



## **Maternity, Paternity and Adoption Guidance** **Approved October 2014**

### **INTRODUCTION**

The National legislation with regard to Maternity, Paternity and Adoption entitlements has changed several times within the last few years, most recently in the Additional Paternity Leave Regulations 2010 and the Additional Statutory Paternity Pay (General) Regulations 2010. With this extension of benefits and the opportunities given by the new legislation for fathers to play a greater role in the care of children during the first year, the policy has been revised to reflect the changes so that the Board can meet its commitments as an employer.

In particular the changes establish the right to Additional Paternity Leave and pay where a child was born, or if adopted where a match was notified, on or after the 3rd April 2011. There is also a new right for the mother to transfer up to 26 weeks of her outstanding maternity leave and, where appropriate outstanding statutory pay, to a qualifying spouse, civil partner or partner, or the father of her child where she returns to work early.

This policy should be used in conjunction with the Guidance notes

### **EMPLOYEES COVERED BY THE POLICY**

This policy and procedure applies to all academy employees whose employment is under the purview of the Governing Body. Where there are differences between the terms and conditions of employment of teachers and support staff, this has been indicated.

#### **DEFINITIONS**

Head Teacher means the Head Teacher of the academy. Acting Head Teacher, Deputy or Assistant Head Teacher carrying out the Head Teachers duties in their absence or HeadTeacher's nominee.

Full governors' meeting means a quorate meeting of the whole governing body of the academy.

Five days means five working days excluding bank holidays and academy holidays.

Fourteen days means ten working days, excluding bank holidays and academy holidays.

A working day is any working term day as defined by the Local Authority term dates.

Academy holidays are not categorised as working days, including the three floating occasional days that are at the discretion of the academy.

Trade Union means trade unions and professional associations that are recognised for the purposes of collective bargaining by the Local Authority.

Trade Union Representatives means any representative of a trade union or any other staff representative.

### **ABBREVIATIONS AND TERMS**

**OML:** Ordinary Maternity Leave

All pregnant employees are entitled to OML. The length of the leave is 26 weeks.

**AML:** Additional Maternity Leave

Begins at the end of OML and runs for a further 26 weeks, all pregnant employees are entitled to AML regardless of length of service.

**SMP:** Statutory Maternity Pay

This is the maternity pay funded in the main by the government through national insurance. The amount is updated annually. (£128.73 in 2011)

**OMP:** Occupational Maternity Pay

This is the maternity pay paid by The Employer under the provisions of the Local Government Scheme.

**EDC:** Expected Date of Childbirth

This is the day on which the baby is expected to be born.

**EWC:** Expected Week of Childbirth

This is the week during which the baby is expected to be born starting on the Sunday before.

**QW:** Qualifying Week

This is the week used in deciding whether the employee qualifies for maternity benefits. The qualifying week differs depending on whether you are calculating SMP or occupational benefits.

The QW is the 15th week before the expected week of childbirth (EWC) when assessing entitlement to SMP, but is the 11th week before the EWC when assessing entitlement to the local government scheme.

**MPP:** Maternity Pay Period

This is the period during which Statutory Maternity Pay is paid. The employee can choose when to start her MPP but it cannot start any earlier than the 11th week before the EWC.

**LEL:** Lower Earnings Limit

The figure for the Lower Earnings Limit is set by the DSS and relates to the payment of national insurance and to the eligibility for SMP. Women who earn below the LEL do not qualify for SMP

**MAT B1:**

This is the maternity certificate, which normally provides medical evidence on when the baby is due. A doctor or midwife must sign the certificate no earlier than twenty weeks before the EWC. This must be given to the employer by the end of the third week of what would be the MPP and the employer cannot pay SMP until the certificate is received.

**MATERNITY ALLOWANCE:**

This is paid by the DWP to qualifying women where the woman is not eligible for SMP. It is based on the woman's recent employment and earnings record.

**KITS:** KEEPING IN TOUCH DAYS The employee is entitled to attend work for up to 10 days for the purpose of Keeping in touch.

## **Section 1 MATERNITY**

### **MATERNITY LEAVE**

All pregnant employees are entitled to a period of 26 weeks' ordinary maternity leave (OML) and 26 weeks' additional maternity leave (AML), making one year in total. This entitlement is regardless of the length of continuous service.

Women can start maternity leave any time from the 11th week before the baby is due, provided they give at least 28 days' notice in writing (wherever reasonably practicable):

- that they are pregnant;
- of the expected week of childbirth (EWC);
- of the start date of maternity leave (which can be varied by the employee, provided that the new date is notified at least 28 days before whichever is the earlier of the old intended date and the new intended date).

The employee will be required to produce a certificate from a registered medical practitioner or a registered midwife stating the EWC. This certificate is known as a MAT B1 and is available from the 20th week before your EWC.

They can work up until the birth itself unless absent from work with a pregnancy related illness in which case they cannot work beyond the fourth week before the expected week of childbirth.

The Maternity (Compulsory Leave) Regulations 1994 stipulate a minimum period of maternity leave for all women of two weeks after the date of the birth. This means that the

employee cannot return to work until at least two weeks after the actual date of the birth. The contract of employment continues through both the ordinary and additional maternity leave. This does not include remuneration but does include the accrual of annual leave.

### **Notification**

The employee must be written to within 28 days of receipt of the initial notification, stating the date on which she is expected to return from maternity leave if the full entitlement is taken. It is important that these dates are included even where the employee has proposed an earlier date for returning. There is no further notification required by management or the employee.

### **Return to Work**

The employee will have been formally notified in writing of the date on which she is expected to return to work if she takes her full 52 week entitlement to maternity leave.

The employee is expected to return on this date unless she notifies the department otherwise.

If the employee wishes to return earlier than the expected return date, she must give the department at least 21 days notice of her new return date.

Employees are not required to state in advance that they intend to return to work following maternity leave unless they are claiming Occupational Maternity Pay

## **STATUTORY MATERNITY PAY**

### **Introduction**

Statutory Maternity Pay (SMP) is treated as pay and is subject to the usual deductions for NI, Income Tax and the Local Government Pension Scheme and Teacher Pensions.

SMP is payable for a period of up to 39 weeks – known as the Maternity Pay Period (MPP)

### **Who is Eligible for SMP?**

A woman must satisfy all the following criteria in order to qualify for SMP:

- be continuously employed for at least 26 weeks continuing into the Qualifying Week (15th week before the expected week of childbirth). This must include at least one day in the qualifying week. An employee can satisfy the continuous employment rule even if she has been employed only for short spells during the 26 week period. If a temporary or casual employee does not work any particular week because they were not offered work, as opposed to turning down the offer of work, continuity of service is not broken (for the purposes of SMP only).
- have average weekly earnings of not less than the lower earnings limit for the payment of NI contributions (contact payroll for details).
- must still be pregnant at the 11th week before the EWC or have given birth by that time;
- must have ceased working for the employer wholly or partly because of pregnancy or
- childbirth;
- must have given notice of the date her MPP is due to start at least 28 days beforehand.

### **Who is Not Eligible for SMP?**

A woman who falls into any one of these categories will not be entitled to SMP:

- if she is not continuously employed for at least 26 weeks into the QW. However if her
- employment ceased after the QW her entitlement to SMP is not affected;
- if her average weekly earnings are below the LEL;
- if she fails to comply with the notification provisions;
- if she is in legal custody at any time in the maternity pay period.

### **Payment of SMP**

SMP is payable for a period of up to 39 weeks even if the employee does not intend to return to work after the baby is born. This “Maternity Pay Period” (MPP) effectively starts when a woman starts her maternity leave and ceases at the end of the 39 weeks or when she returns to work, whichever is the earlier. The earliest an employee can start her maternity leave is the 11th week before the EWC. The employee can work up to the birth if she wishes in which case the maternity pay period will start from the day after the birth.

The first six weeks of the MPP are paid at the higher rate of 90% of average weekly earnings followed by the lower rate for 33 weeks. In the unlikely event that the lower rate of SMP is greater than 90% of average earnings, the lower amount should be paid throughout the maternity pay period.

SMP is payable on a daily basis and is regarded as taxable earnings. If an employee who is entitled to SMP leaves or is dismissed after the start of the qualifying period, SMP will still be paid.

If this situation arises before she has given notice of when she wishes her maternity leave to start, SMP will commence on the later of:

- the 11th week before the expected week of childbirth
- the start of the week after employment ends.

If the employee starts work for a new employer after the baby is born but before the end of the

MPP the SMP must end. However if she starts work for a new employer before her baby is born, the employer is still liable to pay SMP until the end of the Maternity Pay Period.

### **Maternity Allowance**

Maternity Allowance (MA) is claimed direct from the Benefits Agency by an employee who is not eligible for SMP. MA can be paid for up to 39 weeks and is normally equivalent to the rate for SMP although this can vary dependent upon the contributions made by the employee. It is worth noting that MA is a National Insurance (NI) benefit and employees must have paid NI contributions for at least 26 weeks out of the last 66 weeks. Employees do not pay NI contributions if they earn less than the lower earnings limit (LEL). If an employee is therefore not eligible for SMP because her earnings are below the LEL, it is unlikely that she will be eligible for MA either, unless perhaps her earnings fluctuate. If an employee is not eligible for MA she can claim benefit if she has paid NI contributions for at least 26 weeks out of the last two years. This is made up of a total of eight weeks' benefit, (six weeks before the birth and two weeks after the birth).

### **Working During the Maternity Pay Period – ‘Keeping In Touch’ Days**

An employee is entitled to work for up to 10 days during her maternity leave period (excluding compulsory maternity leave i.e. the 2 week period immediately after the baby is born) without that work bringing her maternity leave to an end and without loss of a weeks Statutory Maternity Pay. These are known as ‘Keeping in Touch Days’, and can include work activities such as training or any other activity undertaken to assist you in keeping in touch with the workplace, such as attending conferences, appraisals or team meetings. Any work carried out during maternity leave will count towards a keeping in touch day. Once the 10 keeping in touch days have been used up, the employee will lose a week’s SMP for any day in which she works during maternity leave.

Please note that any keeping in touch days worked do not extend the period of maternity leave and the employee will be expected to return at the end

The employee is under no obligation to work during her maternity leave and should not suffer any detriment by refusing to work, nor does she have any right to undertake work and each request

will be judged on its own merit in agreement with the line manager. However, as the purpose of keeping in touch days is to assist the employee in their return to work it is unlikely that a request would be refused.

Employees will continue to receive their SMP payment for the week in which they work; in addition they will be paid at their normal contractual rate of pay for any work undertaken during the keeping in touch days.

SMP will not be offset against any payment for attending a 'keeping in touch' day except where the total payment exceeds normal contractual pay. This principle will also apply to employees in receipt of OMP.

### **What if Baby is Born Early?**

If the employee's baby is born before the maternity pay period is due to start, the MPP will be the period of 39 weeks beginning from the day following the date of birth.

If this happens before the employee has notified you of the start date of her MPP, she must, if reasonably practicable, notify you within 28 days of the date the baby was born. The continuous employment rule for qualifying for payment of SMP is satisfied if the baby is born before or during the qualifying week AND the employee would have completed 26 weeks' employment into the qualifying week if the baby had not been born early. If the baby is born early but the MPP has started, or is born after the EWC then the maternity pay period is not affected.

### **Stillbirths**

Even if the baby survives for only an instant it is a live birth not a stillbirth. If the baby is stillborn before the 24th week of the pregnancy, i.e. earlier than the 16th week before the expected week of childbirth, SMP is not payable. In such circumstances a decision should be made regarding the payment of sick pay instead.

If the baby is stillborn after the 24th week of pregnancy, the employee is entitled to the same SMP she would have got if the baby had been born alive.

### **Previous Pregnancy**

If an employee previously had a period of statutory maternity leave or absence and resumed work afterwards, all weeks between the date when she was first absent and the date she resumed work count towards her period of continuous employment.

## **OCCUPATIONAL MATERNITY PAY (OMP)**

### **Introduction**

Local government employees benefit from more generous maternity provisions which are agreed at national level. The details are set out in the "Burgundy Book" for teachers and the "Green Book" for Academy support staff.

### **Who is Eligible?**

Eligibility for occupational maternity pay is assessed at the 11th week before the EWC (not the 15th week which is when eligibility for SMP is assessed). In addition, eligibility for occupational maternity pay is regardless of the level of earnings or hours of work. All employees with one year's continuous service at the 11th week before the EWC are entitled to the occupational maternity pay (OMP).

### **Notional Deductions**

Under previous schemes, Occupational Maternity Pay was reduced by an amount equivalent to maternity allowance in the case of an employee with no entitlement to SMP, regardless of whether or not the employee was entitled to that allowance. In practice employees earning below the NI threshold therefore received little or no occupational maternity pay. Under the current scheme, account is only taken of the amount of SMP or maternity allowance actually received and there is an obligation on the employee to both claim and declare their entitlement to maternity allowance.

### **Payment of OMP - Teachers**

A teacher who is entitled to Occupational Maternity Pay will for the first four weeks of absence, receive full pay, offset against payment made by way of SMP or Maternity

Allowance and for the next two weeks receive 9/10 of a week's pay, offset against payment made by way of SMP or Maternity Allowance.

A teacher who declares in writing that she intends to return to work will, for the subsequent 12 weeks, be paid half a week's pay without deduction except by the extent to which the combined pay and SMP (or Maternity Allowance and any dependent's allowance, if the employee is not eligible for SMP) exceeds full pay. Consequently the employee cannot actually receive more than her normal pay.

#### **Payment of OMP - Support Staff (NJC terms of employment)**

An employee who is entitled to occupational maternity pay will for the first six weeks of absence receive 9/10 of a week's pay, offset against payment made by way of SMP or Maternity Allowance. An employee who declares in writing that she intends to return to work will, for the subsequent 12 weeks, be paid half a week's pay without deduction except by the extent to which the combined pay and SMP (or Maternity Allowance and /or other allowances, if the employee is not eligible for SMP) exceeds full pay. Consequently the employee cannot actually receive more than her normal pay. Alternatively, the equivalent amount (i.e. 6 weeks pay) may be paid in any other mutually agreed distribution, i.e. 20 weeks 3/10 pay.

The 12 weeks' half pay can be claimed back if the employee does not return to local authority employment for a period of at least 13 weeks. However SMP is not refundable. For employees not intending to return to work, payments during the subsequent 33 weeks shall be SMP. As with SMP, the earliest that OMP can commence is the 11th week before the EWC. (NB For the remaining 21 weeks the employee shall be entitled to SMP only i.e. 39 weeks maternity pay in total).

## **OTHER RIGHTS**

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

Following maternity leave an employee is entitled to return to the job in which she was employed under her original contract of employment and on terms no less favourable than those that would have been applicable to her had she not been absent. "Job" for this purpose means the nature of the work, which she is employed to do and the capacity and place in which she is so employed.

Special conditions apply if redundancy or re-organisation has taken place during her leave.

#### **Return before the end of the Maternity Pay Period:**

The minimum period of maternity leave for all women is two weeks after the date of birth. This means that the employee cannot return to work until at least two weeks after the actual date of birth. Should the baby arrive after the due date, OML can be extended to ensure these provisions are met.

An employee who wishes to return to work before the end of her OML or AML must inform the academy and then give the HR Administration and Payroll Provider Team advance notice. As the notice periods given by the National terms and Conditions are more favourable than the statutory requirements, these must apply. Where the employer has not given the employee notification of their expected day of return, the employee may return without giving any notice.

#### **Returning Teachers:**

When returning from OML the minimum notice is 28 days. Where the employee fails to give the correct notice, the employer may postpone her return to work until the 28 days have elapsed, or until the end of the maternity leave entitlement, whichever is shorter.

Returning from AML the minimum notice is also 28 days. Where the employee fails to give the correct notice, the employer may postpone her return for a period of up to 28 days.

#### **Returning Academy Support Staff:**

When returning from OML the minimum notice is 7 days. Where the employee fails to give correct notice, the employer may postpone her return until 7 days have elapsed or until the end of the maternity leave entitlement, whichever is the shorter.

Returning from AML the minimum notice is 21 days. Where the employee fails to give the correct notice, the employer may postpone the return to work until 21 days have elapsed, or until the end of the maternity leave entitlement, whichever is sooner.

### **Leaving During Pregnancy**

If the pregnant employee resigns, or is dismissed after the start of the 15th week before the EWC, she is entitled to be paid SMP for 39 weeks (assuming she qualifies for it). However, she will not be entitled to Occupational Maternity Pay beyond her finish date.

### **Transfer of maternity leave as additional paternity leave**

If an employee returns to work by giving proper notification of an early return, she may be eligible to transfer up to 26 weeks of her outstanding maternity leave (and outstanding SMP) to her spouse, civil partner or partner, or the father of the child, to be taken as additional paternity leave on her return to work. For more details please see the Paternity Leave section of this guidance.

There is a statutory right for all pregnant employees to paid time off to attend antenatal care appointments. This right arises where an employee has been advised to make such appointments by a registered medical practitioner, midwife or health visitor. After the first appointment, the employee can be required to produce evidence of appointments. An employee has a right to not be unreasonably refused time off. Managers should grant time off when requested unless it is clear that an employee is abusing their rights, and can ask (but not insist) employees to rearrange appointments where it is reasonable to do so. Credits under the Flexi time Scheme are not restricted to core time, but are restricted to the boundaries of the normal working day (e.g. 8.40am – 5.00pm) Antenatal care is not defined in the legislation. It does however include antenatal relaxation classes and parent classes where these have been recommended by a doctor, midwife or health visitor.

There is no service qualification or need to work a certain number of hours. An employee may submit a complaint to an Employment Tribunal to the effect that her employer has unreasonably refused her time off or has failed to pay her any amount under statutory provisions.

### **Protection from Dismissal and Detriment**

Any dismissal on the grounds of a woman's pregnancy or for any reasons connected with it is automatically unfair. Protection against dismissal is extended to all employees regardless of hours worked or length of service.

If a pregnant employee is dismissed for any reason connected with her pregnancy or because she took maternity leave, she can make a complaint to an employment tribunal.

See guidance for further information.

### **Right to Request Flexible Working**

It is important to give full consideration to any request to work part time, flexibly or on a job share basis. Employees can formally request flexible working arrangements where they have parental responsibility for a child aged under 17 (18 where the child is disabled). An unreasonable refusal may be construed as indirect sex discrimination and, in addition, employees will have the right to make a claim to an Employment Tribunal where they feel the council has not given a request proper consideration within the statutory requirements.

## **GENERAL INFORMATION**

### **Advising the Employee**

When a manager becomes aware that an employee is pregnant, he/she should ensure that the maternity provisions are explained to her and that the payroll provider is informed so that the appropriate letter can be sent within 28 days of receipt of the initial notification. Time should be put aside to explain the policy and to carry out a Pregnancy Risk Assessment at the earliest opportunity. This should be reviewed as the pregnancy progresses.

## **Reasonable Contact**

The Work and Families Act 2006 introduced the concept of 'reasonable contact' with employees during maternity leave.

This contact may be to discuss such issues as whether the planned return to work date has changed, or is likely to do so, and flexible working arrangements that would make the return to work easier.

The employer must keep employees informed of promotion opportunities, job vacancies, significant workplace developments and training opportunities, together with any information relating to their job that an employee would normally be made aware of if they were in work. This contact can be made in any way that best suits either one or both parties; for example, it could be by telephone, by e-mail, by letter, a visit to the workplace, or in other ways.

What is classed as 'reasonable' contact will vary according to the circumstances; some women may be happy to stay in close touch with their workplace and may not mind frequent contact with their line manager, or alternatively, they may prefer to keep such contact to a minimum.

Managers should discuss the arrangements for staying in touch, before maternity leave starts. This might include agreements on the way in which contact will happen, how often it will take place, who will initiate the contact, reasons for making contact and the types of things that could be discussed.

## **Supporting the return to work**

Managers should ensure that the employee knows where and to whom to report on her first day back and that her workstation is ready. The manager should arrange catch-up meetings to update the employee on any workplace developments about which she has not already been informed - such as new or amended systems of work, and any new members of staff or staff departures.

They will also need to discuss any training needs that the employee may have, and ensure that arrangements are put in place to address these as soon as possible. Introductions between the employee and any new members of staff should be made.

Where other members of staff, or temporary cover have covered the employee's work, a handover should be arranged. The manager will need to check that the work has been completed satisfactorily, and that they are aware of anything outstanding at the point of handover.

Depending on the employee's job, it may be appropriate that her work is handed back to her on a gradual basis. A date by which she is expected to be back up to speed with her work should be set. Her progress should be reviewed, and any necessary support provided. Where the employee has returned to work on a part-time basis, the employer should ensure that her workload is in proportion to her hours.

## **Avoiding discrimination on the employee's return**

The employer should ensure that, on her return, the employee is offered the same opportunities as other staff members for career development, training and promotion. She should not be treated less favourably because she has been absent on maternity leave.

## **Support for breastfeeding mothers**

The Government recommends that babies should be exclusively breastfed for the first six months, and that breastfeeding should continue until they are 12 months old.

In many cases employees returning to work after maternity leave will have stopped breastfeeding.

However, some employees may still be breastfeeding at this stage, or expressing breast milk during the day to give to their baby later on - which also counts as "breastfeeding".

Whilst the law does not give a "right" to breastfeed at work it might be indirectly discriminatory to refuse to allow a breastfeeding employee the flexibility that she needs to continue, e.g. reduced hours or breaks to express milk. The law does, however, protect the health and safety of a mother and baby. While it is unlikely that the health of a baby over 12 months old would be put at risk if it was not breastfed, there might be a health and safety risk

if the baby was at risk from certain allergies and, as a result, the mother had been advised to continue breastfeeding.

Employers are required to provide suitable rest facilities for mothers who are breastfeeding and it is therefore good practice to seek to provide a private, clean environment in which milk can be expressed undisturbed, such as a spare office (or one which the office owner temporarily vacates and will be private) and a fridge in which to store the milk. It would not be appropriate to expect an employee to express milk in a toilet or car park area. An employee may require flexibility over lunchtimes or break times so that she can express milk.

## HEALTH AND SAFETY

### Introduction

Employers are required to undertake risk assessments of all the hazards relating to their work. The Management of Health and Safety at Work Regulations 1999 contain specific provisions relating to risk assessments with respect to new or expectant mothers. This incorporates the European Directive into UK law.

The definition of a 'new or expectant mother' is an employee who is pregnant, who has given birth within the past six months or one who is breast feeding.

The 1994 Regulations require the risks to new or expectant mothers to be controlled or the employer must, where reasonable to do so, alter the working conditions or hours to avoid the risks. If this is not reasonable or would not avoid the risks, then suitable alternative work must be offered. Where this is not available then the new or expectant mother must be suspended on medical grounds from work with pay (see later for more details).

### Risk Assessment

Managers must carry out risk assessments. These involve an assessment of the risks to the health and safety of all employees whilst they are at work and of others who may be affected by the work activities. This may need to be reviewed during the pregnancy as it progresses. Specific attention should be paid to changes in the health of the expectant mother, changes in the work place which may affect her and if necessary to the medical history of previous pregnancies of the employee.

More specifically, Managers must assess any risks to the safety or health of new and expectant mothers and their children and any possible effect on the pregnancies or breast feeding of workers and decide what measures should be taken.

The assessment must also consider working conditions i.e.

- Facilities (including rest rooms)
- Mental and physical fatigue and working hours
- Stress (including postnatal depression)
- Passive smoking
- Temperature
- Working with visual display units (VDUs)
- Working alone
- Work at heights
- Travelling
- Violence
- Working and personal protective equipment

Managers should therefore undertake an assessment into the effect of work activities on pregnant and breast-feeding women and act on any identified risk. Physical working conditions such as travelling and working hours do not have a uniform effect on pregnant women and pregnancy is an ever changing condition. Medical advice on the adverse effects of working conditions given to individual pregnant and breast-feeding employees should therefore be taken seriously and acted upon.

### **Informing Employees**

Many of the hazards are already covered by specific health and safety legislation, e.g. COSHH.

You should refer to the relevant regulations for information.

If the risk assessment does identify a risk you should tell female employees of childbearing capacity about the potential risks, if they are or could in the future be pregnant or breast-feeding.

You should also make clear what you will do to make sure that new and expectant mothers are not exposed to the risks that could cause them harm. Do not wait until an employee becomes pregnant before carrying out a pregnancy risk assessment. Failure to carry out such a risk assessment can amount to a detriment within the meaning of the Sex Discrimination Act.

### **What to Do**

If you, or an employee has identified a significant risk to the health or safety of a new, breast feeding, or expectant mother you need to take the following appropriate action.

- Consider removing the hazard or seek to prevent exposure to the risk, or removing or reducing the effect of the risk e.g. by providing aids to help with manual handling duties

- If this is not possible the risk should be controlled

- If there is still a significant risk to the safety or health of a new, breastfeeding or expectant mother then the following steps must be taken:

temporarily adjust her working conditions and/or hours of work; or if this will not avoid the risk or is not reasonable to do offer her suitable alternative work (on no less favourable terms) if any is available; or if this is not possible you must Medically suspend her from work (paid) for as long as necessary to protect her safety or health or that of her child.

If in any doubt seek professional advice (e.g. Personnel Officer, Health & Safety Officer, Welfare Officer, Occupational Health) on what the risks are and whether they arise from work before offering alternative work or paid suspension. Consideration will be given to alternative work before suspension.

It is important to monitor and review risk assessments.

### **Breast-feeding**

The risks are different for women who are breast-feeding. There is no time limit set by the regulations. Follow the steps to avoid exposure to risks (i.e. adjustment/alternative work/paid leave) for as long as it threatens the health and safety of a breast-feeding employee or her child. The main concern is exposure to lead which can enter the breast milk

Where the risks are being controlled in line with the regulations it is unlikely that breast-feeding workers will be exposed to risks, which require alternative work or paid leave being offered.

### **Rest**

Under the Workplace (Health, Safety and Welfare) Regulations suitable facilities for workers who are pregnant or breastfeeding to rest must be provided.

### **Medical Suspension**

Where it is necessary to medically suspend an employee on the grounds that her health would be unnecessarily put at risk, for reasons detailed in this section, she must be paid at her full normal rate.

The only exception is where she has unreasonably refused an offer of alternative work, (which would minimise the risk to health) in which case no remuneration is payable for the period during which the offer applies.

The suspension period counts towards her period of continuous employment.

## **Section 2 PATERNITY**

Paternity leave is granted for the purposes of caring for a child and/or supporting the child's mother. There are two types of paternity leave: ordinary and additional.

## **ORDINARY PATERNITY LEAVE**

### **Who Is Eligible To Take Ordinary Paternity Leave?**

An employee who has 26 weeks continuous service at the 15th week before the Expected Week of Childbirth (EWC) or the week in which 'a match is made' in the case of adoption, and is either:

- A male employee who is the biological father of the child and will have responsibility for the child's upbringing
- An employee (male or female) who is the partner or civil partner of the child's mother and expects to have responsibility for the child's upbringing
- An employee (male or female) who is adopting a child with their 'partner'
- An employee (male or female) who is the 'partner' of someone adopting a child on their own

A partner is defined as "a person (whether of a different sex or same sex) who lives with the mother and the child in an enduring family relationship". In all cases the employee must have, or expect to have, responsibility for the upbringing of the child and be making the request to help care for the child or to support the child's mother.

Employee's who are not eligible for Paternity Leave should refer to the Maternity Support Leave section below.

### **Who Is Not Eligible?**

- a relative of the mother of the child, i.e. her mother, father, brother, sister, aunt, uncle or grandparent.
- the biological father if he is not expecting to have responsibility for the upbringing of the child.

### **Leave Entitlement**

The employee can take either one week's leave or two consecutive weeks' leave.

The employee is not permitted to take part weeks

The Paternity Leave must be taken after the birth of the child and within the first 8 weeks of the child's life or within the first 8 weeks of placement if an adoption.

The leave can start on:

- the date the child is born (or placed); or
- from a specified date after the birth (or placement)

The leave can start on any day of the week and then runs on a rolling basis through the PaternityLeave, for the one or two week period.

## **ORDINARY PATERNITY PAY**

One week at full pay; plus

One week at SMP rate (or 90% of normal earnings whichever is less).

Where an employee's earnings are lower than the LEL they will not be eligible for ordinary SPP.

### **Notification**

The employee wishing to take Ordinary Paternity Leave must notify their manager of their intention at a minimum by the end of the 15th week before the EWC.

If the Paternity Leave is related to an adoption then notification must be within the 7 days of being told a 'match' has been made with a child. This must include the date the child is expected to be placed, the intended start date of the OPL and the length of the intended leave and the date on which the adopter was notified of having been matched with the child.

The employee will be required to complete an Inland Revenue Form SC3 if a birth child or an SC4 if an adopted child the forms are available from the academy's payroll provider The forms require information on the EWC or the date of the adoption placement, the length of

leave requested, the date the leave is to start and a signed declaration concerning their relationship to the child.

The start of the leave can be varied. Where an employee has notified management that they wish to take paternity leave from the birth of the child they will be able to do so whether or not the child is born on the expected date. Employees who have given a fixed start date however, and later wish to change the date of the leave must give 28 days notice.

After receiving a request for Paternity Leave the manager must inform their payroll provider who will write to the employee within 28 days (where possible) to confirm the date of the leave

### **Returning Early From Paternity Leave**

If an employee requests to return early the decision to allow an early return would be at management discretion.

Please note that the term 'birth' in this guidance relates to the live birth of a child, or a still-birth after a pregnancy lasting 24 weeks.

## **ADDITIONAL PATERNITY LEAVE AND PAY**

This was introduced in 2010 and applies where the child has an expected week of birth of on or after the 3rd April 2011, or where the employee is notified of a match with an adopted child on or after this date.

### **ADDITIONAL PATERNITY LEAVE**

Eligible employees may take up to 26 weeks additional paternity leave within the first year of their child life provided that the mother has returned to work.

Additional paternity leave is also available to adoptive parents within the first year after the child's placement for adoption, provided that the child's adopter who elected to take adoption leave (the "primary adopter") has returned to work.

### **Who is eligible to take Additional Paternity Leave?**

In order to be eligible for additional paternity leave, an employee must satisfy each of the following criteria:

- He/she must be the father of the child or married to, the civil partner of, or the partner of, the child's mother, or married to, the civil partner of, or the partner of, the primary adopter, and, in the case of a birth child, expect to have the main responsibility for the upbringing of the child (apart from the mother's responsibility). In the case of adoption, he/she must have been matched with the child for adoption. In both cases, he/she must be taking the leave to care for the child.
- He/she must have a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is due to be born or, in respect of an adopted child, as at the end of the 15th week before the week in which he/she was notified of having been matched with the child.
- He/she must remain in continuous employment until the week before the first week of additional paternity leave.

The mother of the child must be entitled to one or more of maternity leave, statutory maternity pay or maternity allowance. In the case of adoption, the primary adopter must be entitled to one or both of adoption leave or statutory adoption pay. The mother or primary adopter must have returned to work.

### **Leave Entitlement**

Additional paternity leave must be taken as a single block in multiples of complete weeks. The minimum period is two consecutive weeks and the maximum period is 26 weeks.

The earliest that additional paternity leave can commence is 20 weeks after the date on which the child is born, or 20 weeks after the date of placement of the child for adoption, and it must end no later than 12 months after that date.

Additional paternity leave will generally commence on the employees chosen start date specified in his/her leave notice, or in any subsequent variation notice.

## **ADDITIONAL STATUTORY PATERNITY PAY**

Instead of normal pay, the employee may be entitled to Additional Statutory Paternity Pay during some of the additional paternity leave period i.e. if taken during the time that mother or primary adopter would have been within their 39 week maternity or adoption pay period and will be for the balance of the untaken leave. The remaining period of additional paternity leave will be unpaid.

### **Who is Eligible?**

An employee is entitled to additional statutory paternity pay if:

- he/she is the father of the child or married to, the civil partner of, or the partner of, the child's mother, or married to, the civil partner of, or the partner of, the child's primary adopter, and, in the case of a birth child, expects to have the main responsibility for the upbringing of the child (apart from the mother's responsibility) or, in the case of adoption, has been matched with the child for adoption, and in either case intends to care for the child during the additional statutory paternity pay period;
- he/she has a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is due to be born or, in respect of an adopted child, as at the end of the 15th week before the week in which he/she was notified of having been matched with the child (the "relevant week");
- he/she remains in continuous employment until the week before the additional statutory paternity pay period begins;
- his/her average weekly earnings for the period of eight weeks ending with the relevant week are not less than the lower earnings limit for national insurance contributions;
- the mother is entitled to statutory maternity pay or maternity allowance or, in the case of adoption, the primary adopter is entitled to statutory adoption pay, and the mother or primary adopter has returned to work;
- the mother or primary adopter has at least two weeks of his/her maternity or adoption pay period that remains unexpired; and
- he/she gives proper notification in accordance with the rules set out above.

Any statutory paternity pay due during additional paternity leave will be paid at a standard rate of SPP or at a rate equivalent to 90% of the employee's average weekly earnings if this figure is less than SPP. Statutory paternity pay is payable whether or not the employee intends to return to work after his/her additional paternity leave.

### **Notification**

Where an employee wishes to request additional paternity leave and pay, they must give their line manager eight weeks written notice of the date on which they wish to take the leave and, if applicable, additional statutory paternity pay to commence.

The employee should make the request in writing and specify, in the case of a birth child, the date on which the child was expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption. In both cases, the notice must also specify the employee's name and intended start date and end date of additional paternity leave and statutory paternity pay. Forms APL1 (birth) and APLA1 (adoption) are to be completed for this purpose.

The employee must also submit a written and signed self-certification form (APL3 birth/ APLA3 (adoption) not less than eight weeks before the proposed start date of additional

paternity leave and pay stating that the purpose of the additional paternity leave/statutory paternity pay period is to care for the child and that he/she satisfies the relationship eligibility conditions for additional paternity leave and pay.

At the same time, the mother or primary adopter must submit a written and signed declaration form (APL 4/ APLA4) stating:

- his/her name, address and national insurance number;
- the date that he/she intends to return to work;
- that he/she has given notice to his/her employer of returning to work;
- that he/she is entitled to statutory maternity pay, maternity allowance or statutory adoption pay;
- the start date of his/her maternity or adoption pay period;
- confirmation that the employee satisfies the relationship eligibility conditions;
- that he/she consents to the Company processing the information contained in the declaration form; and
- that the employee is to his/her knowledge the sole applicant for additional statutory paternity pay and, in the case of a birth child, also that the employee is to his/her knowledge the only person exercising the entitlement to additional paternity leave in respect of the child.

On request by the academy, the employee must produce the name and business address of the mother's or primary adopter's employer and a copy of the child's birth certificate or, in the case of an adopted child, evidence of the name and address of the adoption agency, the date on which he/she was notified of having been matched with the child and the date on which the agency expects to place the child for adoption. The employee must supply this information within 28 days of it being requested.

The employee is permitted to bring forward their additional paternity leave start date, provided that they advise management in writing at least six weeks before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone their additional paternity leave start date, or cancel their additional paternity leave altogether, provided that they advise management in writing at least six weeks before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

The academy will formally respond in writing to the employee's notification of his/her additional paternity leave plans within 28 days, confirming the relevant start and end dates of additional paternity leave and pay.

a request would be refused.

### **Returning to work after additional paternity leave**

The employee is expected to return on the next working day after the previously notified return date, unless he/she notifies management otherwise. If he/she is unable to attend work at the end of additional paternity leave due to sickness or injury, the Academy's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date, he/she must give management at least six weeks' notice of his/her date of early return, preferably in writing. If he/she fails to do so, the manager may postpone his/her return to such a date as will give the six weeks' notice, provided that this is not later than the expected return date.

If the employee decides not to return to work after additional paternity leave, he/she must give notice of resignation as soon as possible and in accordance with the terms of their contract of employment. If the notice period would expire after additional paternity leave has ended, the employer may require the employee to return to work for the remainder of the notice period.

### **Rights on and after return to work**

On resuming work after both ordinary and additional paternity leave, the employee is entitled to return to the same job as he/she occupied before commencing paternity leave on the same terms and conditions of employment as if he/she had not been absent.

### Returning to work after additional paternity leave

The employee is expected to return on the next working day after the previously notified return date, unless he/she notifies management otherwise. If he/she is unable to attend work at the end of additional paternity leave due to sickness or injury, the Academy's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date, he/she must give management at least six weeks' notice of his/her date of early return, preferably in writing. If he/she fails to do so, the manager may postpone his/her return to such a date as will give the six weeks' notice, provided that this is not later than the expected return date. If the employee decides not to return to work after additional paternity leave, he/she must give notice of resignation as soon as possible and in accordance with the terms of their contract of employment. If the notice period would expire after additional paternity leave has ended, the employer may require the employee to return to work for the remainder of the notice period.

### **Rights on and after return to work**

On resuming work after both ordinary and additional paternity leave, the employee is entitled to return to the same job as he/she occupied before commencing paternity leave on the same terms and conditions of employment as if he/she had not been absent.

## **Section 3 MATERNITY SUPPORT LEAVE (Support Staff Only)**

### **Who Is Eligible?**

Maternity Support Leave (MSL) is only available to employees who are covered by the National Joint Council (NJC) Conditions of Service and either:

An employee who is a nominated carer of an expectant mother, e.g. a sister, where the expectant mother does not have the support of a partner on or around the time of the birth of the child; or

The child's father or partner who does not qualify for Paternity leave due to insufficient continuous service.

A partner is defined as a person (whether of a different sex or same sex) who lives with the mother and the child in an enduring family relationship.

### **Leave Entitlement**

The employee is entitled to one week off. If the employee does not wish to take a full week they are not obliged to do so.

MSL can be taken at or around the time of the birth.

The leave can start on any day of the week and then usually runs on a rolling basis through the Maternity Support Leave.

### **Maternity Support Leave Pay**

Maternity Support Leave is paid at the rate of normal pay.

### **Notification**

The employee wishing to take Maternity Support Leave must request the leave from their manager and satisfy him/her that they are a nominated carer to an expectant mother. Notification should ideally be by the 15th week before the Expected Week of Childbirth, or as soon as is practical.

The employee must produce the MAT B1 form for the expectant mother or the child's birth certificate.

After receiving the request management must notify the HR Administration and Payroll Provider service so that they may write to the employee within 28 days (where possible) to confirm the date of the leave.

### **Returning Early From Maternity Support Leave**

If an employee requests to return early approval would be at management's discretion.

## **Section 4 ADOPTION**

### **ADOPTION LEAVE**

There is only one period of leave per adoption regardless of the number of children placed. Throughout the document where we refer to the child this therefore equally means the children, if more than one is being adopted.

Where a couple are jointly adopting a child, they must decide which one of them will take adoption leave as the primary adopter and which one will take ordinary and additional paternity leave (subject to eligibility).

### **Who is eligible?**

Any male or female employee who has completed 26 weeks continuous service, calculated at the week in which the match is made with an adoptive child, is eligible to take Adoption Leave. The employee must also be assuming the role of main carer. If the employee is not to be the main carer they will be eligible for paternity leave (see Paternity Leave Scheme).

Both Teachers and Support Staff are eligible and have the same entitlements.

An employee adopting a child from abroad is also eligible for adoption leave and pay but under different guidance. .

### **Who may be eligible to take adoption leave?**

An employee who is adopting a blood relative may be eligible to take Adoption Leave, if they are formally adopting the child/children and have supporting documentation that satisfies Inland Revenue and, therefore, the Local Authority and have been placed by an approved agency.

### **Who is not eligible to take adoption leave?**

An employee is not eligible to take adoption leave if they are a step-parent adopting a partner's child, or adopting through an agency that is not recognised in the United Kingdom.

### **Leave Entitlement**

The qualifying employee is entitled to a maximum of 52 weeks off in total, broken down into:  
39 weeks of Ordinary Adoption Leave (OAL)

13 weeks of Additional Adoption Leave (AAL)

The employee can take any portion of the 52 weeks.

The earliest the leave can start is 14 days before the placement of the adoptive child. The latest day it can start is the date the child is placed.

The adoption leave can start on any day of the week and the leave then runs on a rolling basis through the adoption leave entitlement.

The adoption leave cannot be used to attend meetings, training sessions or court in relation to the adoption.

### **ADOPTION PAY**

The rate of adoption pay is the same regardless of the age of the child, up to 18 years old.

### **Statutory Adoption Pay**

Employees who qualify for adoption leave will also qualify for adoption pay provided that their average weekly earnings are not less than the lower earnings limit. The statutory entitlement is 39 weeks of Statutory Adoption Pay (SAP) (or 90% of normal earnings whichever is less). All adoption leave payments are subject to normal salary deductions. The adoption pay of 6 weeks @ 90% and 12 weeks @ 50% is subject to a requirement for the employee to return to work for at least three months following the adoption leave. Employees who do not return will be required to repay the additional monies paid under the scheme that are above the statutory entitlements.

### **Notification**

The employee wishing to take adoption leave must notify their manager of their intention within 7 days of being told a match has been made with a child.

Ideally the notification should be at least 28 days before the placement date, if practical. If this is not practical the leave will start on the date the child is placed.

The employee will be required to produce the Matching Certificate, which is issued by the local authority or adoption agency (similar to a MAT B1 form) and must inform their manager:

- the expected date of the child's placement
- when they want the adoption leave to begin

After receiving the above information the manager must notify their payroll provider who will write to the employee within 28 days to inform them of when the additional adoption leave period will end, i.e. when they are expected back to work. If the employee has told you a specific return date you would confirm this in the letter

The start of the leave can be varied following notification to the employer. This should be at least 28 days before the date of the new start date wanted. If this is not possible managers will have to exercise appropriate discretion. If the employee does vary their start date a revised letter must be issued within 28 days.

### **Contractual position**

During the period of adoption leave, the employee's contract of employment continues in force and he/she is entitled to receive all his/her contractual benefits, except for salary. In particular, any benefits in kind and contractual annual leave entitlement will continue to accrue.

### **Pension**

Pension contributions will continue to be made during any period when the employee is receiving adoption pay but not during any period of unpaid adoption leave. Employee contributions will be based on actual pay, while employer contributions will be based on the salary that the employee would have received had he/she not gone on adoption leave.

During periods of unpaid adoption leave you will only pay contributions if you choose to. You have

30 days from returning to decide and the cost is your normal contribution rate of the last pay you

received. If you choose not to, you will not build up any membership for this period, and this will

affect your pension benefits.

Annual leave (NJC only)

NJC employees who are contracted to work full year are encouraged to take any outstanding annual leave due to them before the commencement of adoption leave. The normal rules relating

to the carry over of leave from one financial year to another still apply i.e. it must be taken within

the financial year in which it accrued with the facility to carry over up to 5 days with the prior agreement of the manager. However where an employee is unable to take their annual leave before he/ she starts their adoption leave e.g. where the placement is brought forward or where

the leave is close to or overlaps with the end of the annual leave year to the extent that he/she cannot take all of their annual leave, an exception should be made to allow the leave that would otherwise be lost to be carried forward to the next year.

#### Working During Adoption Leave -Keeping In Touch Days

An employee may undertake up to 10 days' work (keeping in touch days) during your adoption leave, without bringing your leave to an end and without losing any SAP. Working for part of a day will count as one day i.e. if you work for 2 hours, you will receive payment for 2 hours work (please see below regarding the payment terms), but this will count as 1 full keeping in touch day.

The purpose of these days is to help the employee keep in touch with any workplace developments, for example training, staff briefings etc.

Working these days must be by agreement with the line manager. There is no requirement to undertake work and nor is there any requirement for the Council to provide work.

If an employee wishes to undertake these KIT days and their line manager is in agreement, activity for these days will need to be agreed. Work undertaken during adoption leave may include training, attending meetings or any activity carried out for the purposes of keeping in touch with the workplace.

If an employee carries out some work under this provision, the period of adoption leave will not be extended.

SAP will be received for the week in which the employee works. In addition, pay will be received for work undertaken under the contract of employment. Payment will be made at the normal contractual hourly rate of pay. SAP for the day will not be offset against any pay due, unless the total payment exceeds normal contractual pay.

Line managers must notify their payroll provider of the name of the individual, the date the individual has undertaken the work and the numbers of hours worked. The payroll provider should record these details, to monitor the number of KIT days undertaken and ensure that the maximum 10-day limit is not exceeded. They will also ensure that the appropriate payment is made.

#### **Contact During Adoption Leave**

The employer has the right to make reasonable contact with an employee during their adoption leave. Such contact might be to keep an employee informed of any developments at academy that might impact upon them when they return, any special events, job vacancies and training opportunities in addition to well wishes on the adoption. Such contact would not constitute work as defined above and would not therefore count towards the 10 days.

#### **Returning Early From Adoption Leave**

If the employee wishes to return from adoption leave early during the or OAL or AAL period they must give at least 21 days notice in writing of the date on which they intend to return.

#### **Returning to Work**

Following Adoption leave an employee is entitled to return to the job in which he/she was employed under his/her original contract of employment and on terms and conditions no less favourable than those that would have been applicable to him/her had he/she not been absent.

Job for this purpose means the nature of the work, which he/she is employed to do and the capacity and place in which he/she is so employed. (Special Conditions apply if redundancy or reorganisation has happened in between.)

### **Redundancy and Re-organisation**

Where a redundancy situation arises during an adoption leave the employee on adoption leave must be treated like any other employee; that is to say they must be consulted in advance and objective and fair redundancy selection criteria must be applied by the employer. Where suitable alternative employment exists in terms of type of job, its location and the terms and conditions (not substantially less favourable than the previous job) the employee is entitled to be offered that job.

If the employee unreasonably refuses the suitable alternative employment offered, there is no dismissal in law.

### **Contract of Employment**

The contract of employment continues through both the ordinary and additional adoption leave. This does not include remuneration but does include the accrual of holidays where applicable.

### **Dismissal**

Employees will be protected from suffering unfair treatment or dismissal for taking, or seeking to take their rights under the statutory adoption leave provisions. Employees who believe that they have been unfairly treated will be able to complain to an employment tribunal.

### **Right to Request Flexible working**

It is now a statutory right for a parent of a child under the age of seventeen (eighteen if disabled) to apply for flexible working arrangements (including work on a part time basis) and for the employer to consider these requests seriously.

There is a specified framework to be followed by both parties, please refer to the Flexible Working and Special Leave Policy for Academics.

### **Transfer of adoption leave**

If an employee proposes to return to work by giving proper notification of an early return, they may be eligible to transfer some adoption leave (and any outstanding statutory adoption pay) to his/her spouse, civil partner or partner to be taken as additional paternity leave (and additional statutory paternity pay) once the employee has returned to work.

The earliest that APL may commence is 20 weeks after the adopted child's placement and it must end no later than 12 months after the date of placement. The minimum period of APL is 2 weeks and the maximum period is 26 weeks.

If the employee does wish to transfer part of the adoption leave entitlement in this way, they will be required to submit a written and signed declaration form to that employer, which may also make additional enquiries of the employer to verify its employee's entitlement to additional paternity leave and pay.

Further details can be found in the Paternity Leave section of this guide.

### **What If The Adoption Fails?**

Where after starting their leave, an employee is notified that the child will not be placed, or after the child is placed, the child dies or is returned to the adoption agency, the employee will not be entitled to full adoption leave. In this situation the adoption leave will end 8 weeks after the end of the week that the disruption occurred. There is no extension of AAL if the above occurs with less than 8 weeks to go.

### **Adoptions from overseas**

If an employee has adopted a child from overseas, he/she may still be entitled to additional paternity leave provided again that the primary adopter has returned to work. Special rules apply in these circumstances.

## **Section 5 PARENTAL LEAVE**

Parental leave is a statutory right to take unpaid time off work to look after a child or make arrangements for the child's welfare. Parents can use it to spend more time with children and strike a better balance between their work and family commitments. The right also applies to adoptive parents.

### **Who is Eligible?**

An employee who has one year's continuous service by the time the parental leave is taken is entitled to 13 weeks unpaid leave. This is 18 weeks where the child has been awarded a Disability Living Allowance. In order to qualify for this leave, the employee must be able to show that they have parental responsibility for a child under the age of 5, and that the leave is being taken for the purpose of caring for the child. It covers:

- The mother of the child
- The father of the child if married to the mother at the time of the birth or if unmarried, is registered as the child's father
- A step parent who has acquired parental responsibility for their spouse or civil partner's child by means of an agreement with the child's natural parents
- A guardian appointed under Section 5 of the Children Act 1989
- Adoptive parents (from the date of placement of the child)

There is no requirement for the parent to live with the child as long as he or she has parental responsibility.

The right to parental leave generally lasts up till the child is five years old except in the following circumstances:

- Where the child is adopted parental leave may be taken up to five years after the child is placed for adoption or until the child is eighteen years old, whichever is the earliest.
- When the child is disabled parental leave may be taken up to the date when the child reaches the age of eighteen. A disabled child is one for whom disability living allowance is awarded.

### **Birth or adoption of more than one child**

In the case of multiple births or the adoption of more than one child as part of the same placement, the employee has the right to take parental leave in respect of each child. Therefore in the event of twins being born, each parent would be entitled to take a total of 26 weeks parental leave up to the twins fifth birthday.

Definition of a week

A week is defined as follows:

- Where an employee's working pattern does not vary, a week is the period which he/she normally works.
- Where the working pattern normally varies from week to week or over a longer period, or if the employee is normally required to work in some weeks and not others, a week is the total of all periods in which he/she works, divided by 52.

### **Leave Entitlement**

The maximum amount of parental leave that may be taken in any one year is 4 weeks. Employees may only take 4 weeks parental leave for each child during a particular year,

beginning on the date upon which the employee becomes entitled to the leave. This will either be the date of the child's birth, or where an employee commences employment after the one year qualification period.

Employees can only take parental leave in blocks or multiples of a week. If the employee takes leave for a shorter period than a week it shall be counted as a week's leave.

The parents of a disabled child may take parental leave in multiples or blocks of a single day. If the employee meets the qualifying conditions and gives the required notice, the employee is entitled to take the leave. It cannot be refused. (see postponement)

#### **Notification**

In general an employee is required to give at least 21 days notice, specifying when the leave is to begin and end.

If the leave is to be taken by a father immediately after a child is born the notice must specify the expected week of childbirth, the amount of parental leave to be taken and be given at least 21 days before the beginning of the expected week of childbirth (see also paternity leave and maternity support leave)

If leave is to be taken immediately after a child is placed for adoption the notice must specify the expected week of placement, the amount of parental leave to be taken and be given at least 21 days before the expected week of placement, or as soon as is reasonably practical (see also Paternity leave and Adoption Leave).

#### **Evidence of employee responsibilities**

The employer may request reasonable evidence, which may take the form of:

Sight of the child's birth certificate in order to ascertain that the child is under 5 years old;

- Sight of a certificate of adoption
- Evidence of the child's entitlement to a Disability Living Allowance in relation to a disabled child; or
- Signed declaration from the employee that the purpose of the leave is to care for the child
- 

#### **Postponement of leave**

Governing Bodies have the power to postpone leave for up to six months if it can be demonstrated that to take the leave at a particular time would be unduly disruptive. An example of this would be leave taken during the run up to and sitting of SATs. However if the leave is to be taken immediately after a child is born or placed for adoption (subject to the notice provision) the Governing Body may not postpone the leave.

If the postponement is to be enacted, the Governors must notify the employee, in writing, within seven days of the request for leave, stating the reason for the postponement. In addition, the Governing Body must agree to grant the leave within a period of six months and suggest, in writing, the date upon which the leave may taken after consulting with the employee. If no agreement can be reached after consultation the Governing Body must determine the appropriate dates. Head Teachers / Chair of Governors are advised to contact their HR Adviser if they wish to postpone leave.

If the postponement takes the leave past the child's 5th birthday, the leave can be taken after the birthday.

#### **Rights during parental leave**

Employees are protected by law against detriment from seeking or taking parental leave and can claim unfair dismissal for reasons relating to seeking or taking parental leave.