5. Paternity Leave	9
6. Shared Parental Leave	12
7. Adoption Leave	16
8. Parental Leave	20
9. Surrogacy	21
10. IVF Treatment	21
11. Pensions	21
12. Misuse of the Policy	22
13. Monitoring Compliance With and Effectiveness of this Policy	22
14. References	22
15. Review	23
Appendices	
1. Glossary	24

POLICY STATEMENT

We are here to make great schools and happier, stronger communities so that people have better lives. We do this by:

- Always doing what is right
- Trusting in each other and standing shoulder to shoulder
- Doing what we know makes the difference

Doing what is right means always acting with integrity, in the interests of others and being honest, open and transparent.

The Education Alliance (the Trust) supports staff wishing to access maternity, paternity, adoption and parental leave in a fair, consistent, transparent way, which adheres to legal and statutory requirements.

1. PURPOSE AND SCOPE

This Policy applies to all staff employed by the Trust and provides guidance and clarification regarding the leave employees are entitled to, assisting employees in understanding their options. The Policy adheres to the Employment Rights Act 1996; Maternity and Parental Leave Regulations 1999; Paternity and Adoption Leave (Amendment) Regulations 2006; Maternity and Parental Leave and Paternity and Adoption Leave (Amendment) Regulations 2008; Additional Paternity Leave Regulations 2010; Additional Statutory Paternity Pay (General) Regulations 2010; Parental Leave (EU Directive) Regulations 2013, Paternity and Adoption Leave (Amendment) Regulations 2014; Children's and Families Act 2014; Shared Parental Leave Regulations 2014, the Conditions of Service for School Teachers in England and Wales (Revised August 2000) Burgundy Book and the NJC for Local Government Services National Agreement on Pay and Conditions of Service (Green Book) (Revised March 2019).

2. ROLES AND RESPONSIBILITIES

The **Trust Board** is responsible for approving this policy and ensuring it is applied fairly and consistently across the Trust, monitoring the effectiveness of this policy.

The **CEO and Executive Principal** are responsible for ensuring that staff and others adhere to this policy and that family leave decisions align to this policy.

The **Human Resources Department** is responsible for ensuring that all employees are aware of this policy. The team will also ensure that this policy is implemented fairly and consistently.

Leaders and managers must ensure they implement this policy fairly and equitably, seeking guidance, clarification and support as and when required.

All **employees** must adhere to the requirements and timescales specified within this policy.

The **Local Governing Bodies and Heads of School** are responsible for monitoring the application of this policy within their respective schools.

3. EQUALITY AND DIVERSITY

The Trust is committed to:

- Promoting equality and diversity in its policies, procedures and guidelines
- Delivering high quality teaching and services that meet the diverse needs of its student population and its workforce, ensuring that no individual or group is disadvantaged

4. MATERNITY LEAVE

Entitlement

All pregnant employees, with the exception of those on fixed term contracts, are entitled to take 26 weeks' ordinary maternity leave followed immediately by 26 weeks' additional maternity leave. Pregnant employees can therefore choose to take up to 52 weeks total maternity leave; however, they must legally take a minimum of 2 weeks' compulsory maternity leave, which is the 2-week period immediately following childbirth. Employees on fixed-term contracts who qualify for statutory maternity leave and pay, will continue to receive their statutory maternity pay, even where their statutory maternity leave ends at the end of their fixed-term contract.

Statutory Maternity Pay

Statutory maternity pay (SMP) is payable for 39 weeks for those who qualify (otherwise staff may be able to claim Maternity Allowance from the Government). Entitlement to occupational maternity pay (OMP) varies and is detailed further in this policy.

Employees are entitled to receive SMP if:

- They have earnings that attract liability for employers' secondary Class 1 national insurance contributions
- The employee has been continuously employed by the Trust for 26 weeks into the qualifying week which is the 15th week before the EWC
- For the 8 weeks prior to the end of the qualifying week the employee has been earning on average not less than the lower earnings limit for national insurance

SMP is payable from the beginning of the 11th week before the EWC and for up to 39 weeks. For the first 6 weeks SMP is paid at a rate of 90% of the employee's average weekly earnings (the average is based on the 8-week period prior to the fifteenth week before the EWC). The remaining 33 weeks of SMP are paid at either the SMP flat rate or 90% of the employee's earnings if this is less than the SMP flat rate. SMP is automatically re-calculated if pay awards are implemented during the MPP.

Maternity Allowance

Where staff do not meet the criteria for SMP they may be able to access maternity allowance (MA) instead, which is paid by the Benefits Agency for the first 39 weeks after the employee ceases work. Employees may qualify for MA if they:

- Have ceased work wholly or partly due to pregnancy or childbirth
- Are not entitled to SMP and
- Earn less than the lower earnings limit, but at least £30.00 a week averaged over a 13 week period

Where an employee is not eligible for SMP the Payroll Department will send the employee a SMP1 form that they must complete and send to the Benefits Agency via Job Centre Plus, along with their

MATB1. Further information regarding Maternity Allowance can be found at www.gov.uk/maternity-allowance/eligibility.

Occupational Maternity Pay (OMP) – Teachers

In addition to SMP, employees who have completed not less than 1 year’s continuous teaching service with one or more Local Authorities (LAs) at the beginning of the 11th week before the EWC are entitled to receive occupational maternity pay (OMP).

Where an employee is entitled to OMP and SMP they can be paid as follows:

Period	Entitlement
First 4 weeks	Full pay (inclusive of SMP/MA)
Following 2 weeks	90% of the employee’s average weekly pay (including SMP/MA)
Weeks 7-18	Half pay plus SMP (the total must not exceed the employee’s normal weekly pay)
Weeks 19-39	SMP at the SMP flat rate or 90% of the employee’s average weekly pay (whichever is the least)
For employees not intending to return to work	
Weeks 7-39	SMP at the SMP flat rate or 90% of the employee’s average weekly pay (whichever is the least)
Weeks 40-52	Unpaid leave

If the teacher does not return for the 13-week period at the end of their maternity leave, they will be required to repay the amount of OMP they have received, with the exception of the amount received in the first 6 weeks. SMP is not refundable. A full-time teacher may agree with their Head of School to return on a part-time basis and they would need to return for a period, which equates to 13 weeks of full-time service.

Teachers with less than 1 years’ continuous service at the beginning of the 11 week before EWC are only entitled to SMP/MA (and only if they meet the criteria for either SMP or MA). Where employees are working under a fixed term contract any entitlement to OMP will end when the fixed term contract ends, however, any entitlement to SMP continues.

Occupational Maternity Pay (OMP) – Non-teaching staff

In addition to SMP, on-teaching employees with at least 1 year’s completed service at the beginning of the eleventh week before the EWC are entitled to receive occupational maternity pay (OMP) if they intend to return to work following maternity leave for a period of at least three months. If the employee does not return, they will be expected to repay the OMP.

If the employee resigns or their contract is terminated prior to the start of maternity leave or during maternity leave, providing they were in employment at the Trust at the qualifying week they will be entitled to continue to receive SMP (if they meet the criteria for SMP).

Where an employee is entitled to OMP and SMP they can be paid as follows:

Period	Entitlement
First 6 weeks	90% of the employee’s average weekly pay (including SMP)
Weeks 7-18	Half pay plus SMP (the total must not exceed the employee’s normal weekly pay)

Weeks 19-39	SMP at the SMP flat rate or 90% of the employee's average weekly pay (whichever is the least)
For employees not intending to return to work	
Weeks 7-39	SMP at the SMP flat rate or 90% of the employee's average weekly pay (whichever is the least)
Weeks 40-52	Unpaid leave

Where employees are working under a fixed term contract, any entitlement to OMP will end when the fixed term contract ends. SMP payments are not refundable.

A week's pay for employees whose remuneration varies due to a lack of normal working hours, a week's pay should be calculated by looking at the average remuneration in the 12 week period preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

Bank Holidays

Bank holiday entitlements will be paid at the rate of pay received whilst on maternity leave at the time of the bank holiday. Bank holidays, extra-statutory days and concessionary days are not accrued and cannot be carried over.

Deductions from Pay

Any non-statutory deductions from pay will continue to be charged during the period of maternity leave, unless the employee has reached a point at which their maternity pay does not cover for such payments. Employees must ensure that they make adequate financial provision for the payment of such deductions, which may include alternative arrangements to maternity pay.

Contractual Rights during Maternity Leave

During maternity leave, the employee's contract will remain continuous (unless there is a fixed term contract which ends without renewal, or an organisational change issue that results in redundancy). Maternity leave does not constitute a break in service and therefore counts as continuous service for annual leave, sickness and redundancy purposes. With the exception of remuneration, employees will continue to benefit from all their terms and conditions that would have applied should they have remained at work.

Fixed Term Contracts

Pregnant employees on fixed term contracts are entitled to take statutory maternity leave up to the point where their fixed term contract ends, regardless of their length of service and number of hours worked. Statutory maternity pay (SMP) is payable for 39 weeks for those who qualify (otherwise staff may be able to claim Maternity Allowance from the Government). Any entitlement to occupational maternity pay (OMP) will end when the fixed term contract ends.

Starting Maternity Leave

Employees can choose to start their maternity leave on any date within the 11 week period before their expected week of childbirth (EWC), however, it can begin sooner than anticipated if they are absent due in part or wholly related to their pregnancy or; if the employee's baby is born earlier than anticipated. Employees who give birth early start their SMP, OMP and maternity pay period (MPP) on the day following the date of childbirth. Employees who are absent from work due to sickness, wholly

or partly related to pregnancy, within 4 weeks of the EWC, will start their SMP, OMP and MPP on the first day of absence.

Notification of Pregnancy

Employees can tell their manager they are pregnant as soon as they want to. This can be before they have decided when they want to take their maternity leave. Employees must inform their manager and the HR Department by the 15th week (14 weeks' prior notice for teaching staff, as detailed in the Burgundy Book) before the expected week of childbirth (EWC), or as soon as reasonably practicable, of the date on which they want to start their maternity leave and their EWC. Employees must also record their intended maternity leave dates via E-days. Employees will also receive a MATB1 from their medical practitioner after the 20th week of pregnancy, which must be passed to the HR Department. Once the MATB1 is received, HR will review the maternity leave request via E-days.

The HR Department will write to the employee following receipt of their notification, confirming by letter the intended maternity leave start date and return to work dates, within 28 days of receipt of the employee's maternity request via E-days. Employees can change their notified start date for maternity leave, giving 28 days' notice. Should this be the case, the employee should also amend the leave dates via E-days. The HR Department will contact the employee and their manager to provide advice and guidance (e.g. to ensure a risk assessment has been undertaken and that it will be regularly reviewed by the manager and the employee). Where the HR Department has received confirmation of a pregnancy, but not a completed maternity request within E-days, a reminder will be sent to pregnant employees prior to the 15th week before EWC. A member of the HR department will also offer to meet with the employee to discuss the Family Leave Policy and Procedure, providing additional useful information as appropriate (e.g. childcare, keep in touch days and planning for a return to work), whilst also notifying the Payroll Department of maternity dates.

KIT days are optional. Where an employee wishes to undertake KIT days, the line manager and employee should discuss and mutually agree keep in touch (KIT) arrangements, prior to the commencement of maternity leave, to ensure that the employee remains informed and updated whilst absent from the workplace. KIT days should be recorded via E-days. If changes occur at work that impact on the employee's role, the employee should be consulted, just as any other member of staff is, thus reducing the risk of claims of sex discrimination and ensuring employees remain engaged throughout their protected period.

Ante-Natal Appointments

Employees are entitled to time off work to attend antenatal appointments (preferably at the start or end of the day to minimise the impact on students and service delivery). Antenatal care includes midwifery appointments, GP appointments, hospital clinics and relaxation classes. Employees are required to produce an appointment card or other documentation that confirms the appointment prior to permission being granted. Requests should be submitted via E-days, as per the Special Leave Policy and Procedure.

Fathers and partners are entitled to time off, to accompany their pregnant wife or partner. Staff should make efforts to make arrangements outside normal working hours, wherever possible, or at times which result in the least disruption for students, and paid special leave will be granted. They should submit their request via E-days and in line with the Special Leave Policy and Procedure.

Risk Assessments

Protection under the Management of Health and Safety at Work (MHSW) Regulations 1992 includes protection for new and expectant mothers. This includes women who are pregnant, or who have given birth in the last 6 months, or those who are breastfeeding. The line manager will undertake a

risk assessment when they are notified of the pregnancy, and this should be regularly reviewed with the employee throughout the pregnancy and following their return to work, if they return within 6 months of giving birth, or are breastfeeding when they return to work.

If the risk assessment identifies risk for the employee's health or that of their baby, the line manager must make arrangements to control or remove the risk. They should seek advice from the HR Department, and if it is not possible to control or remove the risk, it may be necessary to try to re-organise duties (the employee's pay will not be affected).

In exceptional circumstances, if no suitable alternative work is available and the risks associated with their substantive role cannot be adequately controlled, the employee may be instructed not to attend work. If this happens, the employee will continue to receive their pay in the usual way. If the employee is offered a suitable alternative and they unreasonably refuse, they may be suspended on health and safety grounds due to pregnancy and they may lose their right to be paid during their period of suspension. The decision to suspend or redeploy a pregnant employee sits with the Head of School, Executive Principal or CEO.

Pregnancy-related Sickness Absence

Pregnancy related sickness absence will be monitored in the usual way, but won't count in the calculation of the Bradford Factor. If a pregnant employee is absent due to pregnancy related sickness on the first day after the beginning of the fourth week before their EWC, their OML will commence the following day. Similarly, if the employee gives birth before their OML has commenced, their OML will commence the following day. In such circumstances, the HR Department will write to the employee to confirm the date on which their OML commenced; when it will end and when their AML will commence and cease.

Unexpected Events

If an employee either suffers a stillbirth after 24 weeks of pregnancy, or if their baby is born alive, but subsequently dies within the period of maternity leave, the employee will retain their right to maternity leave. The Trust will approach such situations with care and sensitivity.

Keep in Touch Days

Up to 10 keep in touch (KIT) days may be accessed at any point of the maternity leave (other than the compulsory 2 weeks' following the birth) without bringing the maternity leave to an end. Employees must seek agreement for KIT days with their line manager. Any work undertaken on a KIT day will be viewed as 1 full KIT day (e.g. 2 hours would count as 1 day). Where an employee works KIT days they will receive payment at their standard hourly rate for the actual hours worked if they are not in receipt of maternity pay when they work. Employees must record the KIT day within E-days. If they are in receipt of maternity pay, they may receive a top up amount, which takes them up to their standard hourly rate.

It is vital that managers approach discussions regarding KIT days with a flexible approach and sensitivity, and if they require any guidance or support they should contact the HR Department.

Access to KIT days must be by mutual agreement between the employee and their manager. Employees will not be penalised for not working KIT days. Similarly, the manager may not agree to a KIT day if there would be no/little value in the employee working it.

Returning to Work

Employees intending to return to work following AML do not need to provide notification of their return, as they will be expected to return on the date stated in their letter from the HR Department.

However, employees are strongly encouraged to contact their manager prior to their return to work to ensure their return to work is managed and supported effectively. Employees are able to return to work at any time after the 2 weeks' compulsory maternity leave and before the end of their 52 weeks combined OML and AML, unless they are employed on a fixed term contract, which ends without renewal. Employees wishing to return to work before the date specified in their letter from the HR Department must write to the HR Department advising of their wish to return to work. Employees must do this at least 8 weeks before their new proposed date of return. A form is available to employees to submit this notification and this can be accessed via the People Portal or the HR Department.

With the exception of employees on fixed term contracts, employees on maternity leave are entitled to return to their job following OML, or to a suitable alternative post following AML, should a return to their substantive role not be practicable. However, where organisational change means their substantive role no longer exists, due to their protected period, from a legal perspective, they must be given first consideration above other affected staff should opportunities for suitable alternative employment arise.

Employees preparing to return from maternity may wish to request a return to a different working pattern (e.g. reduced hours). Further guidance can be found in the Flexible Working Procedure, which is located on the People Portal and the Trust website (www.theeducationalliance.org.uk). All flexible working requests are given serious consideration by managers and requests are approved wherever possible (although there are occasions where the request cannot be approved and either an alternative may be suggested or the request will be rejected with clear rationale provided).

Resignation

If an employee decides to resign before or during their maternity leave, they must do so in writing to either their manager, the HR Department or the Head of School. Employees must be mindful that if they submit a resignation and it takes effect prior to the commencement of their maternity leave, they will lose their right to maternity leave and associated pay. However, if they are employed during the fifteenth week before the EWC and qualify for SMP, and they leave after the start of the fifteenth week, they will still be entitled to SMP.

5. PATERNITY LEAVE

Entitlement

The right to paternity leave arises in relation to birth children, children adopted from within the UK and children adopted from overseas. Employees will be eligible for ordinary paternity leave (OPL) if:

- The employee is the biological father of a child, or the mother's husband, civil partner or partner, and has been continuously employed for 26 or more weeks by the end of the 15 week before the child's expected week of birth
- The employee is the spouse, civil partner or partner of an individual who has adopted a child (or who is one of a couple who have jointly adopted a child) under the law of any part of the UK, and who has been continuously employed for 26 weeks ending with the week in which notification of the adoptive match occurs
- The employee is the spouse, civil partner or partner of an individual who has adopted a child (or who is one of a couple who have jointly adopted a child) from overseas, and who has 26 weeks' continuous employment, ending with the week the official notification of eligibility was received.

Only one period of paternity leave is available, even if more than one child is born as the result of the same pregnancy, or if more than one child is placed with an individual or couple for adoption under the same arrangement.

Employees who qualify for paternity leave can take up to two weeks' ordinary paternity leave (OPL) on the birth or adoption of a child. The leave must be taken to care for the child or to support the child's mother/adopter. The first week must be taken as a single block, and the second week can be taken as either a week or more flexibly, as long as it is operationally feasible. The employee must discuss their proposed leave with their line manager and the line manager may wish to seek advice from the HR Department, prior to making a decision.

This leave can be taken within 56 days' of the birth or adoption placement, unless a child is born prematurely. In such cases, the leave must be taken within 56 days of the expected week of childbirth (EWC).

If the employee has already taken shared parental leave (SPL) to care for the child under the Shared Parental Leave Regulations they cannot also take paternity leave.

Occupational Paternity Pay

Employees with at least one-year's continuous service or more at the beginning of the 11th week before the EWC or for adoption at the date the child is placed with the adoptive parent, will be entitled to 2 weeks leave, paid at their normal pay rate. Where they meet the criteria for SPP, their SPP will be included in their pay.

Statutory Paternity Pay

Employees with less than 1 year's continuous service at the beginning of the 11th week before the EWC or for adoption at the date the child is placed with the adoptive parent, will be entitled to 2 weeks leave at the statutory paternity (SPP) rate only (if eligible).

To be eligible for SPP the employee must:

- Be either the father of the child, or the spouse, civil partner or partner of the child's mother (this includes same-sex partners).
- The employee must be the spouse, civil partner or partner of the child's adopter (or one of a couple who have jointly adopted a child).
- Be taking the leave to care for the child.
- Have been continuously employed for at least 26 weeks by the end of the 15th week before the expected week of birth/relevant/matching week for adoption, which is the week in which the child's adopter is notified of being matched with the child for adoption.
- Have been continuously employed for the period between the end of the 15 week before the expected week of birth and the day when the child is born. Employees whose employment is terminated before the child is born lose their entitlement to statutory paternity pay and leave.
- Have or expect to have: where he is the child's father, responsibility for the upbringing of the child;
- Where he or she is the mother's spouse, civil partner or partner but not the child's father, the main responsibility (apart from any of the child's mother) for the upbringing of the child.

- Over the eight-week period ending with the 15th week before the expected week of birth, the employee must have average weekly earnings which are not less than the lower earnings limit for national insurance contributions purposes.
- Employees can choose to take either 1 week or 2 consecutive weeks' leave when receiving SPP only.
- The employee is treated as having satisfied this condition if he or she would have satisfied it but for the fact that the child was stillborn after 24 weeks of pregnancy or has died.

Statutory paternity leave cannot start before the birth. The start date must be one of the following:

- the actual date of birth
- an agreed number of days after the birth
- an agreed number of days after the expected week of childbirth

Statutory paternity leave must finish within 56 days of the birth (or the due date if the baby is early). The start and end dates are different if the employee is adopting.

If the employee does not qualify for statutory paternity pay for any of the reasons listed above, the Payroll Department will provide him or her with a SPP1 exclusion form, within 28 days of the notification that he or she intends to take paternity leave. The SPP1 form allows the employee to pursue a claim for income support with Jobcentre Plus, if he or she has been excluded on the ground of low earnings for the paternity leave period.

If the employee wishes to vary the date for paternity leave to commence, they must notify the HR Department and their line manager at the earliest opportunity.

An employee may vary the date on which statutory paternity pay becomes payable, provided that he or she informs the HR Department and their line manager of the revised start date at least 28 days before the relevant date (or as soon as is reasonably practicable, if not in a position to do so within the prescribed period).

Deductions from Pay

Any non-statutory deductions from pay will continue to be charged during the period of paternity leave, unless the employee has reached a point at which their paternity pay does not cover for such payments. Employees must ensure that they make adequate financial provision for the payment of such deductions.

Contractual Rights during Paternity Leave

The employment contract continues as normal during paternity leave, with the exception of terms and conditions relating to remuneration. This means that the period spent on paternity leave will count towards the employee's continuous service.

Notification of Paternity Leave

To be eligible to take paternity leave, the employee is encouraged to discuss their request with their line manager, prior to completing a request via E-days. Notice must be given on or before the 15 week before the EWC, or within seven days of the employee having been notified of matching in cases of adoption. If it is not reasonably practicable to give notice at that time, notice must be given as soon as it is reasonably practicable. The notice must specify:

- The EWC/date of matching and expected date of placement for adoption

- The period of leave the employee wants to take and when

Once notified, a member of the HR Department will contact the employee and their manager to provide advice and guidance.

An employee can change the date on which they wish paternity leave to commence, as long as they provide the HR Department with 28 days' notice of the change. If this is not reasonably practicable, notice must be given as soon as is reasonably practicable.

Ante-Natal Appointments

Expectant fathers or partners of a pregnant woman are entitled to time off to attend ante-natal appointments with their pregnant partner. Staff should make efforts to make arrangements outside normal working hours, wherever possible, or at times which result in the least disruption for students, and paid special leave will be granted. The right extends 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, born through that arrangement.

Employees wishing to request time off work to attend antenatal appointments must submit a request for special leave within E-days, as detailed in the Special Leave Policy and Procedure.

Adoption Appointments

The primary adopter can take paid time off to attend adoption appointments. An employee who exercises the right to paid time off is not entitled to take ordinary paternity leave in respect of the child, so it will usually be the parent taking adoption leave who exercises the right to paid time off. The other adoptive parent can request time off to attend adoption appointments, and they must submit requests via E-days. Staff should make efforts to make arrangements outside normal working hours, wherever possible, or at times which result in the least disruption for students, and paid special leave will be granted. Employees are encouraged to contact the HR Department to ensure they receive advice and guidance, prior to submitting a request.

Employees wishing to request time off work to attend adoption appointments must submit a request for special leave via E-days, attaching evidence of the date and time of the appointment, and confirmation that it has been arranged by an adoption agency.

Unexpected Events

In circumstances of stillbirth after 24 weeks of pregnancy, where a baby dies after childbirth or placement, or where an adoption placement ends unexpectedly, the employee's entitlement to paternity leave remains. The Trust will approach such situations with care and sensitivity.

Return to Work

The employee has a right to return to work after paternity leave, without giving notice. Employees returning from one or two weeks' paternity leave are entitled to return to the same job they were doing before the leave period commenced.

6. SHARED PARENTAL LEAVE

Entitlement

Mothers, fathers and partners of mothers of babies are entitled to statutory shared parental leave if they meet certain eligibility requirements. The right is also available to adoptive parents.

Shared parental leave (SPL) is available to pregnant employees and their partners, or to parents who have a child placed with them for adoption. Employees who qualify, have a right to convert a period of leave and pay into a period of shared parental leave (SPL) and shared parental pay (ShPP) that can be taken by either parent (or the mother's spouse or partner or civil partner).

The total amount of shared parental leave available to be taken by the mother and father or partner, depends on the number of weeks of statutory maternity leave taken by the mother before her leave curtailment date or her return to work.

The amount of pay and leave available can be calculated as follows:

- Deduct the number of weeks' maternity/adoption leave already taken, or which will be taken, from 52
- Deduct the number of weeks' SMP or SAP or MA the mother/adopter has or will receive from 39

Shared parental leave can be taken as a single continuous period or in periods of a week or multiples of a week. A parent can take a period of shared parental leave while the other parent is also on SPL, maternity or adoption leave.

Employees can make up to three requests for periods of SPL. Leave must be taken before the child's first birthday and the right to take SPL applies to each birth, regardless of the number of children born, and is in addition to the right to 18 weeks' unpaid parental leave under the Maternity and Parental Leave Regulations 1999.

Eligibility

An employee will qualify for SPL if the other parent meets certain basic work and earnings conditions. A mother will be entitled to take shared parental leave to care for a child if she:

- has been continuously employed by her employer for at least 26 weeks, ending with the 15 week before the expected week of childbirth, or for adoption, 26 weeks ending with the week in which the adopter is notified of having been matched with the child, and remains in continuous employment with that employer until the week before any period of shared parental leave
- has main responsibility for the care of the child at the date of his or her birth, or for adoption, the date of notification of being matched (apart from the responsibility of the partner)
- is entitled to statutory maternity leave/adoption leave in relation to the child
- has brought her statutory maternity leave/adoption leave to an end by giving her employer a "leave curtailment notice" (the leave period must remain curtailed) or returned to work before the end of her statutory maternity leave/adoption leave
- has given her employer a "notice of entitlement and intention to take shared parental leave"
- has submitted a "period of leave notice" to her employer

For the mother to be eligible to take shared parental leave, the partner must:

- satisfy the employment and earnings test which requires that, in the 66 weeks immediately preceding the child's expected week of childbirth/the week in which the adopter is notified of having been matched for the adoption with the child, he or she has: been engaged in employment as an employed or self-employed earner for any part of the week in at least 26 of those weeks; and

- average weekly earnings of at least the maternity allowance threshold (£30) in any 13 of those weeks (whether or not consecutive); and
- main responsibility for the care of the child at the date of the child's birth/child's placement for adoption (apart from the mother /adopter's responsibility).

SPL must be taken before the child is 1 year old or before the first anniversary of a child's placement for adoption.

Contractual Rights During Shared Parental Leave

During shared parental leave, the employee's contract will remain continuous (unless there is a fixed term contract which ends without renewal, or an organisational change issue that results in redundancy). All terms and conditions that would have applied to the employee had they not been absent due to SPL will continue, other than terms and conditions relating to remuneration.

Notification Requirements

An employee must fulfil the following notification requirements before being entitled to take SPL:

- The parent must end their maternity leave/adoption leave by serving a leave curtailment notice.
- The parent wishing to take leave must submit a notice of entitlement and intention to take leave.

Each of the above submissions of notice must be given at least 8 weeks before the first period of leave the employee wishes to take.

The date chosen for the end of maternity/adoption leave:

- Cannot be before the end of the two weeks' compulsory maternity leave period following the birth of a child or the end of the two weeks of ordinary adoption leave
- Must be at least 8 weeks after the date the notice is given to the Trust
- Must be at least one week before the date the maternity/adoption leave would otherwise have ended

The notice of entitlement must contain the following:

- The parents' names
- The start and end dates of the mother's maternity leave or adoption leave
- The child's EWC and date of birth, or date of matching and date of placement
- The total amount of SPL and pay available
- The amount of SPL and pay each parent intends to take
- A non-binding indication of when the parent giving notice intends to take SPL

The notice of entitlement and intention to take leave must be accompanied by written declarations from both parents about their eligibility to take leave and the accuracy of the information. The employee giving notice must confirm they will notify the Trust if they cease to be eligible for SPL, and the other parent must provide their name, address, national insurance number, consent to the leave his/her partner wishes to take, confirmation that he/she will notify the Trust if they cease to be eligible for SPL, and they must also agree to the processing of the information in the declaration. The indication of how the SPL and pay will be divided between the parents can be altered by the parents submitting a variation of notice of entitlement to the HR Department.

All notifications must be submitted to the HR Department and relevant forms are available to help employees submit the correct information. Please contact a member of the HR Department if you wish to access SPL.

The Trust is not required to check the employee's eligibility for leave, however, the employee is required to provide the HR Department with a copy of the child's birth certificate (or evidence from the adoption agency regarding the date of matching and the date of placement) and the name and address of the other parent's employer within 14 days of the birth/placement.

Employees can withdraw or cancel a leave curtailment notice if they stop being eligible for SPL, if the other parent dies or if the leave curtailment notice was given before the child's birth/adoption.

Requests for Multiple Periods of Leave

If more than one period of shared parental leave is requested, the notice must detail the start and finish dates for the periods of leave the employee wishes to take. If the employee has requested a single period of SPL, they are entitled to take the leave on the dates requested, however, if they have requested multiple periods of leave in the same notice, the Trust will have 2 weeks in which it will either:

- Agree to the periods of leave requested
- Propose alternative dates for the periods of leave
- Refuse the request without proposing alternative dates

The Trust will agree to periods of leave requested wherever possible. If a pattern of leave cannot be agreed, the employee can either withdraw their request or submit notice for a single continuous period. If an employee wishes to change a period of SPL that has already been agreed, they must submit a leave variation notice. Employees can submit up to three period of leave notices in total. Notices withdrawn due to a failure to agree do not count towards this limit, whilst variation notices will count.

Shared Parental Leave 'in Touch' Days

With the Trust's agreement, employees can take up to 20 SPL 'in touch' days (SPLIT days) during a period of SPL. Any work carried out on a particular day will count as a day's work for the purposes of calculating SPLIT days worked. Where employees work SPLIT days, they will receive payment at their standard hourly rate for the actual hours worked if they are not in receipt of SPL pay when they work. If they are in receipt of SPL pay, they may receive a top up amount, which takes them up to their standard hourly rate. Access to SPLIT days must be by mutual agreement between the employee and their manager and employees will not be penalised for not working SPLIT days. Similarly, the manager may not agree to a SPLIT day if there would be no/little value in the employee working it.

SPLIT days are in addition to the 10 KIT days that can be worked during a period of maternity leave.

Statutory Shared Parental Pay

Statutory shared parental pay (ShPP), paid at the lower rate of SMP, will be available for eligible employees in accordance with how the parents have decided to split their statutory shared parental pay entitlement between them. No more than 39 weeks of SMP and ShPP can be paid in total to both parents, with a maximum of 37 weeks being paid as ShPP.

Bank Holidays

Bank holiday entitlements will be paid at the rate of pay received whilst on shared parental leave at the time of the bank holiday. Bank holidays, extra-statutory days and concessionary days are not accrued and cannot be carried over.

Deductions from Pay

Any non-statutory deductions from pay will continue to be charged during the period of SPL unless the employee has reached a point at which their ShPP pay does not cover for such payments. Employees must ensure that they make adequate financial provision for the payment of such deductions, which may include alternative arrangements to pay.

Returning to Work

Unless there is a fixed term contract which ends without renewal, employees intending to return to work following SPL of 26 weeks or less will return to their job. Where organisational change means their substantive role no longer exists, their protected period means they should be given first consideration above other affected staff should opportunities for suitable alternative employment arise (e.g. if they meet the essential criteria of a vacant suitable alternative they needn't apply for it).

7. ADOPTION LEAVE

Entitlement

All employees who qualify for adoption leave, with the exception of those on fixed term contracts, have a right to take up to 52 weeks' adoption leave. This is made up of 26 weeks' Ordinary Adoption Leave (OAL) and 26 weeks' additional adoption leave (AAL). They may also be entitled to up to 39 weeks' statutory adoption pay (SAP). Parents of a child placed for adoption may also be eligible to take a period of shared parental leave (SPL) if adoption leave is curtailed, however, the same parent may not apply for shared parental leave in relation to a child for whose care they have already taken statutory adoption leave or paternity leave. Where a couple is adopting a child jointly they are required to choose which parent will take adoption leave and pay and the other parent will have access to paternity or parental leave instead.

Eligibility

To qualify for adoption leave and associated pay, the employee must be newly matched with a child for adoption by an approved adoption agency (this does not include circumstances whereby a step parent adopts a stepchild or private adoptions). To qualify for ordinary statutory adoption leave, the employee must have notified the adoption agency that they agree to the placement and the date. An employee will qualify for additional adoption leave if they have taken a period of ordinary adoption leave (OAL) and the placement has not ended prematurely.

Statutory Adoption Pay

If an employee is not eligible for occupational adoption pay, but they are eligible for statutory adoption pay (those with 26 weeks continuous service ending with the week in which the employee is notified they are matched with a child) they will be entitled to 39 weeks SAP (if they meet the criteria for statutory pay). The first 6 weeks of adoption leave will be paid at 90% of the employee's average weekly pay (including SAP) followed by 33 weeks of SAP or 90% of average weekly earnings if this is less than the SAP rate.

Occupational Adoption Pay (OAP) - Teachers

Employees who have completed 1 year's continuous teaching service with one or more Local Authorities (LAs) at the date the child is placed with them are entitled to receive occupational adoption pay (OAP). The following is paid on the understanding that the employee will return to their post for a period of at least 13 weeks full time service or equivalent part time service (including periods of school closure). If the employee does not return, they will be expected to pay back the 12 weeks half pay.

Where an employee is entitled to OAP and SAP, and they intend to return to work for at least 13 weeks full time service or equivalent part time service, they will be paid as follows:

Period	Entitlement
First 4 weeks	Full pay (inclusive of SAP)
Following 2 weeks	90% of the employee's average weekly pay (including SAP)
Weeks 7-18	Half pay plus SAP (where they meet the criteria for SAP) (the total must not exceed the employee's normal weekly pay)
Weeks 19-39	Where employees meet the criteria for SAP they will receive SAP at the SAP flat rate or 90% of the employee's average weekly pay (whichever is the least)
For employees not intending to return to work	
Weeks 7-39	Where employees meet the criteria for SAP, they will receive SAP at the SAP flat rate or 90% of the employee's average weekly pay (whichever is the least)
Weeks 40-52	Unpaid leave

Any entitlement to OAP will cease for employees working under a fixed term contract when the fixed term contract ends.

Occupational Adoption Pay (OAP) – Non-teaching Staff

Non-teaching employees with at least 1 year of continuous service at the week in which notification of matching was given by the adoption agency, will receive the following on the understanding that they will return to work for at least 3 months following their adoption leave. If they do not return to work for at least 3 months following their adoption leave, they will be required to repay the half pay they have received.

If the employee resigns or their contract is terminated prior to the start of adoption leave or during adoption leave, providing they were in employment with the Trust at the qualifying week, they will be entitled to receive SAP. Where employees are working under a fixed term contract, any entitlement to OAP will end when the fixed term contract ends.

Employees must do the following to access statutory adoption pay (SAP):

- Have average earnings of at least the lower earnings limit for NIC in the eight weeks prior to the matching date
- Give written notification of his/her intention to take adoption leave no later than 7 days after the date on which notification of the match with the child was provided by the adoption agency, to the HR Department. Notice, which must be in writing, must specify the date the child is expected to be placed with the employee for adoption and the date the employee intends his/her adoption leave to start.
- Submit evidence of their entitlement to SAP in the form of documents provided by the adoption agency (such as a matching certificate)

Where an employee is entitled to OAP and SAP they can be paid as follows*:

Period	Entitlement
First 6 weeks	90% of the employee's average weekly pay (including SAP) plus
For employees intending to return to work for at least 3 months	

Weeks 7-18	Half pay plus SAP (the total must not exceed the employee's normal weekly pay)
Weeks 19-39	SAP at the SAP flat rate or 90% of the employee's average weekly pay (whichever is the least)
For employees not intending to return to work	
Weeks 7-39	SAP at the SAP flat rate or 90% of the employee's average weekly pay (whichever is the least)
Weeks 40-52	Unpaid leave

**NB Where employees are working under a fixed term contract, any entitlement to OAP will end when the fixed term contract ends.*

Bank Holidays

Bank holiday entitlements will be paid at the rate of pay received whilst on adoption leave at the time of the bank holiday. Bank holidays, extra-statutory days and concessionary days are not accrued and cannot be carried over.

Deductions from Pay

Any non-statutory deductions from pay will continue to be charged during the period of adoption leave, unless the employee has reached a point at which their adoption leave pay does not cover for such payments. Employees must ensure that they make adequate financial provision for the payment of such deductions, which may include alternative arrangements to adoption pay.

Contractual Rights during Adoption Leave

The employee's contract continues as normal throughout the adoption leave period, with the exception of remuneration, and the period of adoption leave will count towards their continuous service.

Notification of Adoption

Employees can advise their manager they intend to adopt as soon as they want to. This can be before they have decided when they want to take their adoption leave. Employees must notify the HR Department of their intention to take adoption leave within seven days of being notified of a match with the child by the adoption agency, by making a request for adoption leave via E-days. If this is not reasonably practicable, the employee must give notice as soon as it is reasonably practicable. The employee must inform the HR Department of:

- The date the child is expected to be placed with them for adoption
- The date that he/she wishes adoption leave to commence

The employee can request to commence adoption leave:

- From the actual date of the child's placement, or;
- From a fixed date up to 14 days before the expected date of placement (but no later than the date of placement)

Leave can begin on any day of the week and only one period of leave is permitted for each placement, regardless of the number of children placed at that time. If the adopter wishes to vary the date they would like their leave to commence, they must notify the HR Department as soon as possible, giving at least 14 days' notice of the new start date (unless this is not reasonably practicable). The HR Department will respond to the employee's request for adoption leave within 14 days of receipt of the request, notifying the employee of the date on which their additional adoption leave will end. The

employee will be required to submit documentary evidence from the adoption agency of the placement for adoption (e.g. a matching certificate) prior to approval being given.

Time Off for Adoption Appointments

An employee who has been notified that a child is to be placed for adoption, has the right to paid time off to attend adoption appointments arranged by the adoption agency, to have contact with the child or for any other purpose connected with the adoption. The primary adopter can take time off on up to five occasions to attend adoption appointments. An employee who exercises the right to paid time off is not entitled to take ordinary paternity leave in respect of the child. It will, therefore, usually be the parent taking adoption leave who exercises the right to paid time off. The other adoptive parent can request time off to attend adoption appointments. Staff should make every effort to make arrangements outside normal working hours, however, where this is not possible, and an appointment has been made near the start or end of the working day, paid special leave will be granted.

Employees wishing to request time off work to attend appointments must submit their request via E-days as detailed in the Special Leave Policy and Procedure, attaching evidence of the date and time of the appointment, and confirmation that it has been arranged by an adoption agency.

Unexpected Events

If the placement is not successful and ends during the adoption leave period, or the child dies, the employee will be allowed to continue the leave for a maximum of eight weeks after the placement ends. The Trust will approach such situations with care and sensitivity.

Keep in Touch Days

Employees on adoption leave may wish to access KIT days and further details can be found in the maternity section of this policy.

Returning to Work

With the exception of employees working under fixed term contracts, which are due to end during the period of leave, any employee taking adoption leave has an automatic right to return to work after their additional adoption leave period, and they do not need to provide any notice of this unless they wish to return earlier than planned (e.g. before the end of their additional adoption leave period). In such circumstances, the employee must provide the HR Department with 8 weeks' notice in writing. If they fail to provide adequate notice, their return may be delayed.

If the adoptive parent is placed at risk of redundancy, the employee will have the right to be offered a suitable alternative role in preference to other employees that are not in a protective period.

Unless they are working under a fixed term contract, which is due to, end during the period of leave, employees returning from ordinary adoption leave are entitled to return to the same job they were doing before the leave period commenced. However, if the leave immediately follows a period of additional adoption leave, or a period of parental leave lasting more than four weeks, the employee should check with the HR Department the impact this may have on their right to return to their substantive role. If the employee takes additional adoption leave, they are entitled to return to their substantive role, however, where this is not feasible the employee must be offered an alternative role which is suitable and appropriate and has no less favourable terms and conditions.

8. PARENTAL LEAVE

Entitlement

Parental leave is available for employees with at least one year's continuous service. To be eligible, the employee must have, or expect to have, responsibility for the child. Parental leave must be taken:

- Before the child is 18 years old
- Within five years of the start of the placement if the child is adopted and before the child is 18 years old

Employees who qualify for parental leave may take up to 18 weeks' **unpaid** parental leave in total for the purposes of caring for a child. The right to take leave applies in relation to each of the employee's children, including twins or other multiple births. They may access:

- A maximum of four weeks' leave per year
- Parental leave can only be taken in blocks of a week or multiples of a week, unless the child is disabled. A week is based on an employee's working pattern over seven days. When an employee's working pattern is irregular, a week's leave is calculated by the total number of days the employee works in a year divided by 52.
- Leave may be taken straight after the birth or adoption of following a period of maternity leave.
- Employees can submit a request for parental leave at any time up to the child's eighteenth birthday.

Notification of Intention to Take Parental Leave

An employee wishing to access parental leave must submit a request via E-days, providing at least 21 days' notice, detailing the dates on which they wish the period of leave to commence and cease. Whilst the Trust will try to accommodate parental leave requests wherever possible, there may be occasions where an alternative period may be proposed. The HR Department will respond within seven days of receipt of the request and if the outcome is a postponement, the Trust will agree to allow the employee to take the same period of leave at a later date, providing the opportunity for a period of consultation with the employee regarding the date and the reason for the postponement.

If it is not possible to give 21 days' notice, the employee must give notice as soon as is reasonably practicable.

Parental Leave Pay and Contractual Rights

The employee's contract continues as normal throughout the parental leave period, with the exception of pay, as parental leave is unpaid. The period of parental leave will count towards their continuous service.

Parental leave does not count towards LGPS membership unless an employee makes contributions as they would have if they had been at work. If an employee wishes to do this, they must inform the HR Department within 30 days of returning to work (or within 30 days of leaving if they do not return). Employees are also encouraged to contact the pension provider for advice, prior to making a decision.

Returning to work

An employee taking parental leave is normally entitled to return to their substantive role, however, if the parental leave covers a single period of more than four weeks, or it was immediately preceded by a period of statutory leave, which included a period of additional maternity or adoption leave, the employee should check with the HR Department the impact this may have on their right to return to their substantive role. If a return to their substantive role is not feasible, the employee must be

offered an alternative role, which is suitable and appropriate and has no less favourable terms and conditions.

9. SURROGACY

Whilst the intended mother is not legally entitled to maternity leave in a surrogacy situation, intended parents in a surrogacy arrangement who are entitled and intend to make an application for a parental order, to become the child's legal parents, are entitled to paternity leave and pay and adoption leave and pay (assuming the other relevant conditions are met, as specified within this policy). They will also be able to opt into the SPL system if the parent taking adoption leave chooses to bring the leave to an end early (as specified within the Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations 2014). Intended parents can request time off to attend antenatal appointments to enable them to accompany the birth mother and the Special Leave Policy and Procedure should be followed in these circumstances. Staff should make every effort to make arrangements outside normal working hours, however, where this is not possible, and an appointment has been made near the start or end of the working day, paid special leave will be granted. Adoption leave can start the day of the birth or the day after. Employees must notify the HR Department and their line manager at least 15 weeks before the baby is due that they intend to take adoption leave.

10. IVF TREATMENT

The process of IVF treatment typically takes between 4-7 weeks for one cycle. There is no statutory right for employees to take off work to undergo investigations or treatment. Employees requiring time off for IVF treatment should submit a request via E-days, as per the Special Leave Policy and Procedure.

Following implantation, the woman is regarded as pregnant from the point of implantation. If the cycle is successful, the woman is legally viewed as having a protected characteristic until the end of her maternity leave. If the treatment is unsuccessful, the protection ceases two weeks after the end of the pregnancy. A pregnancy test is taken two weeks after implantation and, if the test is negative, the protected period extends for a further two weeks. Whilst within the protected period, the employee is protected from dismissal or adverse treatment under the Equality Act 2010. Employees are encouraged to notify the HR Department when entering into an IVF cycle.

11. PENSIONS

In all cases, please seek advice from your pension provider. The Finance and HR Departments will endeavour to provide information, but they cannot provide financial or pension advice.

Pension - Teachers

- Whilst in receipt of statutory maternity pay, ordinary maternity pay, statutory adoption pay, ordinary adoption pay, statutory paternity pay, ordinary paternity pay, or shared parental pay, pensionable service will continue to accrue at the same proportion as the employee's teaching post.
- Any maternity leave or parental leave without pay will not count as pensionable service.
- Members of the Teachers' Pension Scheme can opt in or out at any time. Employees can opt out in advance of their leave by completing the Opting Out Form online at www.teacherspensions.co.uk. This means that no contributions are paid on any payments received during leave.
- Employees who opt out and then return are able to re-join the Teachers' Pension Scheme by completing the Election to Join the Scheme Form available online at

www.teacherspensions.co.uk. There is no limit to the number of times employees can opt out and rejoin the Teachers' Pension Scheme but employees should note the significance of opting out for a period of 5 years or more, whereby they will be treated as a new scheme member when they opt back in.

- Employees who are paying additional voluntary contributions (AVC's) must continue to make payments on pay received, unless the employee opts to stop this payment.
- Employees who are paying additional regular contributions (ARC's) to purchase additional annual pension or purchase added years of membership must make contact with the Teachers' Pension Scheme, the Union's pension section or a Financial Advisor
- **Employees wishing to opt out of the Teachers' Pension Scheme are strongly advised to seek advice from their trade union or financial advisor and clarification can be sought via the Finance Department or the Teachers Pensions.**

Pension – Non-teaching staff

- During periods of paid leave, the employee will continue with full membership of the LGPS for the first 26 weeks off work. Pension contributions will be based on the actual pay the employee receives during this period.
- Employees taking additional leave will continue with full membership of the LGPS for that period, and pension contributions will be based on the actual pay the employee receives during the period.
- If an employee opts to take additional unpaid leave, their pension membership will not count unless they have the right to return to work, in which case the employee can choose to pay back pension contributions to cover the unpaid period, thus making it count. An employee wishing to do this must inform the HR Department within 30 days of returning to work (or within 30 days of leaving if they do not return to work). The cost of paying back is based on the last rate of pay the employee has received, ignoring any increase in pay due to working a KIT day.
- If any employee is paying extra LGPS contributions or AVCs, they should either contact the LGPS or visit their website (www.lgps.org.uk) for more information.
- **Employees wishing to opt out of the LGPS are strongly advised to seek advice from their trade union or financial advisor and clarification can be sought via the Finance Department or the LGPS.**

12. MISUSE OF THE POLICY

If an employee is suspected of misusing this policy, the matter will be investigated and may be dealt with under the Disciplinary Policy and Procedure.

13. MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF THE POLICY AND PROCEDURE

Effectiveness and compliance of this Policy and Procedure will be monitored by the HR Department.

14. REFERENCES

Employment Rights Act 1996
Equality Act 2010
Maternity and Parental Leave Regulations 1999
Paternity and Adoption Leave (Amendment) Regulations 2006
Maternity and Parental Leave and Paternity and Adoption Leave (Amendment) Regulations 2008
Parental Leave (EU Directive) Regulations 2013
Additional Paternity Leave Regulations 2010

Additional Statutory Paternity Leave Regulations 2008
Management of Health and Safety at Work Regulations 1992
Children and Families Act 2014
Paternity and Adoption Leave (Amendment) Regulations 2014
Shared Parental Leave Regulations 2014
Conditions of Service for School Teachers in England and Wales (Revised August 2000)
Burgundy Book.
www.cipd.co.uk
acas.org.uk
www.gov.uk

15. REVIEW

This Policy and Procedure will be reviewed within 2 years of the date of implementation with recognised trade unions via the Trust's JCC.

Glossary

OML	Ordinary Maternity Leave
AML	Additional Maternity Leave
EWC	Expected Week of Childbirth
SMP	Statutory Maternity Pay
NIC	National Insurance Contributions
OMP	Occupational Maternity Pay
MPP	Maternity Pay Period
MHSW	Management of Health and Safety at Work Regulations 1992
KIT	Keep in Touch
SLT	Senior Leadership Team
MA	Maternity Allowance
LGPS	Local Government Pension Scheme
AVC	Additional Voluntary Contributions
OPL	Ordinary Paternity Leave
APL	Additional Paternity Leave
SPP	Statutory Paternity Pay
OPP	Occupational Paternity Pay
SPL	Shared Parental Leave
ShPP	Statutory Shared Parental Pay
OShPP	Occupational Shared Parental Pay
OAL	Ordinary Adoption Leave
AAL	Additional Adoption Leave
SAP	Statutory Adoption Pay
OAP	Occupational Adoption Pay