



**Shared Parental Leave Policy**  
**(Inc. Maternity, Paternity and Adoption Leave)**

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**“Learning together; to be the best we can be”**

## Part 1: Shared Parental Leave

### 1. What is Shared Parental Leave?

- 1.1. Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child. All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. This policy sets out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).
- 1.2. The Trust recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. It is the Trust's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. Staff can seek more advice from the school Headteacher or their line manager.

### 2. Who is eligible for Shared Parental Leave?

- 2.1. SPL can only be used by two people:
  - The mother/adopter/ Surrogate parent **and**
  - One of the following:
    - the father of the child (in the case of birth); or
    - the spouse, civil partner or partner of the child's mother/adopter/ Surrogate Parent.
- 2.2. Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.
- 2.3. Additionally an employee seeking to take SPL must satisfy each of the following criteria:
  - the mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be/have been entitled to statutory

- maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
- the employee must still be working for the Trust at the start of each period of SPL;
  - the employee must pass the 'Employment earnings test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date;
  - the employee's partner must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned an average of £30 or have earned at least £390 in total in 13 of the 66 weeks (this is to change annually) a week in any 13 of those weeks;
  - the employee must correctly notify the Trust of their entitlement and provide evidence as required.

### 3. The Shared Parental Leave entitlement

- 3.1. Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.
- 3.2. A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.
- 3.3. If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.
- 3.4. SPL can commence as follows:
- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child;

- The adopter can take SPL after taking at least two weeks of adoption leave;
  - The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).
- 3.5. Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.
- 3.6. SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave" below).
- 3.7. If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period see "Shared Parental Pay" below).
- 3.8. SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

## 4. Notifying the Trust of an entitlement to Shared Parental Leave

- 4.1. An employee entitled and intending to take SPL must give the line manager notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL.
- 4.2. Part of the eligibility criteria requires the employee to provide the Trust with correct notification. Notification must be in writing and requires each of the following:
- the name of the employee;
  - the name of the other parent;

- the start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available;
- the date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption;
- the amount of SPL the employee and their partner each intend to take
- a non-binding indication of when the employee expects to take the leave.

4.3. The employee must provide their line manager with a signed declaration stating:

- that they meet, or will meet, the eligibility conditions and are entitled to take SPL;
- that the information they have given is accurate;
- if they are not the mother/adopter they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter;
- that should they cease to be eligible they will immediately inform the Trust.

4.4. The employee must provide their line manager with a signed declaration from their partner confirming:

- that they satisfy the 'employment and earnings test' (see "Who is eligible for Shared Parental Leave?" above), and had at the date of the child's birth or placement for adoption the main responsibility for the child, along with the employee;
- that they consent to the amount of SPL that the employee intends to take;
- that they consent to the Trust processing the information contained in the declaration form; and
- (in the case whether the partner is the mother/adopter), that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

## 5. Requesting further evidence of eligibility

5.1. The Trust may, within 14 days of the SPL entitlement notification being given, request:

- the name and business address of the partner's employer (where the employee's partner is no longer employed or is self-employed their contact details must be given instead);
- in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth);
- in the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption.

5.2. In order to be entitled to SPL, the employee must produce this information within 14 days of the employer's request.

## 6. Fraudulent claims

6.1. The line manager can, where there is a suspicion that fraudulent information may have been provided or where the Trust has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual Trust investigation and disciplinary procedures, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

## 7. Booking Shared Parental Leave

7.1. In addition to notifying the employer of entitlement to SPL/ShPP, an employee must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.

7.2. The employee has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either (a) a single period of weeks of leave; or (b) two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

- 7.3. SPL can only be taken in complete weeks but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.
- 7.4. The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

## 8. Continuous leave notifications

- 8.1. A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).
- 8.2. An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the employer has been given at least eight weeks' notice.
- 8.3. An employee may submit up to three separate notifications for continuous periods of leave.

## 9. Discontinuous leave notifications

- 9.1. A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).
- 9.2. Where there is concern over accommodating the notification, the line manager or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the school/service (see "Discussions regarding Shared Parental Leave" above).

- 9.3. The Trust will consider a discontinuous leave notification but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

## 10. Responding to a Shared Parental Leave notification

- 10.1. Once the Trust receives the leave booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th day after the leave request was made.
- 10.2. All notices for continuous leave will be confirmed in writing.
- 10.3. All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the employee and to the school/service against any adverse impact to the business.
- 10.4. Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.
- 10.5. The employee will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th day after the leave notification was made. The request may be granted in full or in part: for example, the school/service may propose a modified version of the request.
- 10.6. If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date, then the leave will begin on the first leave date requested in the original notification.



## 11. Variations to arranged Shared Parental Leave

- 11.1. The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the Trust in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.
- 11.2. Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the Trust requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the line manager.

## 12. Statutory Shared Parental Pay (ShPP)

- 12.1. Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother/adoption reduces their maternity/adoption pay period or maternity allowance period.
- 12.2. ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.
- 12.3. In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:
- the mother/adoption must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
  - the employee must intend to care for the child during the week in which ShPP is payable;
  - the employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the

child's expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;

- the employee must remain in continuous employment until the first week of ShPP has begun;
- the employee must give proper notification in accordance with the rules set out below.

**12.4.** Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.

**12.5.** In addition to what must be included in the notice of entitlement to

**12.6.** take SPL, any notice that advises of an entitlement for ShPP must include:

- the start and end dates of any maternity/adoption pay or maternity allowance;
- the total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
- a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the Trust should they cease to be eligible.

**12.7.** It must be accompanied by a signed declaration from the employee's partner confirming:

- their agreement to the employee claiming ShPP and for the Trust to process any ShPP payments to the employee;
- (in the case whether the partner is the mother/ adopter) that they have reduced their maternity/adoption pay or maternity allowance;
- (in the case whether the partner is the mother/ adopter) that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

**12.8.** Any ShPP due will be paid at a rate set by the Government for the relevant tax year.

## 13. Terms and conditions during Shared Parental Leave

- 13.1. During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind will continue and contractual annual leave entitlement will continue to accrue.
- 13.2. Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the Trust contributions will be based on the salary that the employee would have received had they not been taking SPL. If you elect to take more than 39 weeks' maternity leave the period of unpaid absence will be classed as "non-pensionable" service and no employee or employer pension contributions will be made.
- 13.3. You can buy extra pension to cover the period by undertaking to pay an Additional Pension Contribution (APC) over a period of time or by paying a one-off lump sum.
- 13.4. For further information please contact South Yorkshire Pensions Authority.

## 14. Annual Leave

- 14.1. SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's holiday year. A maximum of 5 days may be carried over to the next leave year, subject to manager approval. Any accrual over 5 days leave will be lost.

## 15. Contact during Shared Parental Leave

- 15.1. Before an employee's SPL begins, the line manager will discuss the arrangements for them to keep in touch during their leave. The Trust reserves the right in any event to maintain reasonable contact with the employee from time to time during their SPL. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

## 16. Shared Parental Leave in Touch days

- 16.1. An employee can agree to work for the Trust (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave In Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.
- 16.2. The Trust has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's SPL. Any work undertaken is a matter for agreement between the line manager and the employee. An employee taking a SPLIT day will receive full pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of SPL.
- 16.3. An employee, with the agreement of the line manager, may use SPLIT days to work part of a week during SPL. The line manager and the employee may use SPLIT days to effect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

## 17. Returning to work after Shared Parental Leave

- 17.1. The employee will have been formally advised in writing by the line manager of the end date of any period of SPL. The employee is expected to return on the next working day after this date, unless they notify the Trust

otherwise. If they are unable to attend work due to sickness or injury, the normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

- 17.2.** If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the Trust at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the Trust does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.
- 17.3.** On returning to work after SPL, the employee is entitled to return to the same job if the employee's aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, he or she will return to the same job. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.
- 17.4.** If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.
- 17.5.** If the employee also takes a period of unpaid parental leave of 4 weeks or less this will have no effect on the employee's right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.
- 17.6.** If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

## 18. Special Circumstances and further information

- 18.1. In certain situations, an employee's rights and requirements regarding SPL and ShPP may change. In these circumstances the Trust will abide by any statutory obligations and an employee should refer to the documents listed below and/or clarify any issues or queries with the Headteacher.

## 19. Law relating to this document

- The Shared Parental Leave Regulations 2014
- The Shared Parental Pay (General) Regulations 2014
- The Maternity and Adoption Leave (Curtailment of Statutory Rights to Leave) Regulations 2014
- Employment Rights Act 1996
- Child and Families Act 2014
- Equality Act 2010

- 19.1. The maternity scheme applies to all pregnant employees regardless of the number of hours worked per week.

- 19.2. All staff are entitled to take up to 52 weeks maternity leave regardless of the length of qualifying service with the employer. This means that the qualifying condition in paragraph 4 of section 5 of the Burgundy Book and Part 2 paragraph 11.4 of the Green Book should be ignored. Leave is composed of 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML). It can commence at any time but no earlier than the 11th week before the Expected Week of Childbirth (EWC).

- 19.3. Provided the qualifying criteria are met, teachers and support staff will be entitled to receive 39 weeks Statutory Maternity pay (SMP), made up of 6 weeks at 9/10ths of a week's pay plus 33 weeks at standard rate SMP. The remaining 13 weeks leave are unpaid. The qualifying criteria are that the employee must have 26 weeks continuous service with the Trust at the 15th week before the EWC and be in employment during the qualifying week. In addition, earnings must be above the lower limit for the payment of NI Contributions.

## 20. Notification of Pregnancy

On becoming pregnant, you should notify your line manager as soon as you feel able to do so. It is in the employees own interest to notify the school as early as practicably possible that she is pregnant because there are health and safety considerations which may need to be made.

As soon as reasonably practicable afterwards, you are required to provide the following information in writing to the School/Trust:

- that you are pregnant
- your EWC (expected week of childbirth)
- the date on which you intend to start your maternity leave
- In addition, you will need to provide your line manager with a MATB1 certificate. The MATB1 is issued by your doctor or midwife and it states when your baby is due. The certificate must have either your doctor's name and address on it, or if issued by a midwife, her name and registration number. She should supply a copy of the valid maternity certificate (MATB1) provided by a Doctor or Midwife, which is available at the 20th week before the baby is due EWC (Expected Week of Confinement). This is normally submitted with the MATA1T (for teachers) or the MATA1 for support staff.
- Employees should confirm on the form the date she intends to commence her maternity leave and whether or not she intends to return to work following the birth.

You are permitted to bring forward your maternity leave start date, provided you advise the School/Trust in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. You may also postpone your maternity leave start date, provided you advise the School/Trust in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

## 21. Teachers Occupational Maternity Pay Entitlements

Teachers with one year's continuous service with one or more local authorities at the 11th week before the EWC will receive 18 weeks Occupational Maternity Pay (OMP), as follows:

- 4 weeks at full pay (SMP offset)

- 2 weeks at 9/10ths of a week's pay (SMP offset)
- 12 weeks at half pay (+ SMP)

This will be followed by 21 weeks Statutory Maternity Pay (SMP). The remaining 13 weeks leave are unpaid.

Occupational maternity pay (paid during the first 18 weeks of maternity leave, outlined above) is only payable on condition that the teacher returns to work for at least 13 weeks (see section 5 of the Burgundy Book). If you state that you intend to return and then change your mind you will have to repay the 12 weeks half pay you received. If you return on a part time basis, where you were previously full time, please note that this may lengthen your notice period should you choose to leave employment.

Teachers with between 6 months but less than one year's continuous service with one or more local authority at the 11th week before the EWC may be eligible for:

- 4 weeks at full pay
- 2 weeks at 9/10ths of full pay
- 33 weeks at SMP

Teachers with less than 6 month continuous service can apply to the Department for Works and Pensions for maternity allowance

## 22. Maternity Pay Support Staff

The amount of maternity pay you are entitled to depends on the length of your continuous service and on whether you intend to return to work after your maternity leave.

<b>Length of Continuous Service</b>	<b>Maternity Pay Entitlement</b>
Under 26 weeks by the end of the 15th week before the expected week of childbirth	Maternity Allowance from the Department of Work and Pensions.
26 weeks or over by the end of the 15th week before the expected week of childbirth	If your earnings are above the lower earnings National Insurance Level you are entitled to Statutory Maternity Pay (SMP). This is 6 weeks at 90% of a week's pay and a further 33 weeks at SMP or 90% of weekly pay if your



	<p>earnings are less NB: weeks 40 to 52 are unpaid.</p> <p>The current rate of SMP can be found at <a href="http://www.hmrc.gov.uk/">http://www.hmrc.gov.uk/</a></p>
<p>One year or over by the 11th week before the expected week of childbirth and intending to return to work for at least 12 weeks after maternity leave</p>	<p>6 weeks at 90% of a week's pay (offset against SMP or MA), 12 weeks half pay (OMP) plus SMP or MA and the next 21 weeks are paid at SMP.</p> <p>NB: weeks 40 to 52 are unpaid.</p> <p><b>If you state that you intend to return and then change your mind you will have to repay the 12 weeks half pay you received.</b></p> <p><b>If you return on a part time basis, where you were previously full time, please note that this may lengthen your notice period should you choose to leave employment.</b></p>
<p>One year or over by the 11th week before the expected week of childbirth and not intending to return to work for at least 12 weeks after maternity leave</p>	<p>6 weeks at 90% of a week's pay (offset against SMP or MA), plus SMP or MA and the next 33 weeks are paid at SMP.</p> <p>NB: weeks 40 to 52 are unpaid.</p>

## 23. Premature Birth

On occasion, childbirth may occur prior to the expected date, sometimes many weeks prior to the expected date. Should a birth be deemed to be premature (before 37 weeks' gestation), parents and partners may be granted extended leave, which will be paid at full pay. Payment will depend on whether employees have enough continuous service at expected date of birth.

Babies born prematurely can have ongoing medical needs. Parents and partners returning to work following the birth of a premature baby may need time off for hospital appointments/check-ups. The Trust may agree formal or

informal flexible working patterns and additional paid or unpaid leave. Employees should discuss this with their line manager.

## 24. Ante-Natal Care

You are entitled to paid time off for ante-natal care but you will need to provide evidence of appointments. If an appointment procedure is in place it is expected that you will attempt to arrange times to have least impact on service delivery and colleagues.

## 25. Health and Safety

You should inform your Line Manager that you are pregnant as soon as possible so that they can carry out a workplace Risk Assessment to consider any Health & Safety implications whilst you are pregnant or breastfeeding. For further information on this topic, please refer to the policy on New and Expectant Mothers at Work (Guidance on Protecting the Health and Safety of New or Expectant Mothers at Work).

## 26. Maternity and Sickness

If you are sick during pregnancy, you will be on sick leave/pay according to your normal entitlement. If you are absent from work due to a pregnancy related reason after the beginning of the 4th week before your EWC but before the date you have notified, your maternity leave will begin automatically on the day after the first day of absence.

You must notify School that you are absent from work wholly or partly because of pregnancy as soon as is reasonably practicable and, until your maternity leave commences, you are still required to comply with the Trust's sickness absence reporting procedure.

## 27. Notification of Return to Work

Under the new statutory scheme, the notice an employee must give if she wants to return to work early from ordinary maternity leave or from additional maternity leave is extended from 28 days to 8 weeks. Paragraph 7 of Section 5 of the Burgundy Book and Part 2 paragraph 11.7(a)(ii) of the Green Book refers to 21 days' notice (although some authorities moved to 28 days in April 2003 since this reflected the statutory provisions which came into effect at

that time). Given that the occupational scheme has not been amended to reflect the provisions of the Work and Families Act, those existing arrangements will continue.

## 28. Keeping in touch (“KIT”) days

Previously, SMP regulations were such that where an employee worked during a week in which she was eligible for SMP she lost her SMP for that week. From 1 April 2013 maternity leave regulations will provide that a woman can do up to 10 days’ work during her maternity leave without bringing her maternity leave to an end or losing maternity pay. The current rule will continue to apply after this, so a woman will lose her SMP for any week in which she does any further work.

KIT days are designed to enable employees to stay in touch with developments and undertake training. The employer cannot insist that a woman carries out any work and equally, a woman cannot insist on being given any work to do. The Act does not require employers to pay employees for the work done but does specify that working for part of a day will count as one day. Pay will be a matter for agreement between the teacher and employer. In most circumstances a woman should be paid for the work she does under the contract. She will also continue to receive her SMP for the week. It is open to the employer to offset the SMP for the day against any pay due. If payment is made during a period of unpaid leave, this triggers the Social Security Act thus making pensions contributions due.

Issues to take into account will include the nature of the work and its duration. These matters should be discussed and clearly agreed before any work is undertaken to avoid subsequent complications.

The Trust/School has no right to require you to carry out any work, and you have no right to undertake any work, during your maternity leave. Any work undertaken, including the amount of salary paid for any work done on keeping in touch days, is entirely a matter for agreement between the Trust/School and you. Any keeping in touch days worked do not extend the period of your maternity leave.

## 29. Accrual of annual leave during Maternity Leave for School Teachers

As a result of developments in case law and legislation and the working time directive (WTD), the LGE have recently sought Leading Counsel opinion on whether Teachers taking maternity leave continue to accrue rights to annual leave while they are away.

Teachers do not have a 'contractual' entitlement to annual leave, however, they do have a 'statutory' right under the WTR. The entitlement of 28 days, introduced by the Working Time (Amendment) Regulations 2007, came in to effect on 1 October 2007. This is not an additional entitlement to annual leave on top of the current school closure arrangements.

After consideration of the opinion, and based on the law as it currently stands, we now advise that Teachers are entitled to 28 days' statutory annual leave under the WTR and a Teacher who takes maternity leave must be able to take those 28 days statutory annual leave at a time outside of her maternity leave. The maternity leave period must not be treated as annual leave.

In order to accommodate this, the 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 or after the maternity leave period. Therefore, a teacher should be advised prior to commencing her maternity leave that she has a statutory entitlement to 28 days annual leave and that this should be taken;-

Either before or after the maternity leave period during school closure period

**or;**

On her return from maternity leave, a Teacher must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate her leave in that leave year;

## 30. How does this impact on schools?

The only situation where this may provide an issue for schools is where a Teacher returns to work prior to the end of the academic year and there is insufficient school closure periods that allows them to be away from work for 28 days. However, school closure periods in the following academic year can offset any carry forward entitlement with no effect on schools in terms of cost.

Where having returned from maternity leave and undertaken the requirement to work for 3 months on their return they decide to leave teaching before being able to offset the 28 days entitlement there would be a requirement to provide pay in lieu of this leave.

Whilst this is an additional cost this would only happen in very rare circumstances. Where this situation arises please contact the Trust HR Team.

## 31. Ordinary Paternity Leave (OPL) – Births

Ordinary Paternity Leave enables the child's father, husband, partner, civil partner of the expectant mother at or around the time of the child's birth to take up to 2 consecutive weeks leave after the birth of the child.

## 32. The Right to Ordinary Paternity Leave

To qualify for Ordinary Paternity Leave on the birth of the baby you must:

- Have, or expect to have, responsibility for the baby's upbringing;
- Be the biological father of the baby and/or the mother's husband or partner<sup>1</sup> (including same-sex partner or civil partner);
- Have at least 26 weeks' continuous employment with the Trust ending with the 15<sup>th</sup> week before the expected week of childbirth (EWC);
- Continue to work for the Trust from the qualifying week up to the date of birth;
- Be taking time off to support the mother and/or care for the baby;
- Have notified your Headteacher of your intention to take Ordinary Paternity Leave no later than the end of the 15<sup>th</sup> week before the EWC.

During your Ordinary Paternity Leave your contract of employment continues, there will be no break in service. You are entitled to receive all your contractual benefits, except full salary, this includes the accrual of contractual annual leave entitlement (where applicable) and pension contributions will continue to be made.

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<sup>1</sup> A partner is someone who lives with the mother of the baby in an enduring family relationship but is not an immediate relative.

**You are only entitled to one period of leave irrespective of whether more than one child is born as the result of the same pregnancy.**

## 33. Ordinary Paternity Leave Provisions & Pay

The Trust provides an Ordinary Paternity Leave package, this consists of:

### Teachers:

- 2 weeks of Statutory Paternity Leave, paid at Statutory Paternity Pay (SPP)

### Support Staff:

- 1 week paid at normal earnings rate plus 1 week paid at SPP

## 34. Ordinary Paternity Leave Start Date

You can start your leave:

- From the date of the child's birth (whether this is earlier or later than expected); **or**
- From a chosen number of days or weeks after the date of the child's birth (whether this is earlier or later than expected); **or**
- From a chosen date later than the first day of the week in which the baby is expected to be born.

Ordinary Paternity Leave can start on any day of the week on or following the child's birth but must be completed:

- Within 56 days of the actual date of birth of the child; or
- If the child is born earlier than expected, between the actual date of birth up to 56 days after the first day of the expected week of birth.

You are only entitled to one period of leave irrespective of whether more than one child is born as the result of the same pregnancy.

Unfortunately sometimes a pregnancy will end in miscarriage or the baby may be born but not survive. If this is after 24 weeks of pregnancy Ordinary Paternity

Leave will apply. Where this occurs before 24 weeks special leave provisions could be considered based on individual circumstances.

## 35. Informing your Headteacher of Paternity Leave

To qualify for Ordinary Paternity Leave you should notify your Headteacher no later than the end of the 15<sup>th</sup> week before the expected week of childbirth (EWC), or as soon as is reasonably practicable of:

- The expected week of childbirth;
- Whether you wish to take one or two weeks' Ordinary Paternity Leave;
- When you wish to start your Ordinary Paternity Leave.

We acknowledge that babies may be born earlier or later than expected and that short notice may be given as to exact dates when Ordinary Paternity Leave would start. We would ask that you give an estimated start date and, as soon as reasonably practicable after the birth of the child, you should inform your line manager of the actual date of birth of the child.

If you are a nominated carer written confirmation should be provided to your Headteacher that you are the person nominated by the mother as her primary provider of support at or around the time of birth. This should be signed by a registered midwife or general practitioner (GP).

## 36. Documentation to support Paternity Leave

Any application for paternity leave must be submitted in writing to the Headteacher, and you must state the expected week of childbirth and the date at which you wish to start your leave.

Proof of pregnancy must be provided by supplying the MATB1 certificate issued to the expectant mother.

In addition we will require a copy of the child's birth certificate to place with your application form. Where possible, this should be provided within 28 days of your application.

If you change your mind about the start date of your leave you will need to submit a new request in writing.

## 37. Ordinary Paternity Leave (OPL) – Adoption

Ordinary Paternity Leave enables the adopter of a child, or the partner of the adopter who will have (or is expected to have) the main responsibility for the upbringing of the child to take up to 2 consecutive weeks leave after the adoption of the child.

## 38. The Right to Ordinary Paternity Leave – Adoption

To qualify for Ordinary Paternity Leave in the case of adoption you must:

- Have, or expect to have, responsibility for the child's upbringing with the other joint adoptive parent or the individual adopter;
- Be either one of two parents jointly adopting a child or the partner<sup>2</sup> of someone adopting a child individually;
- Have at least 26 weeks' continuous employment with the Trust ending with the week in which you jointly/your partner is notified of having been matched with the child (qualifying week). The qualifying week starts on a Sunday and ends on a Saturday. If you are adopting from overseas this is 26 weeks' continuous employment with the Trust from the date of official notification<sup>3</sup>;
- Continue to work for the Trust from the qualifying week to the date of the child's placement;
- Have notified your line manager of your intention to take Ordinary Paternity Leave no more than seven days after the adopter is notified that they have been matched with a child;

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<sup>2</sup> A partner is someone who lives with the mother of the baby in an enduring family relationship but is not an immediate relative.

<sup>3</sup> Official notification is written notification issued by or on behalf of the relevant domestic authority (usually the Department for Education) that the authority is prepared to issue a certificate to the overseas authority dealing with the adoption of the child or has issued a certificate and sent it to that authority. In either case, the notification certification confirms that the other or main adopter is eligible to adopt or has been approved as a suitable adoptive parent.



- Be taking time off to support the adopter and/or care for the child;
- Not be the one who is taking Statutory Adoption Leave and Pay.

During your Ordinary Paternity Leave your contract of employment continues, there will be no break in service. You are entitled to receive all your contractual benefits, except full salary, this includes the accrual of contractual annual leave (where applicable) entitlement and pension contributions will continue to be made.

## 39. Ordinary Paternity Leave Provisions and Pay - Adoption

The Trust provides an Ordinary Paternity Leave package this consists of:

### Teachers:

- 2 weeks of Statutory Paternity Leave, paid at Statutory Paternity Pay (SPP)

### Support Staff:

- 1 week paid at normal earnings rate plus 1 week paid at SPP

## 40. Ordinary Paternity Leave Start Date - Adoption

Ordinary Paternity Leave can start any time from the date of the child's placement with the adopter or entry into the UK but it must be completed within 56 days of this date.

Your leave can start from:

- The date on which the child is placed with the adopter, even if this is earlier or later than the expected date of placement; **or**
- A predetermined date after the expected date of placement; **or**
- A date falling a specified number of days after the expected date of placement.

For overseas adoptions your leave can start from:

- The date the child enters the UK; or
- A fixed date which is later than the date the child enters the UK.

You are only entitled to one period of leave irrespective of whether more than one placement is made.

## 41. Informing your Headteacher of Paternity Leave - Adoption

To qualify for Ordinary Paternity Leave you should notify your Headteacher no more than 7 days after the day that the adopter is notified of having been matched with the child, or as soon as is reasonably practicable of:

- The date the adopter was notified that they had been matched with the child;
- The date on which the child is expected to be placed for adoption. This date is shown on the matching certificate from the adoption agency;
- Whether you wish to take one or two weeks' Ordinary Paternity Leave;
- When you wish to start your Ordinary Paternity Leave.

For overseas adoptions you must give notice in 3 stages, these are:

**Stage 1:** You must inform your Headteacher of the date on which the other or main adopter received official notification and the date the child is expected to enter the UK. This information must be provided within 28 days of the adopter receiving official notification.

**Stage 2:** You must give your Headteacher at least 28 days' notice of the actual date you want your Ordinary Paternity Leave to start.

**Stage 3:** After the child has entered the UK, you must inform your Headteacher of the date the child entered the UK. This information must be provided within 28 days of the child's date of entry.

## 42. Documentation to support Paternity Leave - Adoption

Any application for paternity leave must be submitted in writing to the Headteacher, and you must state the expected week of childbirth if applicable and the date at which you wish to start your leave.

In addition we will require a copy of the notification from the adoption agency to place with your application form. Where possible, this should be provided within 28 days of your application.

If you change your mind about the start date of your leave you will need to submit a new request in writing.

## 43. Additional Paternity Leave (APL)

Additional Paternity Leave enables eligible employees to take up to 26 continuous weeks leave to care for their new child; this is in addition to the 2 consecutive weeks Ordinary Paternity Leave. This leave can be taken any time from 20 weeks after the child is born or anytime between 20 and 52 weeks after the child starts living with the adopter.

It is only available if the mother or co-adopter<sup>4</sup> has returned to work.

## 44. The Right to Additional Paternity Leave

### Births

To qualify for Additional Paternity Leave you must:

- Have, or expect to have, the main responsibility for the baby's upbringing, apart from any responsibility of the mother;

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<sup>4</sup> The co-adopter is the adopter who has chosen to take adoption leave.

- Be the father of the baby and/or the husband or partner<sup>5</sup> (including same-sex partner or civil partner) of the woman who is due to give birth;
- Have at least 26 weeks' continuous employment with the Trust ending with the 15<sup>th</sup> week before the expected week of childbirth (EWC);
- Continue to work for the Trust from the 15<sup>th</sup> week before the expected week of childbirth (qualifying week) into the week before you wish to take Additional Paternity Leave;
- Be taking time off to care for the baby.

In addition, the baby's mother must:

- Be entitled to statutory maternity leave, statutory maternity pay or maternity allowance;
- Have returned to work, so that her entitlement to statutory maternity pay or maternity allowance is stopped for that week and any maternity leave to which she is entitled comes to an end.

If the baby is born early you are still entitled to the additional paternity leave.

## 45. Additional Paternity Leave - Adoption

To qualify for Additional Paternity Leave when adopting a child you must:

- Be married to or the partner (including same-sex partner or civil partner) of the child's co-adopter;
- For UK adoptions: Be matched with a child for adoption, the qualifying week is the week that you are matched with the child;
- For overseas adoptions: The child must have entered the UK on or after 3 April 2011, the qualifying week is the later of either the week that official notification was received or the 26<sup>th</sup> week of employment with the Trust;
- Have not taken statutory adoption leave or pay;
- Have at least 26 weeks' continuous employment with the Trust ending with the qualifying week;
- Continue to work for the Trust from the qualifying week into the week before you wish to take additional paternity leave;
- Be taking time off to care for the child.

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<sup>5</sup> A partner is someone who lives with the mother of the baby in an enduring family relationship but is not an immediate relative.

In addition the co-adopter must:

- Be entitled to adoption leave or statutory adoption pay;
- Have returned to work, so that his/her entitlement to statutory adoption pay is stopped for that week and any adoption leave to which he/she is entitled comes to an end.

During your Additional Paternity Leave (Births or Adoptions) your contract of employment continues, there will be no break in service. You are entitled to receive all your contractual benefits, except full salary, this includes the accrual of contractual annual leave entitlement (where applicable) and pension contributions will continue to be made.

## 46. Additional Statutory Paternity Pay

Additional Statutory Paternity Pay (ASPP) is payable during part of the Additional Paternity Leave (APL), the number of weeks will depend on how many of the mothers/co-adopters 39 weeks statutory maternity/adoption pay period remains. The statutory maternity/adoption pay period runs for 39 weeks from the date the mother/co-adopter started receiving their pay.

Payment of ASPP will be subject to the mother/co-adopter having returned to work and having at least 2 weeks remaining of her statutory maternity pay or maternity allowance. The maximum period of ASPP you could be entitled to is 19 weeks (weeks 20 – 39). After 39 weeks the time off is unpaid.

Payment is at the statutory ASPP or 90% of your average weekly earnings whichever is lower.

The current rate of ASPP can be found at <http://www.hmrc.gov.uk/>

## 47. Additional Paternity Leave Start Date

You can start your leave:

- Any time from 20 weeks after the child is born, or anytime between 20 and 52 weeks after the child starts living with the adopter;
- Any day of the week.

A minimum of two continuous weeks and a maximum of 26 continuous weeks leave can be taken. Your leave must be completed by the child's first birthday or 12 months after the date of the adoption placement.

You are only entitled to one period of leave irrespective of whether more than one child is born as the result of the same pregnancy or more than one child is adopted.

## 48. Informing your Headteacher and Documentation for Additional Paternity Leave

To qualify for Additional Paternity Leave and pay you should notify your Headteacher, in writing, at least eight weeks before the start of the leave.

In addition we will require a copy of either the child's birth certificate or the notification from the adoption agency to place with your application form. Where possible, this should be provided within 28 days of your application.

## 49. Keeping in Touch (KIT) Days – Additional Paternity Leave

Keeping in Touch (KIT) days allow you to attend your workplace (on a voluntary basis) whilst on Additional Paternity Leave to carry out work or training up to a maximum of 10 days without affecting your Additional Paternity Leave or pay.

## 50. Accrual of Annual Leave – Additional Paternity Leave

Annual leave only applies to those staff not employed on School Teacher Pay and Conditions or term time only contracts.

Where it is applicable, you will be entitled to take this leave before your Additional Paternity Leave (APL) starts or upon your return to work. You must ensure that you take this leave, particularly where APL spans a leave year, as any accrual over 5 days leave will be lost.

It is therefore advisable to consider when you are going to take your annual leave when you plan your APL in order to minimise any loss of accrued leave at the end of the leave year.

## 51. Pension contributions

If you are a member of the Local Government Pension Scheme, you can continue to pay contributions during the period when you are receiving additional statutory paternity pay. This period will count as service for pension purposes.

If you choose to continue paying your pension contributions for the unpaid period of APL (weeks 40 to 52 of absence)

The period of unpaid APL absence will be classed as “non-pensionable” service and no employee or employer pension contributions will be made.

You can buy extra pension to cover the period by undertaking to pay an Additional Pension Contribution (APC) over a period of time or by paying a one-off lump sum. For further information please contact South Yorkshire Pensions Authority.

## 52. Returning to Work following Additional Paternity Leave

On returning to work after Additional Paternity Leave you are entitled to return to the same job as you occupied before commencing APL on the same terms and conditions. However, if this is not reasonably practicable the Trust may offer you a suitable alternative, on terms and conditions that are no less favourable than would have applied if you had not been absent.

You will be asked to state your intentions in writing before you start Additional Paternity Leave. If you decide that you wish to return to work earlier than originally stated, you will need to give 6 weeks’ notice in writing before you return to work.

## 53. The Right to Adoption Leave

To qualify for adoption leave a person must be an employee (that is to say, they must work under a contract of employment).

The employee must:

- Have been matched with a child to be placed with them by a UK adoption agency;
- Have notified the agency that they agree that the child should be placed with them and agree the date of placement
- Have been continuously employed by the Council for at least 26 weeks ending with the week in which they are notified of having been matched with the child. The week in question starts on a Sunday and ends on a Saturday. Continuous employment generally means working for the same employer without a break.
- Notify the Council of when they want to take their adoption leave no more than seven days after they are notified that they've been matched with a child.
- Summary of Benefits – Support Staff

## 54. Adoption Leave Pay

The amount of adoption pay you are entitled to depends on the length of your continuous service and on whether you intend to return to work after your adoption leave.

<b>Length of Continuous Service</b>	<b>Adoption Pay Entitlement</b>
Have been continuously employed for at least 26 weeks ending with the week in which they are notified of having been matched with the child.	26 weeks Ordinary Adoption Leave (OAL) 26 weeks Additional Adoption Leave (AAL)  39 weeks SAP
Have been continuously employed for one year or over	6 weeks at 90% of a week's pay (offset against SAP), 12 weeks half pay plus SMP and the next 21 weeks are paid at SAP.



	<p>NB: weeks 40 to 52 are unpaid.</p> <p><b>If you state that you intend to return and then change your mind you will have to repay the 12 weeks half pay you received.</b></p> <p><b>If you return on a part time basis, where you were previously full time, please note that this may lengthen your notice period should you choose to leave employment.</b></p>
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An employee claiming statutory adoption pay must notify the Trust / School of when they want to receive SAP at least 28 days before the date they want it to begin, or as soon as is reasonably practicable (notice can be given earlier alongside notice of the start of adoption leave);

**and**

Have average weekly earnings at or above the Lower Earnings Limit for National Insurance which applied at the end of the matching week (the Lower Earnings Limit is the amount an employee has to earn to qualify for benefits. An employee has to earn more than this amount before starting to pay National Insurance).

Adopters whose average earnings are below the Lower Earnings Limit for NI will not qualify for Statutory Adoption Leave, but may be eligible for other assistance via Tax Credits, Housing Benefit or Council Tax.

Employees who are adopting who meet qualifying conditions based on their length of service and average earnings are entitled to 39 weeks' Statutory Adoption Pay.

## 54. Summary of Benefits – Teaching Staff

The amount of adoption pay you are entitled to depends on the length of your continuous service and on whether you intend to return to work after your adoption leave.

<b>Length of Continuous Service</b>	<b>Adoption Pay Entitlement</b>
Have been continuously employed for at least 26 weeks ending with the week in which they are notified of having been matched with the child.	4 weeks full pay 2 weeks 90% of a weeks pay  39 weeks SAP
Have been continuously employed for one year or over	6 weeks at 90% of a week's pay (offset against SAP), 12 weeks half pay plus SMP and the next 21 weeks are paid at SAP.  NB: weeks 40 to 52 are unpaid.  <b>If you state that you intend to return and then change your mind you will have to repay the 12 weeks half pay you received.</b>  <b>If you return on a part time basis, where you were previously full time, please note that this may lengthen your notice period should you choose to leave employment.</b>

## 55. Other Provisions

An employee has the right to paid time off to attend for official antenatal care appointments. Attempts should be made to arrange these to cause least disruption to work.

For adoptive parents there is a right to Statutory Leave and under the conditions of service, the post-natal provisions for maternity leave and pay apply.

## 56. Contact during leave

Shortly before your maternity, paternity, adoption or shared parental leave starts, the Trust / School will discuss the arrangements for you to keep in touch during your leave, should you wish to do so.

We reserve the right in any event to maintain reasonable contact with you from time to time during your period of leave. This may be to discuss your plans for return to work, to discuss any special arrangements to be made or training to be given to ease your return to work or simply to update you on developments at work during your absence.

## 57. Your rights on return to work

On resuming work after leave, you are entitled to return to the same job as you occupied before commencing leave on the same terms and conditions of employment as if you had not been absent.

If, however, there is some reason why it is not reasonably practicable for the Trust / School to take you back in your original job, you will be offered suitable alternative work of equivalent status and responsibility and on terms and conditions that are no less favourable than would have applied if you had not been absent.

If you are a full-time employee, you have no automatic right to return to work on a part-time basis or to make other changes to your working patterns at the end of your leave period. However, all requests for part-time work or other flexible working arrangements will be considered in line with the operational requirements of the Trust / School. It is our policy to promote flexible working arrangements for all employees where possible.

Further details, including the procedure to be followed, can be found in the Trust's Flexible Working Policy. If you would like this option to be considered, you should write to your Line Manager setting out your proposals as far in advance of your return date as possible, so that there is adequate time for full consideration of your request.

## Appendix – Guidance note on the obligations of Nexus MAT and the employee

### **1.1 Glossary of Terms**

EWC	=	Expected week of childbirth, starting on a Sunday
MATB1	=	Maternity certificate giving the date on which the baby is due.
OPL MSL and SPL)	=	Ordinary Paternity Leave (up to 2 weeks leave consists of MSL and SPL)
MSL	=	Maternity Support Leave (week 1)
SPL	=	Statutory Paternity Leave (week 2)
APL	=	Additional Paternity Leave
SPP	=	Statutory Paternity Pay
ASPP	=	Additional Statutory Paternity Pay