

# WORK AND FAMILIES POLICY

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# Part 1. Maternity, Paternity and Adoption

## 1.0 Policy Summary

This policy applies to all school based staff.

This document is intended to provide a summary of employees' entitlements to maternity, paternity, adoption and parental leave. It is not a comprehensive summary of employees' legal rights and in any case of dispute on interpretation, the wording used in legislation, National Conditions of Service and in Local Agreements will take precedence. If you require further information or have specific queries, please contact school HR team/Business Manager.

This policy has been developed in recognition of the statutory requirements covering maternity, paternity and adoption provisions, as well as wider issues affecting working families i.e. parental leave provisions. It also recognises the importance of supporting employees with family friendly approaches to working, to enable them to achieve a greater work-life balance. Further information regarding family friendly policies can also be found in the Leave of Absence Policy.

The rights as described in this document apply to all employees, including those on temporary contracts. They also apply to full time and part time employees, irrelevant of the number of hours they work, but may be subject to length of service.

The following definitions are used in this policy:

- 'Expected week of childbirth' (EWC) means the week, starting on a Sunday, during which the employee's doctor or midwife expects them to give birth.
- 'Qualifying week' means the 15<sup>th</sup> week before the expected week of childbirth for the purpose of SMP, and the 11<sup>th</sup> week before the expected week of childbirth for the purpose of OMP.
- Partner: spouse, civil partner or someone (of either sex) with whom you live in an enduring family relationship, but who is not your parent, grandparent, sister, brother, aunt or uncle.

## 2.0 Guide to Maternity Provisions

### 2.1 Right to time off for Ante-Natal Care

All pregnant employees are entitled to paid time off in order to keep appointments for antenatal care, made on the advice of a registered medical practitioner, midwife or health visitor. Antenatal care includes:

- Appointments with the GP or registered Midwife
- Hospital appointments for scans or tests
- Other appointments made on the recommendation of the GP or registered Midwife
- Relaxation and Parent Craft classes

Employees are asked to inform the Headteacher, as far in advance as possible, of the date and time of an appointment and the best estimate of the length of absence from work, including travelling time if significant. It would also be helpful in many cases if they could try to arrange appointments at the beginning or the end of the day, although schools recognise this may not always be possible

Except for the first appointment, if requested by the Heateacher, the employee must be prepared to show a certificate from a registered practitioner, midwife or health visitor confirming that they are pregnant and an appointment card, or some other document, showing that an appointment has been made, prior to the appointment taking place.

The time taken to attend such appointments within an employee's working hours for that day (including reasonable travelling time) will be paid at the usual rate provided they have complied with the above requirements.

There is a statutory right for fathers/partners of pregnant women and intended parents of children born through surrogacy to unpaid time off work to attend up to two antenatal appointments.

## **2.2 Time off for IVF appointments**

Employees should refer to p7 of the school's Leave of Absence policy and procedure to request time off for medical appointments once the employee becomes pregnant, they are entitled to the same time off for ante-natal care as outlined above.

It is good practice (though not a legal requirement) for you to treat sympathetically any request for time off for IVF or other fertility treatment. This could include allowing those staff who work all year round to take annual leave, or alternatively, allowing Term Time Only staff to take unpaid leave when receiving treatment

## **2.3 The Expected Date of Childbirth**

The employee's midwife will provide a certificate stating the expected week of childbirth (MAT B1). This is normally issued after the 21st week of pregnancy. This certificate is required in order to claim Statutory Maternity Leave and Pay, if eligible.

As soon as the expected date of birth is confirmed on the MATB1 form, the earliest date for starting the period of maternity leave can be calculated, which is the beginning of the 11<sup>th</sup> week before the expected week of childbirth (EWC). To calculate this date employees should count back 11 weeks from the Sunday before the date of expected birth. Employees may commence maternity leave any time between this date and the expected date of birth. However, maternity leave will start automatically if employees are absent from work with a pregnancy-related illness during the 4 weeks before the baby is due, or if an employee gives birth their maternity leave will commence the following day.

## **2.4 Pension and Annual Leave**

The contract of employment continues during maternity leave. The employee will continue to receive all contractual benefits for the full maternity leave period.

**For Teachers:**

Pension: Any period when receiving pay during maternity leave (SMP or OMP) is regarded as pensionable service. When pay stops, the employee may not pay into the pension scheme. However, teachers may choose to protect their pension by buying additional pension to compensate. Employees should contact Teachers' Pensions for more information. (please note, continuity of service will not be affected). Payment for keeping-in-touch days will also be pensionable.

Annual Leave: Under the Working Time Regulations, from April 2009 Teachers have a statutory right to paid annual leave amounting to 28 days (5.6 weeks). However, in most cases, periods of school closure before and after the maternity leave period will more than equal the 28 day annual leave entitlement.

Please note, this is not an additional entitlement to annual leave on top of the current school closure arrangements.

**For Support Staff:**

Pension: Any period when receiving pay during maternity leave (SMP or OMP) is regarded as pensionable service. Employees can either opt to pay pension contributions for any period of unpaid maternity leave so that it then counts as a period of service or not pay any outstanding contributions and the unpaid period will not count for pension purposes (whichever option is chosen, continuity of service will not be broken). If the employee wishes to pay additional contributions, they should notify payroll within 30 days of the date of return to work, or the date of ceasing employment, whichever is the earliest. Payment for keeping-in-touch days will also be pensionable.

Annual Leave: Under the Working Time Regulations, from April 2009, Support Staff who work term time have a statutory right to paid annual leave amounting to 28 days (5.6 weeks). For support staff who work on a term time only basis, in most cases, periods of school closure before and after the maternity leave period will more than equal the 28 day annual leave entitlement.

Please note, this is not an additional entitlement to annual leave on top of the current school closure arrangements.

Support staff who work all year round will continue to accrue their normal annual leave entitlement throughout both ordinary and additional maternity leave.

Time off in lieu will accrue in respect of Bank Holidays during the whole of the maternity leave. Any time taken as maternity leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Any leave entitlement so accrued must still be taken in the leave year which it appertains. Common practice is to take any outstanding annual leave at the beginning or the end of the maternity leave period depending where this falls in relation to the annual leave year. Employees should discuss their annual leave entitlement fully with their Head Teacher/Line Manager to ensure that they have the opportunity to take their entitlement either before commencing maternity leave or immediately prior to their return to work.



Where an employee is planning not to return to work, they should be encouraged to plan to take any annual leave entitlement that they may be due, before commencing maternity leave. If the employee has taken more paid annual leave than entitled to at the date of resignation, then the overpaid portion must be repaid to the Authority.

**All staff:**

A woman resuming work after maternity leave is entitled to benefit from any general improvements to the rate of pay (or other T&Cs) which may have been introduced while they have been away. For teaching staff, the period of absence on maternity leave counts towards the service required to establish a “year of employment” for the purpose of incremental progression on the Main Pay Scale. A teacher who has passed through the threshold will not be disadvantaged in making progress within the Upper Pay Spine whilst on maternity leave. Progression on UPS should be based on guidance as set out in the School Teachers’ Pay and Conditions Document. Please consult your HR/School Business Manager for further guidance.

## **2.5 Maternity Leave**

All women are entitled to 52 weeks’ maternity leave regardless of the number of hours worked or length of service. This is made up of two elements known as Ordinary Maternity Leave (OML) which is the first 26 weeks’ maternity leave and Additional Maternity Leave (AML) which is made up of a further 26 weeks’ maternity leave.

An employee must notify their employer at least 15 weeks, or as soon as reasonably practicable, before they intend to start their leave:

- that they are pregnant;
- when the Expected Week of Childbirth (EWC) will be and provide a MATB1, which will be issued by their midwife after the 21<sup>st</sup> week of pregnancy;
- when they intend to start their maternity leave

The employee will be required to notify their employer of their intention to take maternity leave by the 15th week before their EWC unless this is not reasonably practicable. A woman will be able to change their mind about when they start their leave providing they tell their employer at least 28 days in advance (Support staff) or 21 days in advance (Teaching staff) - unless it is not reasonably practicable.

There is a requirement on employers to respond to an employee’s notification of their leave plans within 28 days. An employer will need to write to the employee setting out the date on which they are expected to return to work. Unless notified otherwise, Head Teachers/Line Managers should assume that the employee will be taking their full entitlement to maternity leave.

It is also the responsibility of the employer to carry out a written risk assessment with the employee, when the employee has notified that they are pregnant,

## **2.6 Commencement/Entitlement**

Maternity leave should not commence any earlier than the 11th week before the Expected Week of Childbirth (EWC). However, it may be earlier in the following circumstances:

- If the baby is born before the maternity leave is due to commence, then maternity leave starts automatically on the day after the birth

Women may work after the 11<sup>th</sup> week before the EWC. A woman may remain at work up to the birth of their child, unless they are certified as medically unfit to do so. Maternity leave may be commenced earlier in the following circumstances:

- When an employee's absence from work for an illness which is partly or wholly due to their pregnancy after the beginning of the 4<sup>th</sup> week before the EWC, their maternity leave will automatically commence.

In accordance with statutory requirements, an employee entitled to maternity leave shall not work, nor be permitted by their employer to work, during the period of two weeks which commence with the day on which child birth occurs.

### **2.7 Working for another Employer Whilst on Maternity Leave**

If the employee works for another employer during the statutory maternity pay period but before the baby is born, the employer should carry on paying statutory maternity pay. If the employee works for another employer during the statutory maternity pay period but after the baby is born, the employer will need to check whether they worked for the other employer during the 15<sup>th</sup> week before the baby was due. If they did, statutory maternity pay should be paid as usual. If, however, the employee is working for another employer for which they did not work during the 15<sup>th</sup> week before the baby was due, the employer must stop paying statutory maternity pay from the start of the week that the employee works for the other employer. It is up to the employee to inform their employer that they are working for someone else during their statutory maternity pay period.

### **2.8 Contact During Maternity Leave**

It is good practice for employees and Headteachers/Line Managers to maintain reasonable contact during an employee's absence so that they will remain informed of developments and changes within the school, which will support their return to work. The mechanisms by which they wish to do this, and the extent to which they want to be informed, should be discussed with their Headteacher/Line Manager prior to the commencement of maternity leave. This contact will normally be minimal and should neither be excessive or intrusive. This does not constitute "work" and would not count towards the KIT 10 day period (see below).

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

Keeping-in-touch days can also enable an employee and the Headteacher/Line Manager to keep in touch during the maternity leave period to ease the return to work. Following agreement with their Headteacher/Line Manager, the employee can undertake 10 days' work during their maternity leave without bringing their maternity period to an end.

For these purposes, 'work' is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch such as conferences, team meetings, training etc.

The provisions apply to the entire period of their maternity leave, except during the first 2 weeks after childbirth which is a period of compulsory maternity leave.

Working for any part of a day will count as one day towards the 10 KIT days; however employees will only be paid for the hours worked, at their contractual rate of pay (offset against SMP where payable). Any work done during maternity leave must be by agreement.

The employer cannot insist that an employee carries out any work and the employee is protected from suffering a detriment or being dismissed for refusing to do so.

An employee cannot insist on being given any work to do.

Employees still qualify for SMP on up to 10 KIT days. If the employee exceeds the 10 days by only one day, the full week of SMP will be forfeited (where applicable).

## **2.10 Returning to Work**

- a)** Subject to (b), the employee is entitled to return to the job in which they were employed under their original contract of employment and on terms and conditions not less favourable than those which would have been applicable to them had they not been absent. "Job" for this purpose, means the nature of the work which they are employed to do and the capacity and place in which they are so employed. If the employee takes more than 26 weeks' leave (Additional Maternity Leave) they are also entitled to return to the same job on the same terms and conditions unless this is not reasonably practicable by reason of redundancy. If however there is some reason other than redundancy why it is not reasonably practicable for the employee to return to their original job, they are entitled to be offered suitable alternative work on terms and conditions no less favourable than the original job.
- b)** Where it is not practicable by reason of redundancy for the school to permit them to return to work in their job as defined in (a), the employee shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable and appropriate to the circumstances, and that the capacity and place in which they are to be employed and their terms and conditions of employment are not substantially less favourable to them than if they had been able to return to the job in which they were originally employed.
- c)** Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (general reorganisation) which would have occurred if the employee had not been absent, necessitate a change in the job in which they were employed prior to their absence. The work to be done should be suitable and appropriate to the circumstances and the capacity and place in which they are to be employed and their terms and conditions of employment should not be less favourable to them than if they had been able to return to the job in which they were originally employed.

## **Exercise of the Right to Return**

### **a) At the end of Maternity Period**

Employees taking the full year's maternity leave entitlement are not required to give any further notification of returning to work, providing they intend to return on the date notified to the school prior to the commencement of their maternity leave.

### **b) Before the end of the Maternity Period**

Employees wishing to return before the end of their maternity leave period should notify the Headteacher, in writing, at least 21 days before the day on which they propose to return, if this is before the end of the Additional Maternity Leave period. Where the notice given is less than 21 days, the Headteacher can delay the return until 21 days' notice has been received, or until the end of the 52 week maternity leave period (as notified) if this is earlier than 21 days.

Teachers: Where a teacher has not completed one year's continuous service by the beginning of the 11<sup>th</sup> week before the EWC with one or more local authorities), they must give the Headteacher at least 21 days notice in writing, of their proposed return date. Where the notice given is less than eight weeks, the Headteacher can delay the return until 21 days notice has been received, or until the end of the 52 week maternity leave period (as notified) if that is earlier than eight weeks.

### **c) Prevented from Returning to Work**

Where an employee is unable to return on the expected day due to sickness, the absence will be covered by the occupational and statutory sick pay schemes in the normal way.

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

### **d) Resignation**

Where an employee, during their period of maternity leave decides not to return to work, contractual notice must be given to school. Contractual notice must also be given where an employee wishes to resign before their maternity leave commences, however it may be possible to determine a mutually agreeable termination date.

## **2.11 End of Fixed Term Contract during Maternity Leave**

Should an employee's contract expiry date occur during their period of maternity leave, the school must comply with the normal fixed term contract termination process. The reason for non-renewal must not be maternity related and employers should seek advice from school HR/Business Manager.

## **2.12 Maternity Pay**

Maternity pay comprises Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP). Employees with 26 weeks' continuous service at the end of the 15th week before the EWC may be entitled to 39 weeks' SMP and employees with one year's continuous service at the 11th week before the EWC may be entitled to 39 weeks of SMP in addition to OMP.

## **2.13 Statutory Maternity Pay (SMP)**

Women are entitled to SMP if they have been continuously employed by their current employer for 26 weeks up to and including the 15<sup>th</sup> week before the baby is due. If they are not eligible for SMP, they may be eligible to claim Maternity Allowance from Job Centre Plus depending on their NI contribution record and earnings rule.

Any employee who is entitled to receive Statutory Maternity Pay (SMP), will receive it for a maximum of 39 continuous weeks with the remaining 13 weeks' leave being unpaid.

SMP is paid whether or not the employee intends to return to work for their employer, providing they are still working for the employer at the 15th week before the EWC. Where staff are entitled to Occupational Maternity Pay, SMP is offset against OMP for the first 6 weeks of payment

For employees who inform the employer that they do not intend to return to work, payments during the subsequent 33 weeks shall be the employee's entitlement to SMP

SMP cannot start earlier than the start of the maternity leave period (i.e. the 11th week before the EWC, apart from in the exceptional circumstances listed in paragraph 2.4.6 above). SMP is not paid where the employee does any paid work after the birth in the paid maternity period (excluding 'Keeping In Touch' days) or if they are in legal custody at any time during the maternity pay period.

## **2.14 Maternity Allowance**

Women with at least one year's continuous service, with one or more Local Authorities at the beginning of the 11<sup>th</sup> week before the EWC but less than 26 weeks with Bradford Council by the end of the qualifying week will be entitled to OMP but not SMP. However, dependent on their National Insurance contributions they may be entitled to state Maternity Allowance (MA).

## **2.15 Occupational Maternity Pay (OMP)**

OMP payments made to the employee during Maternity Leave are made on the understanding that the employee will return to work either at the school or within the Local Authority for a period of at least 3 months after the maternity leave period. The provisions for teaching staff and support staff differ and are paid in accordance with statutory and locally agreed terms and conditions, as outlined in the Burgundy Book (for teaching staff) and Green Book (for support staff).

Teachers: Payment of OMP to the teacher shall be made on the condition that they will return to their job for a period of at least 13 weeks from the date of return (this includes periods of school holidays). This period would extend, on a pro rata basis, if the employee was returning to work on fewer hours than they worked prior to maternity leave. Should the teacher not be available for work or decide not to return to their job for the required period, they shall refund the OMP

payments made during their maternity other than those made during the first six weeks of leave. Payments made by the way of SMP are not refundable

Support Staff: payment of OMP to support staff shall be made on the understanding that they will return to local authority employment for a period of at least 3 calendar months, whether this be on a full time, part time or job share basis. Should the employee not be available for work or decide not to return to local authority employment, they shall refund the whole amount of half pay. Payments made to the employee by way of SMP are not refundable.

Teaching Staff:

	First 4 weeks	Next 2 weeks	Next 12 weeks	Next 21 weeks	Next 13 weeks
At least 1 year's continuous service at the beginning of 11 <sup>th</sup> week before EWC (with one or more Local Authorities) and <i>at least 26 weeks'</i> continuous service with Bradford Council by the end of the 15 <sup>th</sup> week before EWC	Full pay (inclusive of SMP)	90% of a week's pay (inclusive of SMP)	Half pay plus SMP (capped at normal salary)	SMP	No pay
At least 1 year's continuous service at the beginning of the 11 <sup>th</sup> week before EWC (with one or more Local Authorities) but <i>less than 26 weeks'</i> continuous service with Bradford Council by the end of the 15 <sup>th</sup> week before EWC	Full pay (inclusive of SMP)	90% of a week's pay (inclusive of SMP)	Half pay plus MA if eligible (capped at normal salary)	MA if eligible	No Pay
Less than 1 year's continuous service at the beginning of the 11 <sup>th</sup> week before the EWC (with one or more Local Authorities) and <i>at least 26 weeks'</i> continuous employment with Bradford Council	Higher Rate SMP (6 weeks)		Lower Rate SMP (33 weeks)	No Pay	

<p>Less than 1 year's continuous service at the beginning of the 11<sup>th</sup> week before the EWC (with one or more Local Authorities) <i>and less than 26 weeks'</i> continuous employment with Bradford Council by the end of the 15<sup>th</sup> week before EWC</p>	<p>Statutory Maternity Allowance (MA) may be payable, dependent on National insurance contributions.</p> <p>Maximum 52 weeks leave</p>
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Support Staff:

	First 6 weeks	Next 12 weeks	Next 21 weeks	Next 13 weeks
At least 1 years continuous service at the beginning of the 11 <sup>th</sup> week before the EWC (and intends to return)	90% of a week's pay (offset against SMP or MA)	Standard rate of SMP (if eligible) plus half pay (capped at normal salary)	Standard rate of SMP (if eligible)	No Pay
At least 26 weeks continuous service at the end of the 15 <sup>th</sup> week before the EWC	90% of a week's pay (offset against SMP or MA)	Standard rate of SMP (if eligible)		No Pay
Less than 26 weeks' continuous service at the beginning if the 11 <sup>th</sup> week before EWC	Statutory Maternity Allowance (MA) may be payable, dependent on National insurance contributions.  (Maximum 52 weeks' leave)			

### 2.16 End of Contract during Maternity Leave

Should an employee's contract expiry date occur during their period of maternity leave, the school must comply with the normal fixed term contract termination process. The reason for non-renewal must not be maternity related.

### 2.17 Protection Against Unfair Treatment Or Dismissal

Pregnant employees must not be treated any less favourably than any other staff and must not be dismissed from employment or selected for redundancy in preference to other comparable staff, for reasons of pregnancy

Employees are protected from dismissal regardless of hours/service:

- If the principal reason for the dismissal is pregnancy or any reason connected with pregnancy
- If dismissed during maternity leave and the principal reason is the birth or any reason connected with having given birth
- If dismissed and the reason is because the employee took maternity leave.
- If principal reason concerns health and safety issues, is pregnancy related and the employee is unable to do their job.



It will be automatically unfair to select an employee for redundancy for pregnancy, child-birth or maternity related reasons. Where there is a genuine and necessary reason, the employer must carry out a fair procedure as outlined below and as per the locally agreed Redundancy Policy and Procedure:

- a. Selection criteria should be objective, non-discriminatory and applied fairly
- b. When carrying out consultation, this should include any employee who is on maternity leave. They should be given information about proposed redundancies in the same way and at the same time as other employees where reasonably practicable to do so. Where there are practical difficulties, other arrangements should be made i.e. rearrange meetings or conduct them at the employee's home.
- c. Reasonable steps must be taken to find alternative employment for employees who may otherwise have been dismissed by reason of redundancy. An employee on maternity leave should be offered a suitable alternative vacancy (where one exists) before another employee. This is applicable to employees during periods of ordinary and additional maternity leave in addition to adoption and additional paternity leave. If a suitable alternative vacancy is offered and the employee unreasonably turns it down, the dismissal will be fair and the employee would lose the right to a statutory redundancy payment.
- d. Where there is no suitable vacancy, the employee's employment would be terminated by reason of redundancy and will be entitled to a redundancy payment (where qualifying conditions are met), relevant notice period and written reasons for dismissal

## 3.0 Health and Safety

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.

### 3.1 Risk Assessment

An employee should inform their manager that they are pregnant. A risk assessment of their working area and practices should then be carried out. Each individual expectant mother would require a specific assessment that will need to be reviewed as the pregnancy progresses. Further guidance can be found in the HSE booklet, New and Expectant Mothers at Work: A guide for employers.

Managers are responsible for ensuring that when carrying out a workplace and workstation risk assessments that particular attention is paid to those risks that could affect the health or safety of new, breast feeding or expectant mothers.

If you are notified that an employee is pregnant, breastfeeding, or has given birth within the last 6 months, you should check the workplace risk assessment to see if any new risks have arisen. An assessment may help identify any additional action that needs to be taken to mitigate risks. Any risks identified at that point, or later during the pregnancy, in the first 6 months after birth, or while

the employee is still breastfeeding, must be included and managed as part of the general workplace risk assessment.

You must take appropriate reasonable practicable action to remove and control the risks including preventing exposure to risks through removal of hazards or implementation of controls. As part of your risk assessment, you should consider whether adapting duties and/or facilitating home working may be appropriate to mitigate risks

If a woman believes there is a risk to their health or safety, or to that of their baby, which has not been considered in the risk assessment, they must bring the risk to the attention of their Head teacher/Line Manager.

### **3.2 Communicable Diseases**

If in the early months of pregnancy employees are advised by an approved medical practitioner to be absent from school because of the risk of a communicable disease they will be granted full pay

### **3.3 Miscarriage**

Absence due to miscarriage prior to 24 weeks of pregnancy shall be treated as sickness absence provided it is covered by a doctor's certificate.

### **3.4 Still Birth**

In the tragic circumstances of a still birth, which is defined as occurring after 24 weeks of pregnancy or of neo natal death, employees will be entitled to the same maternity leave and pay as if the pregnancy had reached full term. The return to work notification remains unchanged i.e. 21 days of proposed return to work.

### **3.5 Removal of Staff from Risk**

If despite taking all reasonably practical measures, there is still a risk that could jeopardise the health or safety of a new, breast feeding or expectant mother or their baby then steps must be taken to remove the individual from that risk. This must be done as soon as the Head Teacher/Line Manager has been informed that an individual is pregnant. The steps to remove an individual from a risk are 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 them suitable alternative work if any is available; or if that is not feasible:
- Medical Leave of Absence from work for as long as necessary to protect their safety or health or that of the child.

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

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

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

### **3.7 Entitlements During Medical Leave of Absence**

A woman on medical leave of absence is entitled to be paid remuneration at their full normal rate for as long as the suspension continues. The only exception to this is where they 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 medical leave of absence continuity of employment, pension rights and length of service payments are protected.

### **3.8 New and Nursing Mothers**

Facilities for Breastfeeding and expressing/storing milk at school:

The Workplace Regulations (1992) require employers to provide suitable 'rest' facilities for workers who are pregnant or breastfeeding. Although it is not a legal requirement, the Health and Safety Executive (HSE) encourages employers to provide a healthy and safe environment for nursing mothers to express and store milk. This could be provided in the suitable rest facilities and should be away from communal fridges.

## 4.0 Parental Bereavement Leave

### 4.1 Overview

Employees and their partners may be able to take time off work if their child dies before they turn 18, or if they have a stillbirth after 24 weeks of pregnancy.

The death or stillbirth must have happened on or after 6 April 2020.

They You may be eligible for:

- Parental Bereavement Leave
- Statutory Parental Bereavement Pay

Employees may be able to get either or both Parental Bereavement Leave and Statutory Parental Bereavement Pay.

### 4.2 Parental Bereavement Leave

Employees can take 2 weeks' leave from the first day of their employment for each child who has died or was stillborn if they are eligible.

Employees can take:

- 2 weeks together
- 2 separate weeks of leave
- only one week of leave

A week is the same number of days that they normally work in a week.

The leave:

- can start on or after the date of the death or stillbirth
- must finish within 56 weeks of the date of the death or stillbirth

### 4.3 Taking leave with other types of statutory leave

Employees taking another type of statutory leave (for example, maternity leave or paternity leave) when the child dies or stillbirth happens, their Parental Bereavement Leave must start after the other leave has ended but does not have to be taken immediately after. This includes if the statutory leave is for another child.

If Parental Bereavement Leave is interrupted by the start of another type of statutory leave, employees can take your remaining entitlement to Parental Bereavement Leave after that other leave has ended.

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

Employees can take Parental Bereavement Leave between blocks of shared parental leave that they booked before the child died. This includes if the shared parental leave is for another child.

#### **4.4 Statutory Parental Bereavement Pay**

Staff are able to get either £151.97 a week or 90% of your average weekly earnings (whichever is lower) if you're eligible and this is paid in the same way as their salary through payroll, along with deductions for tax and National Insurance.

#### **4.5 Eligibility**

To qualify for Parental Bereavement Leave and Statutory Parental Bereavement Pay, employees must meet the criteria both as a parent (including if they had day to day responsibility) and an employee. They might not be eligible for both, depending on their circumstances.

#### **4.6 Employee is the child's parent or a parent's partner**

Employees may be eligible if at the time of the child's death or stillbirth, they were:

- the child or baby's parent - either biological, adoptive or parent of a child born to a surrogate
- the partner of the child or baby's parent

Biological parents of the child or baby will not be eligible for Parental Bereavement Leave and Statutory Parental Bereavement Pay after an adoption or parental order was made, unless there was a contact order in place.

#### **4.7 Employee or their partner had day to day responsibility for the child**

Staff may be eligible if both of the following apply:

- the child or baby was living with the employee at their home for 4 continuous weeks, ending with the date of death
- the employee or their partner had day to day responsibility for the child or baby's care during that time

If the employee or their partner were being paid to look after the child or baby, they do not qualify for leave or pay unless they were:

- a foster parent being paid a fee or allowance by a local authority
- reimbursed for expenses related to caring for the child or baby
- getting payments under the terms of a will or trust for the child or baby's care

Employees are not eligible if one of the children or baby's parents or someone who had parental responsibility (parental responsibilities in Scotland) for the child was also living in the household.

#### **4.8 Employee or their partner were an adoptive parent**

Employees are eligible for pay or leave:

- after the adoption order was granted
- before the adoption order was made, if the child was placed with the employee and the placement was not disrupted (for example, being temporarily placed elsewhere) or stopped

#### **4.9 Employee or their partner were an adoptive parent of a child from outside the United Kingdom**

Where an employee or their partner were adopting a child from outside the United Kingdom and the adoption order had not yet been made, they may still be eligible. Both of the following must apply:

- the child was living with the employee after entering Great Britain
- the employee has the 'official notification' confirming they were allowed to adopt

#### **4.10 Employee or their partner had a baby with the help of a surrogate parent**

Staff are eligible for pay or leave:

- after a parental order was made
- before a parental order was made if they had applied or intended to apply for a parental order within 6 months of the child's birth and expected it to be granted

#### **4.11 Parental Bereavement Leave**

To qualify Parental Bereavement Leave, employees must also:

- be classed as an employee - it does not matter how long they have worked for the Trust
- give their employer notice for Parental Bereavement Leave

#### **4.12 Statutory Parental Bereavement Pay**

To qualify Statutory Parental Bereavement Pay, staff must have been continuously employed by the Trust for at least 26 weeks up to the end of the 'relevant week'. The 'relevant week' is the week (ending with a Saturday) immediately before the week of the death or stillbirth.

Employees must also:

- continue to be employed up to the day the child dies or is stillborn
- earn on average £120 a week before tax (gross) over an 8 week period
- give the Trust the correct notice and information for Statutory Parental Bereavement Pay

## **5.0 Paternity/Nominated Carer's Leave**

### **5.1 Introduction**

Statutory Paternity Leave and Paternity Pay is available to employees of any gender, for the purpose of caring for a child, or supporting the child's other parent on the birth of a child, where either:

- you are the biological father and expect to have some responsibility for the child's upbringing; or
- you are the mother's partner and you expect to have main responsibility with the mother for the child's upbringing.

- 5.1.1 On the birth of a child to a surrogate mother where you are, or your partner is, one of the child's biological parents, and you expect to obtain a parental order giving you and your partner responsibility for the child.
- 5.1.2 Where an adoption agency places a child with you and/or your partner for adoption and you expect to have main responsibility (with your partner) for the child's upbringing.
- 5.1.3 Where a local authority places a child with you and/or your partner under a fostering for adoption arrangement and you expect to have main responsibility (with your partner) for the child's upbringing.

The provisions apply whether the employee's service is full time or part time (irrespective of the number of hours), or is permanent or temporary, subject to the conditions of the scheme being met.

Employees of any gender who are acting as the "prime or nominated carer" for the mother/child may request nominated carers' leave. They are subject to the same provisions as applied to employees requesting Paternity Leave.

The entitlement is an allowance of up to two weeks' absence (subject to eligibility as outlined below)

In order to apply for birth leave they will need to provide a copy of the MAT B1 or birth certificate along with a letter from the mother confirming they are the nominated person

## 5.2 Statutory Paternity Leave

To qualify, employees must:

- Be the child's father (or adopter) or the spouse or partner, same or opposite sex, of the child's mother
- Have or expect to have responsibility for the child's upbringing
- Have been continuously employed for at least 26 weeks ending with the 15<sup>th</sup> week before the EWC; or the end of the week they are notified of being matched with a child (if adopting from the UK); or from the date the child enters Great Britain (if adopting from overseas); and
- Give proper notice and evidence to school of their intention to take Statutory Paternity Leave (see below)

Employees eligible for the statutory scheme have the right to choose to take one or two consecutive weeks' leave (not odd days). It cannot be taken before the birth (or placement) of the child and must be taken within 8 weeks of the birth (or placement). If the baby is born prematurely, the leave can be taken between the birth and eight weeks after the birth.

The employee must provide the Head Teacher/Line Manager with written evidence from either the GP, hospital or adoption agency that:

- Their partner's pregnancy exists (or confirmation of being matched with a child)

- Shows the expected date of confinement (or child placement)

The employee must also live at the same address as their partner (except for below)

In order to apply for Nominated Carer's Leave, the employee must provide the Head Teacher/Line Manager with a copy of the MAT B1 along with a letter from the mother confirming they are the nominated person of choice. Employees must comply with notification requirements as set out below

An employee must notify their employer by the end of the 15<sup>th</sup> week before EWC, or as soon as reasonably practicable, that they intend to take paternity leave. The Inland Revenue Form 'SC3 – Becoming a Birth Parent' (for births) or 'SC4 – Becoming an Adoptive or Parental Order Parent' (for adoptions) can be used to give notice of leave and to apply for Statutory Paternity Pay (SPP). The notice must specify the length of leave to be taken and the date the employee wishes the leave to commence

If the employee wishes to change the start date, they must give 28 days' notice, in writing if requested

### **5.3 Contractual Scheme:**

To qualify, employees must:

- Be the child's father (or adopter) or the spouse or partner, same or opposite sex, of the child's mother
- Have or expect to have responsibility for the child's upbringing
- Have been continuously employed for at least 1 year, with one or more local authorities, by the beginning of the 11<sup>th</sup> week before the EWC or the end of the week they are notified of being matched with a child (if adopting from the UK); or from the date the child enters Great Britain (if adopting from overseas); and
- Give proper notice and evidence to school of their intention to take contractual Paternity Leave

Employees eligible for the contractual scheme have the right to take up to two working weeks' leave of absence with pay. It can be taken as circumstances dictate, either as a block or in days. The leave may be taken at any time during the pregnancy and up to three months after child birth (or placement). If the employee chooses to take leave on the date of birth (or placement) and they are at work on that day, leave will begin the following day.

The employee must notify their Headteacher/ Line Manager of intention to take leave as set out above

In the tragic circumstances of a still birth, which is defined as occurring after 24 weeks of pregnancy or of neo natal death, employees will be entitled to the same paternity leave and pay as if the pregnancy had reached full term.



#### **5.4 Paternity Pay**

If an employee is entitled to Statutory Paternity Pay and Leave, it will be paid at the weekly rate of Statutory Paternity Pay, or 90% of the employee's weekly earnings, whichever is the lowest

If an employee is entitled to the contractual paternity scheme, it will be paid at the employee's contractual rate of pay

If an employee who has met the above criterion has taken some paternity leave but then leaves the school's employment before the beginning of the 11<sup>th</sup> week, and at the date of leaving, has less than one year's continuous local government service then they will be required to repay the council the cost of the paternity pay received

#### **5.5 Extended Paternity Leave**

Employees may take an extended period of paternity leave in the unfortunate event that the child's mother (or adopter) who has taken leave for the child has died, before the child is one year old (or in the first year of placement). Extended paternity leave can last up to the child's first birthday (or one year after the child's placement). Employees may be entitled to Additional Statutory Paternity Pay which is paid during the 39 weeks that their partner would have received the relevant statutory pay.

## 6.0 Adoption Leave and Pay

### 6.1 Introduction

Statutory Adoption Leave is available to parents to prepare for adoption or to care for a newly placed adoptive child.

The provisions for adoption leave will apply to all employees.

The employee will be subject to all other entitlements and conditions of the appropriate maternity scheme (as in paragraph in 2.4), including the obligation to return to work for a minimum of three months in order to retain the adoptive leave pay.

In cases where both parents are employed by the Trust, and assuming that both parents are eligible, the total leave entitlement (i.e. the post confinement leave aggregated with the two working weeks' adoptive paternity leave) can be combined and shared between the two employees at their discretion.

### 6.2 Pre-Adoption Leave

There is no statutory right to paid time off for pre-adoption leave. Employees who are adopters or partners of adopters would, in the first instance, be expected to arrange meetings and interviews outside of the working day or during school closure periods/annual leave. However, it is recognised that this is not always practical and as such, employees may apply for time off using the Trust's Leave of Absence Policy.

Employees are asked to inform the Head Teacher as far in advance as possible, of the date and time of an appointment/meeting and the best estimate of the length of absence from work, including travelling time if significant. It would also be helpful in many cases if they could try to arrange appointments at the beginning or the end of the day, although schools recognise this may not always be possible

Employees must be prepared to show proof of appointment/meeting/interview

The time taken to attend such appointments within an employee's working hours for that day (including reasonable travelling time) will be paid at the usual rate provided they have complied with the above requirements.

If the employee is adopting a child from overseas, any visits to see the child pre-adoption should be taken during school closure periods or by using normal annual leave arrangements. Time off for this reason will only be granted in the above circumstances.

### 6.3 Adoption Leave

An employee adopting a child is to be allowed comparable leave and pay arrangements as applies to natural mothers. Accordingly, an employee who satisfies the full criteria and conditions of the maternity scheme specific to their conditions of service, will be entitled to:

- a) All employees are entitled to ordinary adoption leave of 26 weeks duration

- b) Employees who have 26 weeks' continuous service ending with the week in which they are notified of being matched with a child for adoption are entitled to a further 26 weeks of additional adoption leave, a total of 52 weeks' adoption leave.
- c) Both ordinary and additional adoption leave is to be taken in one block within a twelve month period from the date of placement unless otherwise agreed with the school
- d) Be subject to all other entitlements and conditions of their maternity scheme

Adoption leave will begin on the placement date or up to 14 days before the placement date. Where employees choose to begin leave on the placement date and they are at work on that date, leave begins the following day.

The employee will be required to notify school of their intention to take adoption leave. Correspondence must be sent from the adoption agency confirming the adoption/placement and the employee should inform their employer no more than seven days after the date of being told by the adoption agency that they have been matched with a child in writing, or as soon as is reasonably practicable, that they will be absent from work due to adoption and whether they intend to return to work

There is a requirement for employers to respond to an employee's notification of their leave plans within 28 days. An employer will need to write to the employee, setting out the date on which they are expected to return to work if the full entitlement to adoption leave is taken. Adopters who intend to return to work at the end of their full adoption leave will not have to give any further notification to their employer and unless otherwise notified, Head Teachers/Line Managers should assume that the employee will be taking their full entitlement to adoption leave

#### **6.4 Adoption Pay**

Payments for employees who have less than one year's continuous service at the beginning of the 11<sup>th</sup> week before the week of the baby/child's placement shall be the employees' entitlement to Statutory Adoption Pay (SAP)

Statutory Adoption Pay will be paid for 39 weeks, or if earlier, until the date the employee returns to work, or for eight weeks after the end of the week the placement is disrupted

The contract of employment continues during Adoption Leave. The employee receives all contractual benefits during the full period of Adoption Leave.

Employees are subject to all other entitlements and conditions of their appropriate Maternity Scheme, (as outlined in section 2.0) including the obligation to return to either their 'job' or local authority employment for a period of at least three months in order to retain the occupational pay element.

An employee shall not be entitled to Statutory Adoption Pay (SAP) in the case of:

- Private adoption (Private adoption refers to any adoption not arranged by an agency or organisation i.e. when the adoptive parents find a birth mother or baby or child privately)
- The adoption of a step-child by a step-parent
- The adoption of a foster child by a foster parent

- Those who become parents through arrangements with a surrogate mother (except in accordance with the provisions set out in paragraph 5.6)

### **6.5 Adoptive Paternity Leave and Pay**

Statutory Paternity Leave for Adoption is absence from work for the purpose of caring for a newly placed adoptive child or to support the main adopter. The Paternity Leave provisions set out in paragraph 4 will apply to employees who:

- are adoptive fathers, or the spouse or partner of the main adopter
- will have responsibility for the child's upbringing,
- has been continuously employed for at least 26 weeks ending with the week the child's adopter is notified of the match;
- have given notice and evidence to their Headteacher/Line Manager

### **6.6 Surrogacy**

An employee who becomes a parent through surrogacy arrangements is not entitled to Statutory Adoption Leave and Pay.

Employees will instead be entitled to unpaid parental leave upon becoming a parent (as detailed in paragraph 6), providing that:

- they intend to apply for a parental order when the child is living with them (where one parent is genetically related) or adopt the child (where there is no genetic relationship)
- they meet the qualifying conditions

The father, or the spouse or the partner (same or opposite sex) of a child born through surrogacy arrangements (provided he is registered as the father) and fulfils eligibility criteria and provisions outlined in Paragraph 4, will be eligible to take paternity leave.

Female employees acting as surrogates are entitled to full maternity leave, pay and provisions as any other pregnant employee and outlined in paragraph 2.4

## 7.0 Parental Leave

### 7.1 Introduction

The right to parental leave is contained in the Maternity and Parental leave etc Regulations 1999, made under the Employment Rights Act, as amended by the Employment Relations Act 1999. It offers qualifying parents the right to take a period of unpaid time off work to look after a child or to make arrangements for the child's welfare. Parents can also use it to spend more time with their children.

Employees are entitled to a total of 18 weeks' unpaid leave for each qualifying child. Parental leave is for each child therefore if an employee has twins the leave is doubled. The leave can be taken at any time up until the child's 18<sup>th</sup> birthday.

Parental leave should be taken in blocks of a week or multiples of a week, and should not be taken as "odd" days off, unless the employer agrees otherwise or the child is disabled. Employees cannot take off more than four weeks during a year per child. A week is based on an employees working pattern.

### 7.2 Qualifying Conditions

Parents (or adopters) of children under the age of 18 may have the right to parental leave. To qualify, employees must:

- Have one year's continuous service; and
- Be named on the child's birth or adoption certificate

If employees are separated from the spouse or partner and don't live with their child (or children) they maintain the right to parental leave if they keep formal parental responsibility for the child (or children). Foster parents do not have the right to parental leave but may be able to request a flexible working pattern (see separate guidance).

### 7.3 Requests for Parental Leave

Employees wishing to request a period of Parental Leave must give their Head Teacher/Line Manager at least 21 days' notice. This request should be put in writing stating the dates on which the leave is to begin and end. If an employee wishes to take parental leave straight after the birth or adoption of a child they should give notice 21 days before the beginning of the expected week of child birth or placement. In cases where this may not be possible, for example, if a child is born prematurely or where less than 21 days notice is given that a child is to be placed for adoption notice should be given as soon as possible.

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 or adoption papers etc.

An employer can postpone the leave for up to six months where the school would be particularly disrupted if the leave was taken at the time requested but it cannot be postponed so that the leave ends after the child's 18th birthday.

However, the employer will notify the employee of the decision, including the reason for postponement and alternative dates during which the parental leave can be taken

An employee may elect to take a period of Parental Leave from the date of child birth or from the date of adoption, in which case the Employer cannot delay the date of the leave. The employee must give 21 days' notice before the EWC, or 21 days before the week in which adoption placement is to occur, (following the guidance as per 6.1.9)

If a woman wishes to take a period of Parental Leave immediately following their maternity leave, they should also ensure that they make the request to the Headteacher/Line Manager giving at least 21 days' notice

#### **7.4 Returning to Work**

At the end of Parental Leave period, the employee is entitled to return to the same job as before, if the leave was for a period of 4 weeks or less. The employee is also entitled to benefit from any improvements to the rate of pay (or other employment terms and conditions) which may have been introduced while they have been away.

If the Parental Leave period was more than 4 weeks, the employee is entitled to return to the same job, or if it is not reasonably practicable, a similar job which has the same or better status, terms and conditions as the previous job.

## **8.0 Shared Parental Leave**

### **8.1 Introduction**

Shared Parental leave enables eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed and applies to eligible parents of children born or adopted on or after 5 April 2015. This enables parents to share the leave with their partner, perhaps returning to work for part of the time and then resuming leave at a later date. The aim of Shared Parental Leave is to give parents greater flexibility in how they care for their child during the first year. Eligible parents will have the right to share up to 52 weeks leave to care for their child (minus the period that the mother has spent on maternity leave) and up to 37 weeks shared parental pay. Employees generate an entitlement to shared parental leave (SPL) if the mother brings their maternity leave to an end early. The balance of any leave and pay remaining becomes available to the parents as SPL, to be split between them as they choose.

Employees will be eligible to take leave if they have a sufficient period of service and their partner satisfies the minimum employment and earnings criteria.

Employees have to give 8 weeks notice of their intention to opt-in to SPL and of any subsequent request for leave.

When a couple initially opt in, they are required to give a non-binding indication of how they are intending to take their SPL.

Employees are entitled to give up to 3 notifications of SPL (or changes to SPL), unless the organisation is willing to allow more requests.

SPL must be taken within 52 weeks of the child's birth.

20 "keeping in touch" days will be available to each parent during shared parental leave, in addition to maternity leave "keeping in touch days". The right to return to the same job will apply to employees returning from any period of leave that includes maternity, paternity, adoption and SPL that totals 26 weeks or less, even if the leave is taken in discontinuous blocks.

[For further information please see the Shared Parental Leave Policy.](#)

## 9.0 Shared Parental Leave Policy

### 9.1 Introduction

Employees who have a baby due on or after 5th April 2015 or in the case of adoption, are matched with a child on or after 5th April 2015, may be entitled to take shared parental leave.

Shared parental leave is created when a mother or primary adopter ends ('curtails') their maternity or adoption leave period.

Shared parental leave is then available to couples who meet the eligibility criteria to request to share the remaining maternity leave or adoption leave between them.

Employees can request to take any period of continuous shared parental leave which school cannot refuse. Alternatively employees can request a discontinuous period of shared parental leave which school will accommodate where possible. However any decision regarding discontinuous shared parental leave will be based on the business needs of the school.

### 9.2 Eligibility

Mother or primary adopter

If the employee is the mother or primary adopter and they want to take shared parental leave they must satisfy each of the following criteria:

- Be entitled to maternity or adoption leave and must have ended it either by returning to work before the end of their leave or stating their intention to end their maternity/adoption leave;
- Have caring responsibility for the child;
- Have continuous service of at least 26 weeks' before the 15th week before the baby is due. In the case of an adoption, they must have continuous service of at least 26 weeks ending with the week in which they are notified of being matched with a child for adoption;
- The employee's partner must meet the 'employment and earnings test'. This requires 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 at least £30 a week in any 13 of those weeks. (This amount is correct at April 2019 but may be subject to change in the future).
- Still be working for the school when they intend to take the leave;
- Provide a copy of the child's birth certificate or a document from the adoption agency that confirms the placement
- Comply with the notification requirements.

*N.B: Employees who are new mothers must take the minimum period of compulsory maternity leave (two weeks following the birth of the child, or four weeks for manual employees) before they can take shared parental leave.*



*To qualify for shared parental pay the mother or primary adopter must meet the same eligibility conditions as required for shared parental leave and must also be entitled to statutory maternity pay or statutory adoption pay.*

*The total amount of shared parental pay must not exceed the amount of the untaken statutory maternity or adoption pay.*

### **9.3 Partner of the mother or primary adopter**

If the employee is the partner of the mother or primary adopter and they want to take shared parental leave they must:

- Have caring responsibility for the child along with the mother or primary adopter;
- Have continuous service of at least 26 weeks' before the 15th week before the baby is due. In the case of an adoption, they must have continuous service of at least 26 weeks ending with the week in which they are notified of being matched with a child for adoption;
- Provide a copy of the child's birth certificate or a document from the adoption agency that confirms the placement;
- Comply with the notification requirements.

To qualify for shared parental pay the partner of the mother or primary adopter must meet the same eligibility conditions as required for shared parental leave and must also be entitled to statutory paternity pay.

The employee should provide the relevant information about their partner and provide a signed declaration from their partner confirming that they agree to share parental pay and they satisfy the eligibility requirements.

### **9.4 Surrogacy**

Surrogate parents with a Parental Order will be eligible for statutory adoption leave/pay and shared parental leave and pay if they meet the eligibility criteria.

Please note that in these cases the recipient surrogate parents must provide school with evidence of the intended arrangement. This should include a copy of the MAT B1, the Parental Order and the surrogacy agreement which must have been signed in the presence of a legal professional.

### **9.5 Fraudulent Claims**

The School will, where there is a suspicion that fraudulent information may have been provided or where the School has been informed by HMRC that a fraudulent claim was made investigate the matter under the Trust's Disciplinary Procedure.

### **9.6 Shared Parental Pay**

The total amount of shared parental pay must not exceed the amount of the untaken statutory maternity or adoption pay. Shared Parental Pay is paid at either the fixed statutory rate or 90% of normal average weekly earnings if this is less.

## 9.7 Notification Requirements

The employee should discuss their intention to take shared parental leave at the earliest opportunity. Where it is a request for discontinuous shared parental leave there should be an informal meeting which gives them the opportunity to discuss what pattern of leave could be accommodated.

The employee may be accompanied at this meeting by a work colleague or trade union representative.

Employees must provide at least 8 weeks-notice prior to the commencement of any period of shared parental leave.

### Mother or primary adopter

Where the employee is the mother or primary adopter and is on maternity or adoption leave they should complete the Notice of entitlement and intention to take shared parental leave and pay form to confirm they are ending their maternity or adoption leave and opting into shared parental leave and pay.

Although the decision to end maternity leave is binding in most circumstances, the dates provided in the notification at this stage are a non-binding indication of the intended pattern of leave.

### Partner of the mother or primary adopter

Where the employee is the partner of the mother or primary adopter they should use the Partners notice of entitlement and intention to take shared parental leave and pay form.

The following applies to both parents

An employee who wishes to take shared parental leave must also complete a Period of leave notice (birth) form or Period of leave notice (adoption) form not less than 8 weeks before the start date of each period of leave. In this document, the employee must set out the start and end date of each period of leave requested.

In the initial period of leave notice the employee does not have to confirm how they are intending to take all of their entitlement to shared parental leave. The employee may submit another period of leave notice. The employee is entitled to request a new block of leave or change a period of leave.

In total, employees can submit up to three period of leave notices, including changes to any previous notices, except when:

- a change is agreed by the employee and the manager
- a notification has been withdrawn
- a period of leave is varied because the child is born before the expected week of childbirth;

## **9.8 Withdrawal of requests**

The decision to end maternity or adoption leave is binding on the employee but may be revoked in the following circumstances:

- If after submitting notice to take shared parental leave the employee or their partner's circumstances change and they are no longer eligible to take shared parental leave. They must notify the manager in writing within 8 weeks
- If the employee is the mother and submitted their notification before the birth of the baby they may change their mind following the birth. If this is the case the employee must provide a written notice within 6 weeks of the baby's birth.
- In the unfortunate circumstances that an employee's partner dies the employee must provide a written notice within a reasonable time after the date of the death.

If the employee wishes to revoke their decision to end their maternity or adoption leave, they should complete the Revocation notice (shared parental leave) form.

## **9.9 Amount of leave**

The total amount of shared parental leave and pay must not exceed the remaining balance of the 52 weeks of maternity or adoption leave. If the employee and their partner decide to take leave together the amount of leave taken will be counted for each person.

Leave must be requested as complete weeks, with a minimum leave period of one week.

## **9.10 Request for a continuous period of shared parental leave**

If the employee has submitted a notification for a continuous period of leave they are entitled to take this. This request cannot be refused and this entitlement should be confirmed using the Confirmation of entitlement to take shared parental leave letter.

## **9.11 Request for a discontinuous period of shared parental leave**

If the employee has submitted a notification for a discontinuous period of shared parental leave either in turns or at the same time, the manager should meet with the employee within 15 calendar days of receiving the notification to discuss the request and try to come to an agreement.

For notifications of discontinuous periods of leave a manager can:

- agree to the request
- suggest alternative dates
- refuse the periods requested; or
- the employee can withdraw their application

If agreement is not reached within 15 calendar days the total amount of leave in the request must be taken as a single block.

The refusal of discontinuous leave should be confirmed in writing. Where the request for discontinuous leave has not been granted the employee can withdraw it within the 15 days and

request a different pattern of discontinuous leave or they can choose to take the leave in a single continuous block.

#### **9.12 Right of Appeal**

Any employee that has had discontinuous blocks of leave refused can appeal via the appeals procedure.

#### **9.13 Antenatal appointments**

There is a statutory right for fathers/partners of pregnant women and intended parents of children born through surrogacy to unpaid time off work to attend up to two ante-natal appointments.

#### **9.14 Relationship with statutory paternity leave**

Where the employee wishes to take statutory paternity leave and a period of shared parental leave, the statutory paternity leave must be taken first.

#### **9.15 Sickness during Shared Parental Leave**

If the employee is sick and unable to care for the child they are not entitled to take shared parental leave. Where this is the case they would be paid sick pay rather than shared parental pay.

#### **9.16 Shared Parental Leave in Touch Days (SPLIT days)**

During a period of shared parental leave if the employee and school agree the employee may work (or attend training) for up to 20 'shared parental leave in touch days' (SPLIT days), without bringing their period of leave to an end or losing their right to shared parental pay. These SPLIT days are paid and are in addition to the Mother/Adopter's Keeping In Touch (KIT) days that are available during maternity/adoption leave.

School cannot insist that you take SPLIT days and are not obliged to offer the employee any work during the shared parental leave. If an employee takes a SPLIT day they will receive full pay for any day worked.

Contact made by school to discuss the employees return to work and any other reasonable contact during the leave does not constitute work for these purposes. The employees' line manager will maintain reasonable contact with the employee during the period of leave, for example, to discuss the employee's plans for returning to work, to consider training or keep them updated on any relevant work developments.

#### **9.17 Statutory Annual Leave**

Teaching Staff

Under the Working Time Regulations, from April 2009 Teachers have a statutory right to paid annual leave amounting to 28 days (5.6 weeks). Statutory annual leave should be taken either before or after parental leave. However, in most cases, periods of school closure before and after the period of shared parental leave will more than equal the 28 day annual leave entitlement.

Where there are insufficient school closures to accommodate statutory annual leave in any leave year, any outstanding leave can be taken during term time in the same leave year. This must be by agreement with the Headteacher. It is therefore important for the employee and their manager to incorporate statutory annual leave into their planning.

Where the return from shared parental leave, is so close to the end of the leave year, that there is not enough time to take all of the statutory entitlement, any balance of leave owing should be carried over to the following year.

Any leave carried over will be taken during normal school closure periods in addition to the statutory entitlement for that year (or pro rata as appropriate). There is no provision to carry over statutory annual leave into the next year if there is time to take it before 31 August.

### Support staff

Under the Working Time Regulations, from April 2009, Support staff who work term time have a statutory right to paid annual leave amounting to 28 days (5.6 weeks). For support staff who work on a term time only basis, in most cases, periods of school closure before and after the period of shared parental leave will more than equal the 28 day annual leave entitlement. Please note for both teaching and support staff, this is not an additional entitlement to annual leave on top of the current school closure arrangements.

Support staff who work all year round will continue to accrue their normal annual leave entitlement throughout shared parental leave. Any leave entitlement so accrued must still be taken in the leave year which it appertains. Common practice is to take any outstanding annual leave at the beginning or the end of the period of shared parental leave depending where this falls in relation to the annual leave year. Employees should discuss their annual leave entitlement fully with their Head Teacher/Line Manager and incorporate this into their planning. Where an employee is planning not to return to work after a period of shared parental leave they should be encouraged to plan to take any annual leave entitlement that they may be due, before commencing the shared parental leave. If the employee has taken more paid annual leave than entitled to at the date of resignation, then the overpaid portion must be repaid to the Authority.

Payment in lieu of statutory leave not taken is only allowable where the employees' employment terminates and there is insufficient time to take any remaining leave during the notice period.

### 9.18 Pension Implications

Where the employee is a member of either the Teachers' Pension Scheme or the West Yorkshire Pension Scheme they will continue to build up pension in the scheme as if they were working normally for any part of the leave where they are receiving pay. Their pension contributions will be based on the actual pay received during this period whether this is contractual, statutory or a combination of both. The contribution rate will be based on the pay the employee would have received had they not been on parental leave, but the rate is only applied to the employees actual pensionable earnings in the period. Therefore for any unpaid leave the employee will not accrue pension.

### 9.19 Employees with more than one job

Where the employee has more than one job and they are with different employers they are entitled to take shared parental leave with each employer. They could not be on maternity leave with one employer and on shared parental leave with the other. In order to be eligible for shared parental leave the maternity or adoption leave must be curtailed with all employers.

If the mother wants to take or create shared parental leave for their partner to take and they have 2 (or more) jobs, they must have brought forward the date on which their maternity leave period ends for each of their jobs either by returning to work or by giving notice to end their maternity leave period (the notice must be given to each of their employers at the same time).

A mother cannot take shared parental leave if they have only brought forward the date on which their maternity leave period ends with one of their employers. A mother cannot still be on maternity leave in one job and on shared parental leave in another job, because they must curtail all their maternity leave entitlement (from both jobs) for any entitlement to shared parental leave to arise.

#### **Calculation of the maximum amount of shared parental leave available in the event of multiple employers**

The number of weeks of shared parental leave is calculated by deducting the maximum number of weeks that the woman has taken (i.e. the total length of absence, even if it is with different employers).

#### **Example: Mother on maternity leave from 2 different employments**

A mother is on maternity leave from employment A and employment B. They return to work in employment A on week 20. They return to work in employment B in week 25.

The maximum amount of shared parental leave in this case will be  $52-25=27$  weeks (not  $52-20$ ).

#### **Example: Mother gives notice to curtail their maternity leave to 2 different employers**

A mother gives notice to curtail their maternity leave from employer A from week 32 of their maternity leave period and a notice to curtail maternity leave from employer B from week 30 of that leave period.

The maximum amount of shared parental leave in this case will be  $52-32=20$

### 9.20 Notifications to payroll

Schools must ensure that they inform payroll of any approved requests for shared parental leave/pay including any revocations and variations any shared parental leave in touch days (SPLIT days) and any curtailment of maternity leave.

### 9.21 Returning to Work

At the end of the period of shared parental leave, the employee is entitled to return to the same job as before, if the leave was for a period of 26 weeks or less. The employee is also entitled to

benefit from any improvements to the rate of pay (or other employment terms and conditions) which may have been introduced whilst they have been on shared parental leave.

If the period of shared parental leave is for more than 26 weeks, the employee is entitled to return to the same job, or if this is not reasonably practicable, a suitable and appropriate alternative job which has the same or better status and terms and conditions as the previous job.

## Part 2. Flexible Working Policy (10.0)

### 10.1 Introduction

The Trust believes that flexible working can increase staff motivation, promote work-life balance, reduce employee stress and improve performance and productivity.

Every employee has the statutory right to ask to work flexibly after 26 weeks employment service. An employee can only make a statutory request once in any 12 month period.

### 10.2 Requests for flexible working

A request for flexible working could include a request for a change to the number of hours that the employee works, a request for a change to the pattern of hours worked, a request to job share or a request to perform some or all of the work from the employee's home.

All requests must be made in writing by filling in the requisite application form, which is available from school. Any request made under this policy must include:

- the date of the application;
- the changes that the employee is seeking to their terms and conditions;
- the date on which the employee would like the terms and conditions to come into effect;
- what effect the employee thinks the requested change would have on the organisation;
- how, in their opinion, any such effect might be dealt with;
- a statement that this is a statutory request;
- whether or not the employee has made a previous application for flexible working; and
- if the employee has made a previous request, when the employee made that application.

Where the request is being made by a disabled person as part of a request for a reasonable adjustment to their working arrangements, the employee should state this in the written application.

Schools should not reject out of hand a request that does not contain the required information. The employee's line manager should explain to the employee what additional or amended information they need to provide and ask the employee to resubmit the request.

### 10.3 Meeting to discuss a flexible working request

Once the Headteacher receives the request, it will be dealt with as soon as possible, but no later than the deadline set out below. The Headteacher will usually arrange a meeting to deal with the

request. Where a request can be approved without further discussion in line with the terms stated in the employee's written application, a meeting will not be necessary.

An employee should be given the right to be accompanied by a work colleague or a trade union representative at any flexible working meeting. The meeting should take place in a private meeting room so that the discussion is kept away from other employees. The aim of the meeting is to find out more about the proposed working arrangements and how they could be of benefit to both the employee and school.

#### **10.4 Outcome of a flexible working request**

After the meeting, the Headteacher will consider the proposed flexible working arrangements carefully, weighing up the potential benefits to the employee and to the school against any adverse impact of implementing the changes. Each request 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 change to their working pattern.

The employee will be informed in writing of the decision as soon as is reasonably practicable after the meeting, but no later than the deadline set out below. The request may be granted in full or in part: for example, the organisation may propose a modified version of the request, the request may be granted on a temporary basis, or the employee may be asked to try the flexible working arrangement for a trial period. The employee will be given the right to appeal the decision if the employee's request is not upheld or is upheld in part.

#### **10.5 Reasons for turning down a flexible working request**

The Headteacher/Directors will give reasons for the rejection of any request. Those reasons must be for one or more prescribed business reasons, which are:

- extra costs that will damage the business
- the work cannot be reorganised among other staff
- people cannot be recruited to do the work
- flexible working will affect quality and performance
- the business will not be able to meet customer demand
- there's a lack of work to do during the proposed working times
- the business is planning changes to the workforce

The Headteacher/Directors must not reject a request for any other reason.

#### **10.6 Flexible working requests that are granted**

If the request is upheld, the employee and the Headteacher will discuss how and when the changes will take effect. Any changes to terms and conditions will be put in writing and sent to the employee as an amendment to their contract of employment/written statement of terms and conditions of employment as soon as is reasonably practicable.



### **10.7 Timescales**

All requests will be dealt with within a period of three months from first receipt to notification of the decision on appeal. The Headteacher should hold the meeting within 28 days of receiving the request and notify the decision to the employee within 14 days of the meeting, so that there is enough time for any appeal to be concluded. Employees who are dissatisfied with the outcome of their request are allowed to lodge an appeal within 14 days of the notification, with the appeal to be heard within 14 days. The employee will be informed of the outcome of their health appeal within 14 days of the appeal meeting. These time limits may be extended where both the employee and school are in agreement. For example, the Headteacher and the employee may agree to extend the time limit to give the employee a trial period on the flexible working arrangements.

### **10.8 Problems with a flexible working request**

If an employee is dissatisfied or unclear at any stage throughout the process, they should seek clarification from the Headteacher. If an employee is dissatisfied with the way in which their request has been handled, they can raise a grievance under the school's grievance procedure.

Headteachers who receive a request will have regard to the school's equal opportunities policy when considering the request.

If an employee fails to attend a meeting, including an appeal meeting, and then fails to attend a rearranged meeting without good reason, their application will be deemed to have been withdrawn.

## Part 3. Staff Leave of Absence and Time off work (11.0)

### 11.1 Policy Statement

The Trust regards the excellent attendance of both pupils and staff as integral to the success of our schools.

The Trust recognises that the effectiveness of each school depends on the commitment of all staff. We also acknowledge that a fair and balanced policy on leave of absence and time off work contributes to the maintenance of staff morale and thereby to the success of the school.

The Trust recognises that absence from duty by staff may be unavoidably required for a wide variety of reasons including for example, Public service (Jury) or for other family, personal, religious and professional reasons.

High levels of absence among teaching and support staff can pose a serious problem for school in terms of disruption to teaching programmes, pupil's learning and other areas of the schools work. Absence of any staff employed in schools during term time means some impact on the children's education. Therefore, requests from any employee to be taken during term time must be regarded by all as the **exception**. Requests for leave of absence for the purpose of taking holidays and/or contributing to holidays will **not** be granted.

The Trust expects that teachers and term time support staff will arrange their holidays during school closure periods. It is also expected that staff will consider for all absences how these may be arranged to cause the least inconvenience for the school. Whilst all requests for leave of absence will be considered in a balanced way, other than in exceptional circumstances or on compassionate grounds, leave of absence will not normally be approved in term time except as covered in conditions of service agreements or statute.

The Trust will observe the relevant conditions of service agreements and its statutory obligations regarding leave of absence.

### 11.2 Procedure for considering requests for planned leave of absence

#### Requesting Leave of Absence

Requests for planned leave of absence should be made in writing using a "Leave of Absence Request Form" or via Carval for Carval users. This should be submitted to the Headteacher, and should include the full reasons for the request which make clear why the leave cannot be taken during a normal school closure period, and the dates and length of the period of leave of absence requested.

The same process will be used by the Headteacher except that the request should be submitted to the Board.

The request should be made **with as much notice as possible** so that proper consideration can be given to the request and to enable appropriate cover to be arranged in the event of the absence

being approved. Other than in cases of emergency, a minimum of two week's notice should be given for any requests for leave of absence for periods of up to 5 working days, and for longer periods a period of notice (excluding the summer break) equivalent to twice the length of the period of leave being requested. Prior notice of more than three months is not required but would be helpful to the school for planning purposes.

Staff should not under any circumstances make arrangements (bookings, flights etc.) until approval for the absence has been given.

### **11.3 Deciding on Leave of Absence requests**

Requests for leave of absence will be considered taking into account

- The principles of this policy
- The best interests of the children and the school
- Treating staff in a fair, reasonable and consistent way
- National and local terms and conditions of employment

The Headteacher will normally decide on requests for discretionary Leave of Absence on a paid or an unpaid basis, having regard to the relevant conditions of service and the policy of the Trust. In the case of extended leave and other exceptional circumstances the Headteacher will make the decision.

The Headteacher will approve all requests for non-discretionary absence (e.g. Jury Service, paternity leave etc) in accordance with legislative and conditions of service requirements, and irrespective of the length of the absence. Where a non-discretionary absence amounts to more than 5 days the Headteacher will inform the Chair of the Board of the length of the absence and the reason for it.

The Chair of the Board will decide on all requests for leave of absence made by the Headteacher.

All decisions will be confirmed in writing. In the case of refusal, reasons will be given.

If the request is refused, the employee may appeal to the Trust's Appeals Committee. The appeal should be made in writing within 10 working days of the original decision being given, stating the grounds for the appeal. The school grievance procedures will be used. There is no further level of appeal.

NOTE: All parties need to be mindful of the time that could be required for the decision making process, including any potential appeal.

### **11.4 Unpaid leave**

The methods to be used for the calculation of adjustments to pay during periods of leave of absence without pay are contained in the relevant conditions of service, applying to teachers (STP&C) and other staff (Conditions of service)

Employees are not covered by the sickness absence scheme whilst on unpaid leave and therefore, are not entitled to receive occupational sick pay. Employees may be entitled to Statutory Sick Pay (SSP) and so should submit any medical certificates direct to the Payroll Team.

### 11.5 Unauthorised leave of absence

The taking of unauthorised leave of absence is automatically unpaid and may lead to disciplinary action resulting in a formal warning being issued, or dismissal where the circumstances would justify such action.

Overstaying and late returns will be considered as unauthorised leave of absence. Staff **must** preserve any documentary evidence, which shows that a late return was unavoidable (tickets, sick-notes etc).

### 11.6 Guidance on Contractual and Statutory Entitlements to leave of Absence

Time off to accompany a colleague to a discipline, grievance or flexible working hearing  
(Employment Rights Act 1999)

Employees have the legal right to take paid time off work to accompany fellow employees of the same employer to certain disciplinary and grievance hearings.

Time off for job hunting or to arrange training when facing redundancy  
(Employment Rights Act 1996)

An employee who is being made redundant is entitled to take reasonable time off with pay to look for another job, or to arrange training for future employment. The employee, who must have at least 1 years' continuous service (at the date the redundancy will take effect), can take time off within working hours while under notice.

Time off for Trade Union duties (including Union Learning Representatives) and for Safety Representatives  
(Employment Act 2002)

Employees carrying out these roles are entitled to reasonable paid time off work to undertake those duties and to undergo training. See Local Conditions of Service.

Time off for occupational pension scheme trustees and directors of trustee companies  
(Employment Rights Act 1996)

Employees who are trustees of an occupational pension scheme or directors of Trustee companies are entitled to reasonable time off with pay to carry out any of their trustees' duties or to be trained for those duties.

Study Leave and Attendance for Examinations (discretionary and non-discretionary)  
(see relevant conditions of service)

For courses of training and study that are not directly related to the employee's job, or have not been specifically approved by the Trust, leave may be granted at the school's discretion with or without pay.

For courses of training and study approved by the Trust, leave with pay will be granted as necessary. Conditions of Service for Support staff additionally allow half a day's leave to prepare for each examination. Any leave agreed to prepare for examinations will be approved subject to any practical and organisational constraints affecting the school.

#### **11.7 Bad Weather Conditions**

There may be circumstances when the employee is unable to attend work due to bad weather, but the school remains open as usual. All reasonable efforts should be made to attend work. Alternative arrangements may be agreed with the Headteacher, eg. Working from home or at a different location. Where this is not possible, non attendance will normally be treated as unpaid leave, but exceptional circumstances may warrant paid leave.

#### **11.8 Attendance at Court Proceedings**

(see Juries Act 1974 and relevant conditions of service)

##### **Jury Service**

Staff required to attend for jury service should arrange for the loss of earnings certificate to be forwarded to the schools payroll team. The certificate will be returned to the employee completed to show to what extent the salary will be stopped during their absence. The amount will then be claimed from the court.

##### **Witness summonses and subpoenas**

Staff subject to a witness summons or subpoena should be allowed paid time off work to attend court

#### **11.9 Time off for Medical Appointments**

(see relevant conditions of service)

Where possible, school employees are expected to make appointments out of school time or as close to the start or end of the school day as possible. Routine GP or Dentist appointments will be unpaid; time off for hospital appointments and blood donor sessions will be paid in line with the leave of absence policy. All time off for appointments should be requested as far in advance as possible. An appointment letter/card or some other document showing that an appointment has been made should be shown to the Headteacher.

N.B Employees covered by the Equality Act 2010, do not have a specific right to take reasonable time off to attend medical appointments, however employers have a duty to make reasonable adjustments where appropriate, which can include appropriate time off to attend medical appointments. What is reasonable for the employer to do will depend on the circumstances of the particular case. Please contact HR/ Business Manager for more specific advice.

#### **11.10 Time off for Dependants**

(Employment Rights Act 1996, as amended by the Employment Relations Act 1999)

Employees have a right to take a reasonable amount of time off work to deal with certain unexpected or sudden emergencies and to make any necessary longer term arrangements. The emergency must involve a dependant of the employee. According to the regulations, a dependant

is the husband, wife, child or parent of the employee. It also includes someone who lives in the same household as the employee. For example, this could be a partner or an elderly aunt or grandparent who lives in the household.

In cases of illness or injury, or where care arrangements break down, a dependant may also be someone who reasonably relies on the employee for assistance. This may be where the employee is the primary carer or is the only one who can help in an emergency; for example an aunt who lives nearby who the employee looks after outside work falls ill unexpectedly, or an elderly neighbour living alone who falls and breaks a leg, where the employee is closest on hand at the time of the fall.

The right to time off does not extend to time off for domestic emergencies such as a breakdown of a heating boiler and unpaid time off for incidents of this kind is at the Headteacher's discretion.

The regulations do not give the right to paid time off for dependants. However, the Trust provide for up to 2 days discretionary paid leave per year to care for members of the immediate family in the case of sickness. Before requesting such leave staff are asked to consider whether there are any alternatives to taking time off work, including whether the need for time off to care for children is being fairly shared by any partner.

#### **11.11 Time off for Religious Observance**

(see Teachers' Conditions of Service and Code of Practice on Religious and Cultural Needs 1996)

The Trust follows the LEA's recommendation that teachers and support staff on term time contracts may take up to three days leave with pay for this purpose in each academic year. This is a special arrangement for those staff who do not have a holiday entitlement other than during the school closure periods. The days can be taken only for the purpose of attendance at a religious ceremony or for observation of a religious festival, which the employee is under a moral obligation to attend or observe by reason of their membership of, or office in, a church or religious order.

The Council's arrangements do not provide for paid time off to prepare for festivities or days which may be used as family celebrations which are not the specified dates for the religious event.

If the religious ceremony or festival falls at a weekend the time off is not transferable to the following working day.

Staff who are on all year round contracts must use their normal holiday entitlement for the purpose of religious observance.

The Trust's policy on the extended leave needed for Hajj is included at Appendix 1 to this document. Other requests for substantial religious leave will be considered on the same basis.

#### **11.12 Time off for public duties and activities**

(Employment Rights Act 1996 and relevant Conditions of Service)

Subject to the needs of the school, employees are entitled to reasonable time off in order to carry out public duties and activities.

For Teachers, the time off is on a paid basis to a maximum of 20 days or 40 half days (some reimbursement is available).

Full time support staff are entitled to 208 hours (approximately 28 days) paid leave for public duties each financial year, with entitlement for part-timers being pro-rata.

### **11.13 Bereavement leave**

(see relevant Conditions of Service)

All requests for bereavement leave will be treated sympathetically and, although granted at the discretion of the Headteacher or Chair of the Board, will not normally be refused without good reason.

For all staff the leave need not be taken continuously and can be taken in accordance with the practical needs and circumstances of each case.

### **11.14 Time off to visit relatives abroad – Extended leave**

It is recognised that some employees have close relatives abroad whom they may wish to visit for an extended period. In such circumstances, an employee may apply to take an extended period of unpaid leave. All requests will be considered taking into account both the needs of the staff member and the needs of the school. Staff are requested to arrange any extended leave to coincide with the main periods of school closure. If the period of leave would cause particular difficulty for the school the request may be refused or the staff member asked to reconsider the period for which leave has been requested.

Support staff on all year round contracts may accumulate leave for the purpose of extended absence (see conditions of service).

It is the policy of the Trust that permission to take extended leave to visit relatives abroad would not normally be granted more frequently than once in every five academic years although compassionate grounds will be taken into account.

Overstaying an approved absence may be considered as unauthorised absence (unless there are substantial grounds for having done so – staff in this situation should keep any evidence) and could lead to disciplinary action.

### **11.15 Secondments, extended leave of absence, career breaks and extended study leave**

In the event that an employee requests an extended period of unpaid leave the CIT will consider the request taking into account any financial, organisational or educational effects on the school, and the circumstances and reasons given by the individual.

The Trust will not normally approve absences of more than two years in length and may require that the dates of commencement and ending are consistent with the practicalities of recruiting temporary cover staff.

### **11.16 Right to Request Training**

(Section 63D of the Employment Rights Act 1996)

Employees with at least 26 weeks service on the date that they make their request have a statutory right to request time off to train. If the employer accepts the request for time off for training (either in full or part), there is no duty to pay the employee for the time they are absent from work to undertake the training and no duty to meet the cost of the training or qualification. For more information please refer to the school's Right to Request Training policy.

### **11.17 Appeals**

Appeals will be considered under the Trust's grievance procedure.



## Part 4. Hajj Policy

Any request made for a substantial period of leave in order to carry out religious obligations for members of any religion will be considered on the same basis as set out in this policy.

### Aims of Policy

The purpose of this policy is to set a framework for the Trust to manage and administer requests from Muslim staff wishing to perform the obligatory pilgrimage of Hajj.

### Policy Statement

The Trust recognises the difficulty, which results from the academic year following the Gregorian and not the Hijri calendar, which means that Hajj can fall during times when the school is in session. The school respects that Hajj is one of the five pillars of Islam and is an obligation upon Muslims once in their lifetime, financial/health conditions permitting. The school is committed to providing high quality education whilst having a balanced approach to the religious needs of its staff. Staff requests for leave for Hajj will be considered according to the following criteria:

In order to minimise any possible disruption to colleagues and students, staff wishing to apply for the obligatory Hajj leave will notify the Chair of Directors and the Headteacher in writing by the end of Ramadan for the following Hajj.

Staff wishing to perform the obligatory Hajj may apply for a maximum of three weeks unpaid leave (see "Unpaid Leave" for advice where school holidays are included).

In order to balance the needs of students and the need for staff to make the obligatory Hajj pilgrimage, Muslim staff will be granted Hajj leave subject to the school's ability to release staff without an adverse impact on service delivery.

All Muslim staff will be considered with fairness irrespective of their professional status within the school. Applications will normally only be considered for the obligatory (first) Hajj. In exceptional circumstances requests made on compassionate grounds may also be considered by the Trust.

Permissions / requests for Umrah or non-obligatory Hajj will not be considered during school term time except in exceptional compassionate grounds.

When making a request to undertake Hajj staff are asked to consider the effect their absence might have on the students with whom they work.

The initial decision on whether or not to grant exceptional leave for Hajj will be made by the school's staffing committee which will consider the written application made by the staff member. Any appeal against the decision of the staffing committee will be heard by the Trust's appeals committee. The staff member may put their case in person to the Appeals Committee, assisted by a trade union representative or a work colleague.

The Headteacher (or appropriate manager) may present the management case to the Committees at the first hearing and at the appeal hearing.

In accordance with the school's overall policy on leave of absence, staff should not book tickets etc. before the Hajj leave has been approved.

Overstaying an approved absence may be considered as unauthorised absence (unless there are substantial grounds for having done so – staff in this situation should keep any evidence) and could lead to disciplinary action.

## Appendix 1. Leave of Absence Schedule (Teachers Pay & Conditions)

Teachers' Conditions of Service stipulate that leave will normally be granted in accordance with the following schedule. Discretion lies with the Trust except where it is indicated that the discretion resides with the Headteacher. This also extends to all support staff employed by the Trust.

<b>Schedule for leave of absence</b>				
	<b>Reason for absence</b>	<b>Maximum period of absence (school days)</b>	<b>With or without pay</b>	<b>Code</b>
<b>1</b>	Death of member of immediate family (defined below)	2 days (with extra travelling time of up to 3 days if necessary) and any additional days	With pay (5 days max) and	BER
			Without pay	BERU
<b>2</b>	Wedding of any member of immediate family	1 day	With pay	WED
	Wedding of member of family (other than immediate family)		Without pay	WEDU
<b>3</b>	Holiday of wife, husband or child)	10 days (Refer to policy)	Without pay	UNP
<b>4</b>	Public Duties (including Jury service, Governors Duties)	See conditions of service	With pay (employee must claim an allowance from Court)	PUB
<b>5</b>	Attendance at interviews – posts connected with education	School to retain discretion	With pay	INT
	Attendance at interviews – others		Without pay	INTU

<b>6</b>	Attendance at meetings of Examiners for GCSE or other approved examinations on behalf of school/Trust	As necessary	With pay	EBC
<b>7</b>	Attendance at courses (and for examination study and for examination) approved by the Board (or relevant manager for centrally employed teachers)	As necessary	With pay	T
<b>8</b>	Other examination leave and study where not directly related to the teacher's job e.g. where the employee receives a salary for the task.	As approved by the Headteacher's recommendation.	Without pay	UNP
	Attendance at annual camp as volunteer member of TAVR and the like where this is clearly unavoidable	Up to 5 days	With pay	TAVR
		and Remainder	and Without pay	TAVRU
<b>9</b>	Attendance at a religious ceremony or observation of religious festival which the teacher is under a moral obligation to attend or observe by reason of their membership of, or office in, a church or religious order	Up to 3 days per year (1 day per religious ceremony or observation unless additional time agreed at the discretion of the headteacher)	With pay	REL
<b>10</b>	Removal of home by teacher joining this Authority	1 day and up to a further 2 days for travelling at the discretion of the headteacher	With pay	MOVE
<b>11</b>	Representatives of trade unions attending annual conferences and taking part in formal consultations with representatives of this Authority or at national or provincial level	See conditions of service	With pay	UNION
<b>12</b>	Illness of member of immediate family	2 days (also see dependants/parental leave)	With pay	DEP

<b>13</b>	Hospital attendance of self And Of immediate member of family with the exception of grandparents and grandchildren (GP and dental appointments should be made outside normal working hours)	1 day (for additional days, please refer to the policy)  And  1 day	With pay	MED  MEDO  UNP (If agreed as additional unpaid)
<b>14</b>	Attendance at University Graduation Ceremony etc. where self or member of immediate family is receiving a degree, diploma or certificate	1 day	With pay	GRAD
<b>15</b>	Other urgent or private family business	Up to 1 day	Without pay	UNP
<b>16</b>	Attendance of husband at the birth of his child NOTE: this leave is only applicable to a teacher who does not qualify for paternity leave.	Up to 2 days at the discretion of the headteacher	With pay	BIR
<b>17</b>	Special Circumstances. School employees that have reasons for requesting leave other than those explained, should make such requests in writing.	Discretionary	Discretionary	(use Code relevant to the absence)

NOTES:

Definitions of "immediate family"

For the purpose of this scheme "immediate family" shall include:

Wife	Father	Mother-in-law	Partner
Husband	Brother	Father-in-law	Stepfather
Son	Sister	Grandmother	Stepmother
Daughter	Guardian	Grandfather	Stepbrother

Mother      Ward      Grandchild      Stepsister      Stepchildren

\* EXCEPT for "Wedding of any member of immediate family" where immediate family does not include:  
Self, Grandparents, Parents-in-law and Grandchildren