



## Work and Families Guidance

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Approved by: Trust Board

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### Guidance document for Maternity, Shared Parental Leave, Birth Leave (including Paternity), Adoption Leave and Parental Leave

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# 1. Main Legislation Concerning Maternity, Birth/Paternity, Parental and Adoption Leave

Employment Relations Act 1999

Employment Rights Act 1996

Maternity and Parental Leave etc. Regulations 1999 SI 1999/3312

Maternity and Parental Leave (Amendment) Regulations 2001 SI 2001/4010

Maternity and Parental Leave (Amendment) Regulations 2002 SI 2002/2789

Management of Health and Safety at Work Regulations 1999 SI 1999/3242

Workplace (Health, Safety and Welfare) Regulations 1992 SI 1992/2051

Employment Act 2002

Social Security, Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments)

Regulations 2002 SI 2002/2690

Work and Families Act 2006

Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment)

Regulations 2006 SI 2006/2014

Shared Parental Leave Regulations 2014

Statutory Shared Parental Pay (General) Regulations 2014

For further guidance on the above legislation please contact HR.

## 2. Record Keeping

The Trust will keep records for HM Revenue and Customs (HMRC), including:

- the evidence provided by the employee to show that they are eligible for ShPP (Statutory shared parental pay)
- the date ShPP began
- the ShPP payments (including dates)
- the ShPP you have reclaimed
- any weeks not paid and why

Records must be kept for at least 3 years from the end of the tax year they relate to.

## 3. Contact during Maternity Leave

It is good practice for employees and Heads of School to maintain reasonable contact during an employee's absence so that she will remain informed of developments and changes within the school, which will support her return to work. The mechanisms by which she wishes to do this, and the extent to which she wants to be kept informed, should be discussed with her Head of School prior to the commencement of Maternity Leave.

### 3.1 Frequently Asked Questions - Pay and Conditions (Maternity)

#### • How is Maternity Pay paid?

- Maternity Pay will be paid in the same way as current pay. This applies to Occupational Maternity Pay (OMP), Statutory Maternity Pay (SMP), and keeping-in-touch days.
- Payment will continue to be made on the normal payday and any payslips will be sent to the home address. However, if the employee is not eligible for Statutory Maternity Pay but entitled to Maternity Allowance this would be paid directly from the Benefits Agency.

- **How are Keeping-in-Touch days paid?**

The employee will be paid at their contractual rate of pay (which will include SMP where payable) for any hours worked during keeping-in-touch days.

If the employee decides to take advantage of a keeping-in-touch day whilst receiving Statutory Maternity Pay (SMP) the minimum they will receive is SMP and the normal offset rules will apply. For example, if whilst on Maternity Leave the employee earns £50 (this figure will be dependent on the rate of pay per hour and the number of hours worked) for a keeping-in-touch day the employee will be able to retain your SMP. The £50 earned will be offset against SMP meaning that the employee will receive the flat rate SMP in force at that time. If for example the employee works for 3 keeping-in-touch days in the same week and earns £150 they will receive £150 as the SMP will be offset against the contractual pay paid for the same week. The employee is entitled to 10 keeping-in-touch days throughout the Maternity Leave period. If the employee exceeds these 10 days even by only one day they will forfeit one full week's SMP where applicable.

If the employee decides to work a keeping-in-touch day during the unpaid part of the Maternity Leave period they will be paid at their contractual rate of pay.

- **What happens to additions/deductions to pay during Maternity Leave?**

- a) **National Insurance and Income Tax:**

- National Insurance Contributions are deductible from the gross occupational maternity pay and gross Statutory Maternity Pay (SMP). They are not, however, deductible for the unpaid part of the Maternity Leave period and therefore benefits may be lost. The employee should contact their Department of Work and Pensions (DWP) office with a view to obtaining guidance on whether or not contributions should be paid in order to avoid any possible loss of benefits.
- Pay during Ordinary Maternity Leave and Statutory Maternity Pay (SMP) is subject to the provisions of income tax.
- The employee may be entitled to a tax rebate if they are not returning to work. As soon as they have received any maternity pay they are entitled to, they should receive a P45 from the payroll provider. They should send this to HM Revenue and Customs, along with written confirmation that they have finished work.

- b) **Pension Contributions:**

Please see the Work and Families Policy for information regarding pension contributions during Maternity Leave.

- c) **Trade Union and other deductions:**

Trade Union deductions taken by the payroll cease during the unpaid part of Maternity Leave and are reinstated upon the return to paid employment unless otherwise agreed. Other deductions taken by the payroll, such as Simply Health, the Credit Union and Council Tax, will automatically cease during the unpaid part of any maternity absence and the employee will need to make alternative arrangements for these payments.

- d) **Increments:**

Absence on Maternity Leave whether paid or unpaid shall count towards any normal annual increment and shall not defer the normal incremental date.

**e) Retrospective pay awards:**

In the event of a retrospective pay award being agreed after the commencement of Maternity Leave, the Occupational Maternity Pay, Statutory Maternity Pay (SMP) and any payment for keeping-in-touch days will be re-calculated based on the new values. If the employee has left employment with the Trust, they will need to contact HR regarding the payment of any arrears.

**f) Additional payments:**

If the employee normally receives a lump sum essential car user payment, this will be maintained in full for the duration of Maternity Leave. First Aid payments will be stopped as soon as Maternity Leave starts. Any other additional payments may be subject to different rules, and the employee should contact HR for further information.

**g) Can a teacher continue to move up the upper pay spine when they have been on Maternity Leave?**

Movement on the upper scale usually depends on two successful performance reviews. If someone is on Maternity Leave, there may not be sufficient evidence over 2 years to determine this. It would then be necessary to reach a judgement as to whether the teacher has met their performance targets. If a teacher is absent for 2 terms out of 6 then it is likely that a judgement could be made that she had met her performance objectives. However, if a teacher is absent for 5 terms out of 6 then it is not likely that there would be enough evidence to say that the teacher had met their objectives.

### **3.2 Frequently Asked Questions – General (Maternity)**

- **What if the employee wishes to work up to the birth?**

If the employee is fit and able they are entitled to work up until the time the baby is due and their Maternity Leave will commence on the following day.

- **What if the baby is born before the Maternity Leave is due to start?**

If the employee's baby is born before their Maternity Leave is due to start, the maternity pay period will start from the day following the date of birth. The employee is required to write and inform their Head of School as soon as is reasonable that they have given birth and of the actual birth date of the baby.

- **What if it is a multiple birth?**

If the employee is expecting more than one baby, the entitlement to Maternity Leave/pay is the same as if the employee were expecting only one baby.

- **What if the baby is still born?**

In the unhappy event of the baby not surviving from the start of the 25<sup>th</sup> week of pregnancy onwards, the employee will be entitled to maternity pay and leave entitlements as if the baby had lived. If the employee miscarries the baby during the first 24 weeks of pregnancy, they do not qualify for any Maternity Leave or maternity pay. Any absence from work will be treated as sick leave and they will be entitled to occupational sick pay in the usual manner. The employee will need to follow the sickness reporting procedure in these circumstances. If the employee. Requires further advice, they should contact HR.

- **Does Maternity Leave affect continuity of service?**

No. Maternity Leave does not count as a break in service.

- **End of Fixed Term/Temporary Contract during Maternity Leave**

If a woman's contract is due to end during her Maternity Leave period, the Trust will deal with the end of fixed term contract in the normal way under the appropriate procedures. The reason for non-renewal must not be maternity related, and there must be an objective reason for non-renewal.

Pay and rights under the maternity scheme end on the same day that her contract expires, although the employee would continue to receive any remaining statutory maternity pay, if she qualifies.

- **What if an employment contract needs to be amended during Maternity Leave?**

If it is necessary to amend an employment contract during Maternity Leave, the amendment should be made following consultation with the employee and should place them on no less favourable terms than for existing employees.

- **What if the employee cannot return to work at the end of their Maternity Leave because of sickness?**

Where the employee submits a medical certificate from a registered medical practitioner, or a self-certificate, to cover absence from:

- the date the employee has notified the Head of School that they will return to work following child birth; or
- the date the employee and the Head of School have agreed that they will return, or
- where no date has been notified or agreed, the first day following the maximum period of Maternity Leave to which the employee is entitled

They will be entitled to sick leave in accordance with the Managing Attendance Policy and Procedure.

## **4. Health and Safety Issues for Pregnant Employees**

All employers have a legal obligation to protect the health and safety at work of all staff and others, including new, breast feeding and expectant mothers.

### **Risk Assessment**

An employee should inform their Head of School that they are pregnant. A risk assessment of their working area and practices should then be carried out by HR. When carrying out risk assessments for workplaces and workstations etc. particular attention should be paid to those risks that could affect the health or safety of new, breast feeding or expectant mothers or their babies. All reasonable practicable measures should be taken to prevent exposure to risks, through removal of hazards or implementation of controls.

### **Managing staff at risk**

If despite taking all reasonably practicable measures, there is still a risk that could jeopardise the health or safety of a new, breast feeding or expectant mother or her baby then HR advice must be taken regarding steps to remove the individual from that risk such as follows:-

- To temporarily adjust the individual's working conditions and/or hours of work; or if it is not reasonable to do so, or would not avoid the risk:
  - Offer her suitable alternative work if any is available; or if that is not feasible:

- Suspend her from work for as long as necessary to protect her health and safety and/or that of the baby. In the case of suspension, the Head of School must refer the matter to the Executive Headteacher and HR.

### **Offers of Suitable Alternative Work**

Where an employee is offered suitable alternative work, the work must be:

- Both suitable and appropriate for her to do in the circumstances; and
- On terms and conditions no less favourable than her normal terms and conditions.

### **Entitlements during Maternity Suspension**

A woman on maternity suspension is entitled to be paid remuneration at her full normal rate or as long as the suspension continues. The only exception to this is where she unreasonably refuses an offer of suitable (risk assessed) alternative work, in which case no remuneration is payable for the period during which the offer applies. During the period of maternity suspension continuity of employment is protected.

## **5. Frequently Asked Questions - Pay and Conditions (Adoption)**

### **How is adoption pay paid?**

- Adoption pay will be paid in the same way as the employee's current pay. This applies for both Occupational Adoption Pay, Statutory Adoption Pay (SAP) and keeping in touch days
- Payment will continue to be made on the normal payday and any payslips will be sent to the home address.
- **How will the employee be paid for a keeping in touch day?**

The employee will be paid at their contractual rate of pay (which will include SAP where payable) for any hours worked during keeping-in-touch days.

If the employee decides to take advantage of a keeping-in-touch day whilst receiving Statutory Adoption Pay (SAP) the minimum they will receive is SAP and the normal offset rules will apply. For example, if whilst on Adoption Leave they earn £50 (this figure will be dependent on their rate of pay per hour and the number of hours they work) for a keeping-in-touch day they will be able to retain their SAP. The £50 earned will be offset against their SAP meaning that they will receive the flat rate SAP in force at that time. If for example they work for 3 keeping in touch days in the same week and earn £150 they will receive £150 as their SAP will be offset against their contractual pay paid for the same week. The employee is entitled to 10 keeping-in-touch days throughout their Adoption Leave period. If the employee exceeds these 10 days even by only one day they will forfeit one full weeks SAP where applicable.

If the employee decides to work a keeping-in-touch day during the unpaid part of their Adoption Leave, they will be paid at their contractual rate of pay.

- **What happens to additions/deductions to pay during Adoption Leave?**

#### **a) National Insurance and Income Tax**

- National Insurance Contributions are deductible from the gross Occupational Adoption Pay and gross Statutory Adoption Pay (SAP). They are not, however, deductible for the unpaid part of the employee's Adoption Leave and therefore benefits may be lost.
- The employee should contact their Department of Work and Pensions (DWP) office with a view to obtaining guidance on whether or not contributions should be paid in order to avoid any possible loss of benefits

- Pay during ordinary Adoption Leave and Statutory Adoption Pay (SAP) is subject to the provisions of income tax.
- The employee may be entitled to a tax rebate if they are not returning to work. As soon as they have received any adoption pay, they are entitled to receive a P45 from the payroll provider. The employee should send this to HM Revenue and Customs, along with written confirmation that they have finished work.

**b) Pension Contributions**

Please see the Work and Families Policy for details of pension contributions during Adoption Leave.

**c) Trade Union and other deductions:**

Trade Union deductions taken by the payroll cease during the unpaid part of Adoption Leave and are reinstated upon the return to paid employment unless otherwise agreed. Other deductions taken by the payroll, such as Simply Health Leeds Hospital Fund, the Credit Union and Council Tax, will automatically cease during the unpaid part of any maternity absence and the employee you will need to make alternative arrangements for these payments.

**d) Increments**

Absence on Adoption Leave whether paid or unpaid shall count towards any normal annual increment and shall not defer the normal incremental date.

**e) Retrospective Pay Awards**

In the event of a retrospective pay award being agreed after the commencement of your Adoption Leave, the Occupational Adoption Pay, Statutory Adoption Pay (SAP) and any payment for keeping-in-touch days will be re-calculated based on the new values. If the employee has left employment with the Trust they will need to contact HR regarding the payment of arrears.

**f): Additional payments**

If the employee normally receives a lump sum essential car user payment, this will be maintained in full for the duration of their Adoption Leave. First Aid payments will be stopped as soon as Adoption Leave starts. Any other additional payments may be subject to different rules, and the employee should contact HR if they require further information.

**5.1 Frequently Asked Questions – General (Adoption)**

**• What if the adoption is delayed or disrupted?**

The employee must be sure that the placement is actually going ahead if they are starting Adoption Leave before the actual date of placement, as they cannot stop the leave and start again if there are any delays.

It is requested that Adopters inform the Head of School and HR at the earliest possible opportunity of their intention to commence an adoption process in order that the Academy/Trust can provide the appropriate support to the employee and make the necessary arrangements within school.

There is an eight week period allowing adoptive parents to come to terms with the ending of a placement. This applies in 3 sets of circumstances:

- If the employee has started Adoption Leave before the placement and the adoption agency notify them that the child will not be placed with them, the Adoption Leave will

end eight weeks after the end of the week that they are notified the placement will not take place.

- If the child dies during the Adoption Leave, the leave will end eight weeks after the end of the week in which the child dies.
- If the child is returned to the adoption agency, the leave will end eight weeks after the end of the week in which the placement ends.

- **Does Adoption Leave affect continuity of service?**

No. Adoption Leave does not count as a break in service.

- **What if an employment contract needs to be amended during Adoption Leave?**

If it is necessary to amend an employment contract during Adoption Leave, the amendment should be made following consultation with the employee and should place them on no less favourable terms than for existing employees.

## 6. Roles and Responsibilities

This list is not exhaustive, but attempts to describe the most critical aspects of the Work and Families procedures

<b>MATERNITY</b>		
	<b>Role of Employer</b>	<b>Role of Employee</b>
<b>Health and Safety</b>	The Employer has a duty to undertake a risk assessment of the employee's working area and practices as soon as they are notified, and make reasonable adjustments to remove the employee from risk.	To inform her employer she is pregnant. This should be done by the 15 <sup>th</sup> week before the EWC.  If the employee becomes aware of risk to her health whilst pregnant she has a duty to bring it to the attention of her employer.
<b>Ante-Natal Care</b>	The employer should apply the usual leave of absence procedures when granting requests for ante-natal care.	The employee should endeavour to give her Head of School as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.
<b>Notification</b>	Within 28 days of receiving the employee' dates for Maternity Leave the employee must receive written confirmation telling her when she is expected to return to work.  A payment schedule will be provided in due course.	By the 15 <sup>th</sup> week before the EWC the employee must tell her employer when she wishes to start Maternity Leave and when to take any annual leave. Provide the MAT B1 maternity certificate.  If the employee does not give at least 28 days' notice of when she wants her Maternity Leave to start the employer may refuse or postpone the start of her leave.  8 weeks' notice must be given if the employee wishes to return from her Maternity Leave earlier than originally planned.  For employees covered by Burgundy



		<p>Book provisions this may be reduced to 21 days' notice, however, the more notice an employee can give their employer the better for business planning.</p> <p>The employee must inform the employer as to any changes in circumstances i.e. start work for another employer whilst on Maternity Leave, taken into legal custody</p>
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**ADOPTION LEAVE**

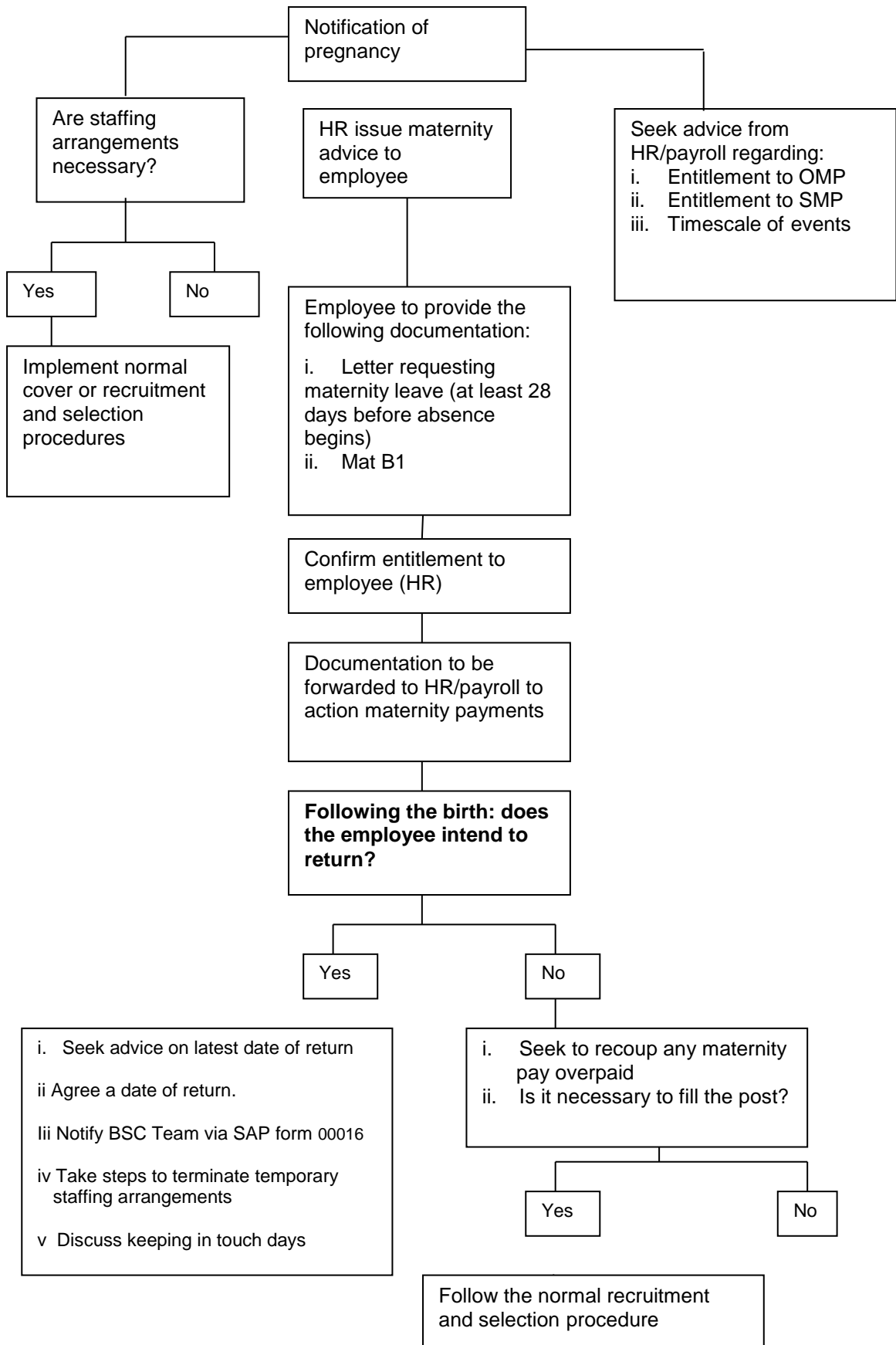
	<b>Role of the Employer</b>	<b>Role of the Employee</b>
<b>Notification</b>	<p>Within 28 days of receiving employees dates for Adoption Leave the employee must receive written confirmation telling her/him when she is expected to return to work and given details on how s/he will be paid.</p>	<p>To inform his/her employer as soon as practicable that s/he will be absent from work and when s/he wishes to return.</p> <p>This should be done within 7 days of being notified by the Adoption Agency and evidenced by producing a matching certificate within 28 days of the date s/he expects the adoption payments to commence.</p> <p>It is requested that Adopters inform the Head of School and HR at the earliest possible opportunity of their intention to commence an adoption process in order that the Academy/Trust can provide the appropriate support to the employee and make the necessary arrangements within school.</p> <p>8 weeks' notice must be given if the employee wishes to return from Adoption Leave earlier than originally planned.</p> <p>The employee must inform the employer as to any changes in circumstances i.e. starting work for another employer whilst on Adoption Leave, or being taken into legal custody</p>

**BIRTH LEAVE**

<b>Birth Leave</b>	<p>The employer should apply the usual leave of absence procedures when considering requests for birth leave.</p>	<p>The biological father, spouse or partner needs to complete the relevant payroll form and submit this to the Head of School along with a copy of the MAT B1 and a Special Leave request form.</p>
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<b>SHARED PARENTAL LEAVE</b>		
<b>Shared Parental Leave</b>	Refer to table below (15)	Refer to table below (15)
<b>PARENTAL LEAVE</b>		
<b>Notification</b>	An employer can ask to see evidence to confirm that the employee is the parent or the person legally responsible for the child, evidence might take the form of information contained in the child's birth certificate, adoption papers etc. The employer's request must be reasonable.	A request must be made to employer giving 21 days' notice of the start date of the parental leave  If asked by the employer, the employee must provide evidence that they are the person responsible for the child/adult.

## 7. Maternity Flowchart



## 8. Guide to Maternity Pay – TEACHERS

At least 26 weeks continuous service with current employer at the 15 <sup>th</sup> week before EWC and at least 1 years' continuous service at the 11 <sup>th</sup> week before EWC	Less than 26 weeks continuous service with current employer at the 15 <sup>th</sup> week before EWC but at least 1 years' continuous at the 11 <sup>th</sup> week before EWC	At least 26 weeks continuous service with current employer at the 15 <sup>th</sup> week before EWC but less than 1 year continuous service at the 11 <sup>th</sup> week before EWC	Less than 26 weeks continuous service with current employer at the 15 <sup>th</sup> week before EWC and less than 1 year continuous service at the 11 <sup>th</sup> week before EWC
<ul style="list-style-type: none"> <li>• 4 weeks full pay (off set by SMP)</li> <li>• 2 weeks 9/10ths of a week's salary (off set against payments of SMP)</li> <li>• 12 weeks at half pay plus SMP (capped at normal rate of pay)</li> <li>• 21 weeks SMP</li> <li>• Max 13 weeks unpaid leave to the date of the return of the Teacher</li> </ul> <p>Occupational Maternity Pay paid during the first 18 weeks of Maternity Leave is only payable on the condition that the Teacher returns to work for at least 13 weeks (or longer if the return is on a reduced hours basis)</p>	<ul style="list-style-type: none"> <li>• 4 weeks full pay (off set by MA if applicable*)</li> <li>• 2 weeks 9/10ths of a week's salary (off set against MA if applicable *)</li> <li>• 12 weeks at half pay (plus MA if applicable*)</li> <li>• 21 weeks MA (if applicable *)</li> <li>• Max 13 weeks unpaid leave to the date of the return of the Teacher</li> </ul> <p>*Eligibility for Maternity Allowance (MA) is dependent on NI contributions and is administered by the Benefits Agency</p> <p>Occupational Maternity Pay paid during the first 18 weeks of Maternity Leave is only payable on the condition that the Teacher returns to work for at least 13 weeks (or longer if the return is on a reduced hours basis)</p>	<ul style="list-style-type: none"> <li>• 6 weeks at 9/10ths of a week's salary (off set against payments of SMP)</li> <li>• 33 weeks at SMP</li> <li>• Max 13 weeks unpaid Leave to the date of the return of the Teacher</li> </ul>	<p>Statutory Maternity Allowance (MA) may be payable*</p> <p>Maximum 52 weeks leave</p>

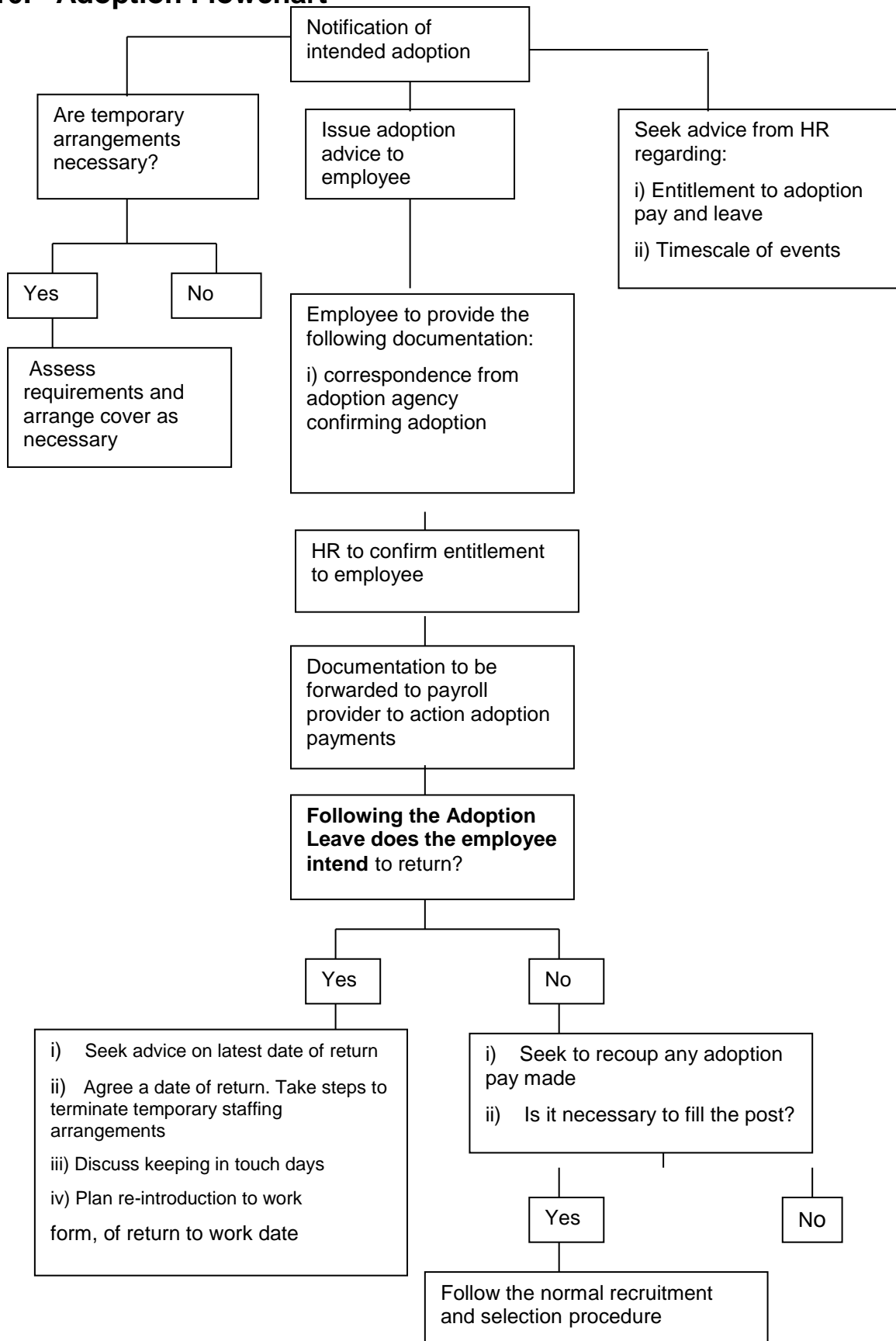
*\* Entitlement to Statutory Maternity Pay (SMP) is dependent on the level of earnings at the Qualifying Week (the 15<sup>th</sup> week before the Expected Week of Confinement - EWC) and the length of service. If your average earnings on this date are lower than the amount on which National Insurance is payable, the employee is not eligible for SMP and Maternity Allowance (MA) may be payable. Eligibility for Maternity Allowance (MA) is dependent on NI contributions and is administered by the Benefits Agency*

## 9. Guide to Maternity Pay – SUPPORT STAFF

At least 26 weeks continuous service with current employer at the 11 <sup>th</sup> week before EWC	Less than 26 weeks continuous service with current employer at the 11 <sup>th</sup> week before EWC but at least 1 years' continuous service at the 11 <sup>th</sup> week before EWC	Less than 26 weeks continuous service with current employer at the 11 <sup>th</sup> week before EWC and less than 1 year continuous service at the 11 <sup>th</sup> week before EWC
<p>Max leave entitlement: <b>Up to 11 weeks before EWC and 52 weeks after</b></p> <p>Pay:</p> <ul style="list-style-type: none"> <li>• 6 weeks at 9/10 pay (<b>includes SMP or MA*</b>)</li> <li>• 4 weeks at 9/10 Pay (<b>includes SMP or MA*</b>)</li> <li>• 20 weeks 1/2 pay <b>plus SMP or MA*, capped at normal rate of pay</b></li> <li>• 9 weeks standard rate SMP/MA* or 9/10 pay <b>whichever is lower.</b></li> <li>• 13 weeks unpaid leave</li> </ul> <p><b>Occupational Maternity Pay paid during Maternity Leave is only payable on the condition that the employee returns to work for at least 13 weeks (or longer if the return is on a part-time basis)</b></p>	<p>Max leave entitlement: <b>52 weeks</b></p> <p>Pay:</p> <ul style="list-style-type: none"> <li>• 6 weeks at 9/10 pay (<b>offset by MA*</b>)</li> <li>• 12 weeks 1/2 pay <b>plus MA*, capped at normal rate of pay</b></li> <li>• 21 weeks MA*</li> <li>• 13 weeks unpaid leave</li> </ul> <p><b>Occupational Maternity Pay paid during the first 18 weeks of Maternity Leave is only payable on the condition that the employee returns to work for at least 13 weeks (or longer if the return is on a part-time basis)</b></p>	<p>Max leave entitlement: <b>52 weeks</b></p> <p>Pay: <b>May be eligible for Maternity Allowance (MA)*</b></p>

*\* Entitlement to Statutory Maternity Pay (SMP) is dependent on the level of earnings at the Qualifying Week (the 15<sup>th</sup> week before the Expected Week of Confinement - EWC) and the length of service. If the employee's average earnings on this date are lower than the amount on which National Insurance is payable, they are not eligible for SMP and Maternity Allowance (MA) may be payable. Eligibility for Maternity Allowance (MA) is dependent on NI contributions and is administered by the Benefits Agency*

## 10. Adoption Flowchart



## 11. Adoption Pay – TEACHERS

<p><b>26 weeks continuous service with current employer by the week they have been notified that they have been matched with a child and are intending to return to work.</b></p>	<p><b>26 weeks continuous service with current employer by the week they have been notified that they have been matched with a child and are not intending to return to work.</b></p>
<ul style="list-style-type: none"> <li>• 6 weeks 9/10ths of a weeks salary (<b>off set against payments of Statutory Adoption Pay</b>)</li> <li>• 20 weeks at half pay plus SAP (capped at normal rate of pay)</li> <li>• 13 weeks SAP</li> <li>• Max 13 weeks unpaid leave <b>to the date of the return of the Teacher</b></li> </ul> <p><b>Occupational Adoption Pay paid during Adoption Leave is only payable on the condition that the Teacher returns to work for at least 13 weeks (or longer if the return is on a reduced hours basis)</b></p>	<ul style="list-style-type: none"> <li>• 6 weeks 9/10ths of a weeks salary (<b>off set against SAP</b>)</li> <li>• 33 weeks SAP (<b>if applicable</b> )</li> </ul>

## 12. Adoption Pay – SUPPORT STAFF

<p><b>26 weeks continuous service with current employer by the week they have been notified that they have been matched with a child and are intending to return to work.</b></p>	<p><b>26 weeks continuous service with current employer by the week they have been notified that they have been matched with a child and are not intending to return to work.</b></p>
<ul style="list-style-type: none"> <li>• 6 weeks 9/10ths of a weeks salary (<b>off set against payments of Statutory Adoption Pay</b>)</li> <li>• 20 weeks at half pay plus SAP (capped at normal rate of pay)</li> <li>• 13 weeks SAP</li> <li>• Max 13 weeks unpaid leave <b>to the date of the return of the employee</b></li> </ul> <p><b>Occupational Adoption Pay paid during Adoption Leave is only payable on the condition that the employee returns to work for at least 13 weeks (or longer if the return is on a reduced hours basis)</b></p>	<ul style="list-style-type: none"> <li>• 6 weeks 9/10ths of a weeks salary (<b>off set against SAP</b>)</li> <li>• 33 weeks SAP (<b>if applicable</b> )</li> </ul>

### 13. Birth/Paternity Leave and Pay

<b>Period of Paternity Leave</b>	2 calendar weeks which can be taken at any time between 11 weeks prior to and 8 weeks after the birth. The leave has to be taken as either 1 single week or 2 consecutive weeks
<b>Teachers Paternity Pay Entitlement</b>	2 weeks paid leave at the normal weekly pay rate
<b>Support Staff Paternity Pay Entitlement</b>	2 weeks paid leave at the normal weekly pay rate

### 14. Parental Leave

Please note that all parental leave is without pay

<b>Both Teaching and Support Staff are eligible to apply for Parental Leave</b>		
	Parents with a child up to their 6 <sup>th</sup> birthday (up to 18 <sup>th</sup> birthday from April 2015)	Parents with a disabled child up their 18 <sup>th</sup> birthday (for whom a Disability Living Allowance is being paid)
<b>Period of Parental Leave</b>	A total of 13 weeks for each qualifying child	A total of 18 weeks for each qualifying child
<b>Maximum Leave per year</b>	4 weeks for any individual child. In block or multiples of 1 week	4 weeks for any individual child. In blocks or multiples of 1 day.
<b>Notice required to the school</b>	21 days notice	21 days notice

### 15. Shared Parental Leave and Pay

<b>Qualifying period</b>	Both parties have 26 weeks continuous service from 15 <sup>th</sup> week EWC and remain in employment when leave is taken
<b>Partner</b>	Biological father, Civil partner, or partner of mother and must live with the mother in a family relationship (but not related to mother)
<b>Shared Parental Leave and Statutory Shared Parental Pay</b>	<p>If the individual or their partner ends their maternity or adoption leave and pay (or Maternity Allowance) early (NB the mother must take the first 2 weeks for recovery), then they can:</p> <ul style="list-style-type: none"> <li>• Take the rest of the 52 weeks of maternity or adoption leave as Shared Parental Leave (SPL)</li> <li>• Take the rest of the 39 weeks of maternity or adoption pay (or Maternity Allowance) as Statutory Shared Parental Pay (ShPP)</li> </ul> <p>ShPP is paid at the rate of £145.18 a week or 90% of average weekly earnings, whichever is lower. (This is the</p>



	same as <a href="#">Statutory Maternity Pay (SMP)</a> except that during the first 6 weeks SMP is paid at 90% of earnings (with no maximum).
<b>Shared Parental Leave per year</b>	Single continuous period – automatically agreed  Separate periods- employer to consider request within 14 days
<b>Notice information</b>	Can give up to 3 notices of intention
<b>Notice required to the school</b>	8 weeks before start date

### **Shared Parental Leave Notification Requirements**

<b><u>Role of the employer</u></b>	<b><u>Role of the employee &amp; their partner</u></b>
<p>Within 28 days of receiving employee's dates for Shared Parental Leave the employee must receive written confirmation telling them when he/she is expected to return to work and give details on how he/she will be paid.</p> <p>If the employee returns within 26 weeks or less then they are entitled to return to the job in which they were employed before the period of leave.</p> <p>If the employee returns after a period of 26 weeks, including any other statutory leave or additional leave then the employee is entitled to return from leave to the job in which they were employed before the period of leave, or, if it is not reasonably practicable for the employer to allow them to return to that post, to another job which is both suitable and appropriate for the employee to do in the circumstances.</p>	<p>The names of the mother and of the father/spouse/civil partner/partner.</p> <p>The start and end date of any statutory Maternity Leave taken or to be taken by the mother</p> <p>Statutory Maternity Leave taken or to be taken by the mother (1) Statutory maternity pay received or to be received by the mother (where statutory Maternity Leave was not or is not to be taken in relation to that (2) Maternity allowance received or to be received by the mother (where statutory Maternity Leave was not or is not to be taken in relation to that period)</p> <p>The total amount of Shared Parental Leave available</p> <p>Child's expected week of birth</p> <p>Date of birth (if the child is not yet born, this information must be provided as soon as reasonably practicable after the birth and , in any event, before the first period of Shared Parental Leave is taken</p> <p>How much Shared Parental Leave each parent intends to take</p> <p>An indication as to when the employee intends to take Shared Parental Leave (including the start and end date for each period of leave)</p>

## **16. A Guide to the Accrual of Annual Leave for Teachers and Support Staff Working Term Time Only**

**This is not an additional entitlement to annual leave on top of the current school closure arrangements.**

Full time teachers are contractually required to work for 1265 hours per year. These hours are worked over 39 weeks of the year as specified by the employer. Teachers therefore have 13 weeks (66 days including May Bank Holiday) leave each year to be taken when the school is closed.

A teacher who takes Maternity Leave must be able to take the 28 days statutory annual leave at a time outside of her Maternity Leave.

Support Staff working term time only will accrue leave during the period of unpaid Maternity Leave and. That leave will be a proportion of the 28 days statutory annual leave and must be taken outside of her Maternity Leave.

**Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question, i.e. both before and after the Maternity Leave period;**

Where there are insufficient school closures to accommodate her leave in that leave year teachers or support staff working term time only returning to work after Maternity/Adoption Leave will carry forward any untaken statutory annual leave into the next annual leave year. This will be taken when the school is closed (i.e. up to 48 days statutory leave in one annual leave year). It is not proposed to allow staff to continually accrue annual leave beyond one leave year.

It is not possible for either the member of staff or the authority to decide to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year i.e. in school closures or in term time;

Teachers or support staff working term time only do not have a contractual entitlement to paid leave on public or bank holidays. The Early May Day bank holiday is the only bank holiday that falls during term time. For the purposes of annual leave, the Early May Day bank holiday will be classed as a school closure which counts against the statutory annual leave entitlement, which is currently 28 days.

Payment in lieu may be necessary in the circumstance where a member of staff does not return to her job following Maternity Leave. It will not be possible for a member of staff to obtain payment in lieu of untaken annual leave instead of taking leave during the leave year.

Retrospective claims in respect of untaken annual leave may only be made within 3 months of the date within the current academic leave year when the leave should have been permitted or payment should have been made.

### **Payment in Lieu**

Regulation 13(9) (b) of the Working Time Regulations prohibits payment in lieu being made for annual leave that has not been taken. Any outstanding statutory annual leave owed to staff who resign immediately after their Maternity/Adoption Leave will be paid at a daily rate of 1/365 of the annual salary. This is the same amount that is stated in the Burgundy Book as the appropriate amount to deduct for one day's pay for strike action etc.

### **Frequently asked questions and answers – Annual leave**

- **Does the employee accrue leave whilst on Maternity or Adoption Leave?**

Yes, following recent developments in case law and LGE (Local Government Employer) Counsel opinion on the Working time Directive, teachers have a statutory right to accrue annual leave whilst on Maternity/Adoption Leave. This leave amounts to 28 days and is not an additional entitlement to annual leave on top of the current school closure arrangements.

- **What happens to the annual leave entitlement if there are not enough school closure periods in which to take the annual leave within the current leave year?**

A teacher can carry over any balance of her accrued leave to the following year this will be taken when the school is closed (i.e. up to 48 days statutory leave in one annual leave year). It is not proposed to allow teachers to continually accrue annual leave beyond one leave year.

- **Can the employee take any accrued annual leave during term time?**

There is a requirement in teachers' contracts to be available to work during term time, which therefore requires them to take their statutory annual leave during school closure periods.

- **Can the employee choose to be paid in lieu rather than take any accrued annual leave?**

No, the only circumstance where payment in lieu may be necessary is where a teacher does not return to her job following Maternity/Adoption Leave. It will not usually be possible for a teacher to obtain payment in lieu of untaken annual leave instead of taking leave during the leave year.

- **If the employee decides not to return to work following Maternity/Adoption Leave what happens to their annual leave entitlement?**

Any outstanding statutory annual leave owed to staff who resign immediately after their Maternity/Adoption Leave will be paid at a daily rate of 1/365 of the annual salary. This is the same amount that is stated in the Burgundy Book as the appropriate amount to deduct for one days pay for strike action etc.