



**WORK & FAMILIES GUIDANCE  
DOCUMENT FOR SCHOOL BASED  
STAFF**

**Maternity, Shared Parental Leave,  
Birth Leave (including Paternity),  
Adoption Leave and Parental Leave**

## **Employee Guide to Work & Families Guidance document for maternity, shared parental leave, birth leave (including paternity), adoption leave and parental leave**

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

Employment Relations Act 1999  
 Employment Rights Act 1996  
 Maternity and Parental Leave etc. Regulations 1999 SI 1999/3312  
 Maternity and Parental Leave (Amendment) Regulations 2001 SI 2001/4010  
 Maternity and Parental Leave (Amendment) Regulations 2002 SI 2002/2789  
 Management of Health and Safety at Work Regulations 1999 SI 1999/3242  
 Workplace (Health, Safety and Welfare) Regulations 1992 SI 1992/2051  
 Employment Act 2002  
 Social Security, Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments) Regulations 2002 SI 2002/2690  
 Work and Families Act 2006  
 Maternity and Parental Leave etc. and the Paternity and Adoption Leave (Amendment) Regulations 2006 SI 2006/2014  
 Shared Parental Leave Regulations 2014  
 Statutory Shared Parental Pay (General) Regulations 2014

For further guidance on the above legislation please contact your HR Adviser.

### 1.1 Main Legislative and National Guidance

Good practice acknowledges that, from time to time, employees may have questions or concerns relating to their work and family rights. It is the aim of this policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the work and family provisions are complex, it is worthwhile giving the employee the opportunity to clarify the relevant procedures with her/his line manager to ensure that they are followed correctly.

Maintaining reasonable contact during maternity/adoption/birth leave is also advised so that the employee is kept informed of changes and developments which will support her/his return to work.

As a result of successive statutes and court decisions in both the UK and in Europe, female employees have gained a number of rights relating both to pregnancy and maternity leave.

This policy document does not purport to set out a definitive statement of the law in this area, as applicable to employees within its scope.

## 2 Record Keeping

School must keep records for HM Revenue and Customs (HMRC), including:

- the evidence provided by the employee to show that they are eligible for ShPP (Statutory shared parental pay)
- the date ShPP began
- your ShPP payments (including dates)
- the ShPP you have reclaimed

- any weeks you did not pay and why

You must keep records for at least 3 years from the end of the tax year they relate to.

### 3 Contact during Maternity Leave

It is good practice for employees and Headteachers/Line Managers to maintain reasonable contact during an employee's absence so that she will remain informed of developments and changes within the school, which will support her return to work. The mechanisms by which she wishes to do this, and the extent to which she wants to be informed, should be discussed with her Headteacher/Line Manager prior to the commencement of maternity leave. The Headteacher/Line Manager will remain in contact with employees and inform them of any changes taking place within the school, in the same way as other affected employees would be kept up to date.

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

- **How is maternity pay paid?**

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

- **How will I be paid for a keeping-in-touch day?**

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

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

If you decide to work a keeping-in-touch day during the unpaid part of your maternity leave you will be paid at your contractual rate of pay.

- **What happens to additions/deletions to pay during maternity leave?**

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

- National Insurance Contributions are deductible from the gross occupational maternity pay and gross Statutory Maternity Pay (SMP). They are not, however, deductible for the unpaid part of your maternity leave and therefore benefits may be lost.
- You should contact your Department of Work and Pensions (DWP) office with a view to obtaining guidance on whether or not contributions should be paid in order to avoid any possible loss of benefits.

- Pay during ordinary maternity leave and Statutory Maternity Pay (SMP) is subject to the provisions of income tax.
- You may be entitled to a tax rebate if you are not returning to work. As soon as you have received any maternity pay you are entitled to, you should receive a P45 from Leeds City Council. You should send this to HM Revenue & Customs, along with written confirmation that you have finished work.

**b) Pension Contributions:**

Please see Section 5.3 for details of pension contributions during maternity leave.

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

Trade Union deductions cease during the unpaid part of your maternity leave and are reinstated upon your return to paid employment unless otherwise agreed. It would be advisable for you to contact your trade union to arrange continuous benefits.

Other deductions, such as Leeds Hospital Fund, Credit Union and Council Tax, will automatically cease during the unpaid part of any maternity absence and you will need to make alternative arrangements for these payments.

**d) Increments:**

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

**e) Retrospective Pay Awards:**

In the event of a retrospective pay award being agreed after the commencement of your maternity leave, the Occupational Maternity Pay, Statutory Maternity Pay (SMP) and any payment for Keeping-in-Touch days will be re-calculated based on the new values. If you have left your employment with Leeds City Council, you need to write the HR Administration Team at the BSC to request the payment of arrears.

**f): Additional payments:**

If you normally receive a lump sum essential car user payment, this will be maintained in full for the duration of your maternity leave. First Aid supplements will be stopped as soon as maternity leave starts. Any other additional payments may be subject to different rules, and you are encouraged to contact the BSC for further information.

**g): Can a teacher continue to move up the upper pay spine when they have been off on maternity leave?**

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

## **3.2 Frequently Asked Questions – General**

- **What if you wish to work up to the birth?**

If you are fit and able you have the right to work up until the time your baby is due and your maternity leave will commence on the following day.

- **What if the baby is born before the maternity leave is due to start?**

If your baby is born before your maternity leave is due to start, the maternity pay period will start from the day following the date of birth. You are required to write and inform your Headteacher as soon as is reasonable that you have given birth and of the actual birth date of your baby.

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

If you are expecting more than one baby your entitlement to maternity leave/pay is the same as if you were expecting only one baby.

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

In the unhappy event of your baby not surviving from the start of the 25<sup>th</sup> week of pregnancy onwards, you will be entitled to maternity pay and leave entitlements as if the baby had lived. If you miscarry your baby during the first 24 weeks of pregnancy, you do not qualify for any maternity leave or maternity pay. Any absence from work will be treated as sick leave and you will be entitled to occupational sick pay in the usual manner. You will need to follow the sickness reporting procedure in these circumstances. If you are in any doubt please contact the Human Resources Team.

- **Does maternity leave affect continuity of service?**

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

- **End of Contract During Maternity Leave**

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

If the woman has provided written confirmation that she wishes Leeds City Council to seek suitable alternative employment for her within this Local Authority, this should be sought in the normal way. If it has not been possible, under the normal rules, to redeploy her, then pay and rights under the maternity scheme end on the same day that her contract expires, although she would continue to receive any remaining statutory maternity pay, if she qualifies.

If a school is faced with a situation where a woman's fixed term contract expires during her maternity leave period, it is recommended that the school contacts his/her HR Adviser for guidance on the appropriate procedures.

- **What if an employment contract needs to be amended during maternity leave?**

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

- **What if you cannot return to work at the end of your maternity leave because of sickness?**

Where you submit a medical certificate from a registered medical practitioner, or a self-certificate, to cover absence from:-

- the date you have notified the Headteacher that you will return to work following child birth; or

- the date you and your Headteacher have agreed that you will return, or
- where no date has been notified or agreed, the first day following the maximum period of maternity leave to which you are entitled

You will be entitled to sick leave in accordance with the Managing Attendance Policy.

## **4 Health and Safety Issues for Pregnant Staff**

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

### **Risk Assessment**

An employee should inform her manager that she is pregnant. A risk assessment of her working area and practices should then be carried out by a suitably qualified person. Each individual expectant mother would require a specific assessment that will need to be constantly reviewed as the pregnancy progresses. A manager who is unsure of what should be considered when carrying out this risk assessment should contact the Health and Safety Advisers in the Leeds City Council Schools Health & Safety Team for advice. 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 risk assessments for workplaces and workstations etc. particular attention is paid to those risks that could affect the health or safety of new, breast feeding or expectant mothers or their babies. All reasonable practicable measures should be taken to prevent exposure to risks, through removal of hazards or implementation of controls.

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

### **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 her baby then steps must be taken to remove the individual from that risk. This must be done as soon as the Headteacher/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 her suitable alternative work if any is available; or if that is not feasible:
- Suspend her from work for as long as necessary to protect her safety or health or that of the child.

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

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

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

### **Entitlements during Maternity Suspension**

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

## **5 Frequently Asked Questions Relating to Pay and Conditions (Adoption)**

- **How is adoption pay paid?**

- Adoption pay will be paid in the same way as your current pay. This applies for both occupational adoption pay, Statutory Adoption Pay (SAP) and keeping-in-touch days
- Payment will continue to be made on your normal payday and any payslips will be sent to your home address.

- **How will I be paid for a keeping-in-touch day?**

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

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

If you decide to work a keeping-in-touch day during the unpaid part of your adoption leave you will be paid at your contractual rate of pay.

- **What happens to additions/deletions to pay during adoption leave?**

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

- National Insurance Contributions are deductible from the gross occupational adoption pay and gross Statutory Adoption Pay (SAP). They are not, however, deductible for the unpaid part of your adoption leave and therefore benefits may be lost.
- You should contact your Department of Work and Pensions (DWP) office with a view to obtaining guidance on whether or not contributions should be paid in order to avoid any possible loss of benefits
- Pay during ordinary adoption leave and Statutory Adoption Pay (SAP) is subject to the provisions of income tax.
- You may be entitled to a tax rebate if you are not returning to work. As soon as you have received any adoption pay you are entitled to you should receive a P45 from Leeds City Council. You should send this to HM Revenue & Customs, along with written confirmation that you have finished work.

**b) Pension Contributions:**

Please see Section 5.4 for details of pension contributions during adoption



leave.

**c) Trade Union and Other Deductions:**

Such deductions cease during the unpaid part of your adoption leave and are reinstated upon your return to paid employment unless otherwise agreed.

Regarding any trade union deductions, it would be advisable for you to contact your trade union to arrange continuous benefits.

Other deductions, such as Leeds Hospital Fund, Credit Union and Council Tax, will automatically cease during the unpaid part of any adoption absence and you will need to make alternative arrangements for these payments.

**d) Increments:**

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

**e) Retrospective Pay Awards:**

In the event of a retrospective pay award being agreed after the commencement of your adoption leave, the occupational adoption pay, Statutory Adoption Pay (SAP) and any payment for keeping-in-touch days will be re-calculated based on the new values. If you have left your employment with the school, you need to write into the Employee Administration Service to request the payment of arrears.

**f): Additional payments:**

If you normally receive a lump sum essential car user payment, this will be maintained in full for the duration of your adoption leave. First Aid supplements will be stopped as soon as adoption leave starts. Any other additional payments may be subject to different rules, and you are encouraged to contact the Payroll department for further information.

## 5.1 Frequently Asked Questions – (Adoption) General

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

You must be sure that the placement is actually going ahead if you are starting adoption leave before the actual date of placement, as you cannot stop the leave and start again if there are any delays.

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

- If you have started adoption leave before the placement and the adoption agency notify you that the child will not be placed with you, the adoption leave will end eight weeks after the end of the week that you are notified the placement will not take place.
- If the child dies during the adoption leave, the leave will end eight weeks after the end of the week in which the child dies.
- If the child is returned to the adoption agency, the leave will end eight weeks after the end of the week in which the placement ends.

• **Does adoption leave affect continuity of service?**

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

• **What if an employment contract needs to be amended during adoption leave?**

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

## 6 Pensions and Annual Leave (all)

### **For Teachers:**

**Pension:** Any period when receiving pay during Paternity Leave (Ordinary and Additional) is regarded as pensionable service. However, when pay stops, the employee may not pay into the pension scheme. However, it may be possible to pay for additional pension and employees should contact the Business Support Centre for further information.

**Annual Leave:** those principles defined in section 2 Maternity Leave and Pay also applies to those teachers taking Ordinary and Additional Paternity leave. Please also see the annex for further guidance on the accrual of annual leave. A Guide to the Accrual of Annual Leave for Teachers (section 14 of this document)

### **For Support Staff:**

**Pension:** Absence on paid or unpaid Paternity Leave is pensionable. Employees can continue to pay pension contributions on Statutory Paternity Pay. Payment for keeping-in-touch days will also be pensionable. On returning to work following a period of unpaid Paternity Leave the employee will be given the option of repaying this/her pension contributions for that period. These deductions can be made from his/her pay on return to work by arrangement with the employee and the Business Support Centre.

**Annual Leave:** Support staff who work all year round will continue to accrue annual leave during the whole of their Paternity Leave. Time off in lieu does accrue in respect of Bank Holidays. Any time taken as Paternity Leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Periods of Paternity Leave will also count towards length of continuous service. Employees should discuss their annual leave entitlement fully with their Headteacher/Line Manager to ensure that they have the opportunity to take their annual leave either before commencing Paternity Leave or immediately prior to the return to work. Employees should be aware that normal provisions regarding the carry over of annual leave will apply. If they are not returning to work then employees should plan to take any annual leave entitlement that they may be due, before commencing Paternity leave.

**Annual Leave:** Support Staff who work term time only under the Working Time (Amendment) Regulations 2007 from April 2009 only have a statutory right to paid annual leave amounting to 28 days (5.6 weeks).

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

**Keeping in Touch Days:** those principles defined in section 3 also apply to those staff taking Additional Paternity leave.

**Returning to Work:** Employees must inform the Headteacher of the date they expect to return to work when they give notice that they wish to take Additional Paternity Leave. If employees wish to return at an earlier date, they must give at least six weeks' notice before the new date. If employees do not give correct notice, the Headteacher can insist employees don't return until the earlier of a six week notice period or the employee's original return date.

## 7 Other Information

The Leeds Childcare website at [www.familyinformationleeds.co.uk](http://www.familyinformationleeds.co.uk) has useful information regarding childcare, choosing childcare, parents' guide leaflets including guides on different types of childcare provision as well as general information for parents on childcare issues. Free Phone:0800 731 0640 or Tel 0113 2474386

Leeds City Council participates in a childcare voucher system which can save employees significant amounts of money on the costs of approved childcare (e.g. nurseries, child-minders, holiday clubs and nannies). Briefly, the employee chooses to take a 'salary sacrifice', taking a portion of the salary in childcare 'vouchers' (the rest of the salary is paid as normal). This 'sacrificed' portion of the salary is then used to pay for approved childcare and is free of tax and national insurance. Both parents can participate in this scheme, each claiming up to the maximum level allowed under the salary sacrifice arrangements, even if it is just for one child. ([www.kiddivouchers.com](http://www.kiddivouchers.com)).

The DTI also produce useful leaflets and booklets on a range of topics including maternity leave and parental leave. These can be obtained free from the Employment Service Job Centres or from the DTI order line on 0845 015 0010.

Other useful sources of information for parents and their employers include the following:

Familyline 0808 800 2222 (confidential Freephone helpline run by Familyline Plus providing support to families)

Working Families' Tax Credit helpline – 0345 300 3900

Department for Work and Pensions website – [www.dwp.gov.uk](http://www.dwp.gov.uk) (The DWP can provide advice and guidance on a number of issues)

Health and Safety Executive website - [www.hse.gov.uk](http://www.hse.gov.uk)

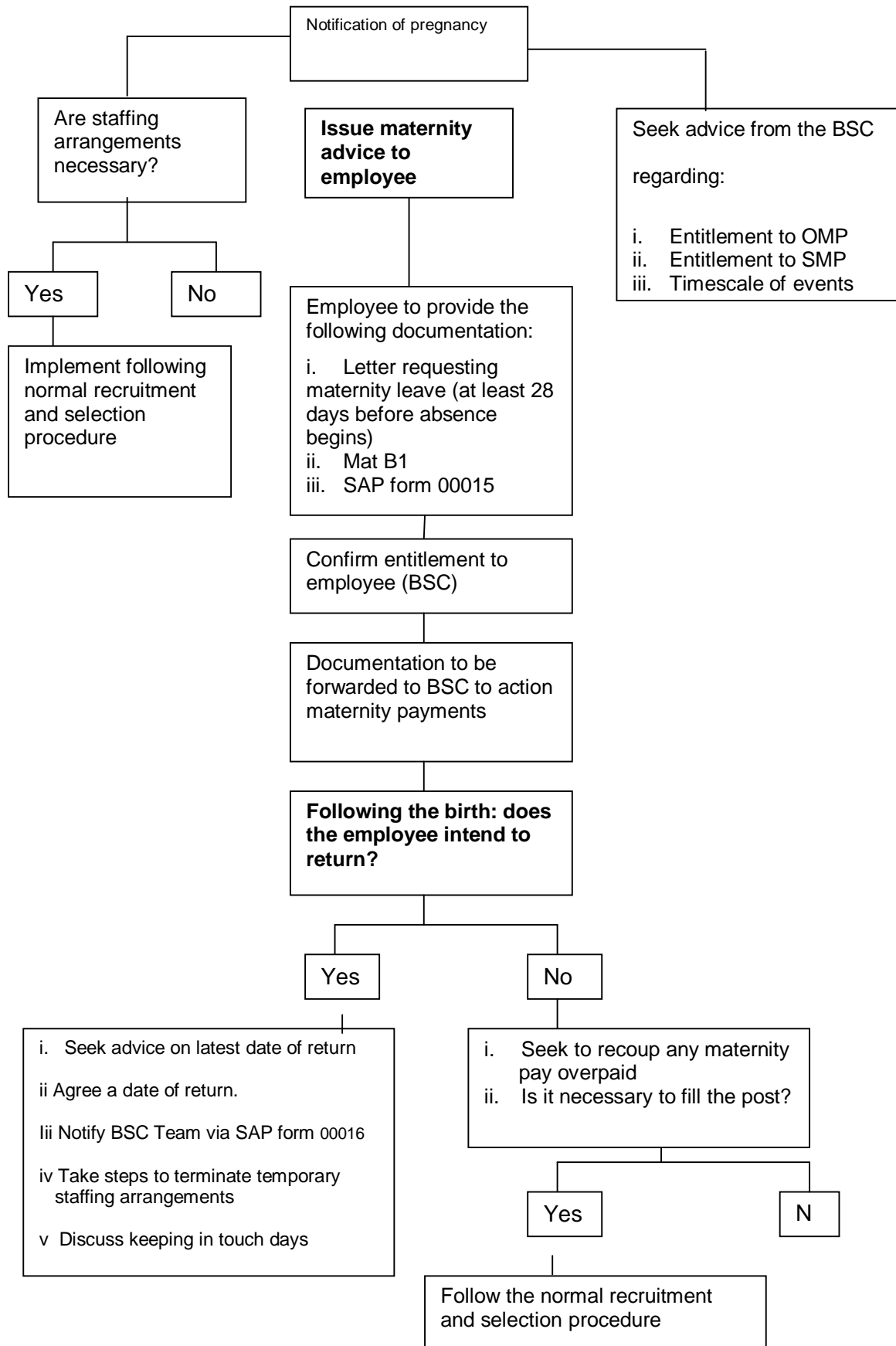
## 8 Roles and Responsibilities

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

	<b>Role of Employer</b>	<b>Role of Employee</b>
<b>Maternity Leave</b>	<b>Conduct a risk assessment and remove risks or make alternative arrangements.</b>	<b>To inform her employer she is pregnant. This should be done by the 15<sup>th</sup> week before the EWC.</b>
	<b>Within 28 days of receiving employees dates for maternity leave the employee must receive written confirmation telling her when she is expected to return to work and given details on how she will be paid.</b>  <b>If the employer does not respond to the employee's notification of leave she will be entitled to change her mind and return when she wants without giving notice.</b>	<b>By the 15<sup>th</sup> week before the EWC the employee must tell her employer when she wishes to start maternity leave and when to take any annual leave.</b>  <b>Provide the MAT B1 maternity certificate.</b>  <b>If the employee does not give at least 28 days' notice of when she wants her maternity leave to start the employer may refuse or postpone the start of her leave.</b>
		<b>the employee should endeavour to give her line manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.</b>
	<b>To determine with the employee what kind of contact you will have during her maternity leave.</b>	<b>8 weeks' notice must be given if the employee wishes to return from her maternity leave earlier than originally planned.</b>  <b>For employees covered by Burgundy Book provisions this may be reduced to 21 days' notice, however, the more notice an employee can give their employer the better for business planning.</b>
		<b>The employee must inform the employer as to any changes in circumstances i.e. start work for another employer whilst on maternity leave, taken into legal custody</b>
<b>Health and Safety</b>	<b>The Employer has a duty to undertake a risk assessment of the employee's working area and practices as soon as s/he is notified, and make reasonable adjustments to remove the employee from risk.</b>	<b>If the employee becomes aware of risk to her health whilst pregnant she has a duty to bring it to the attention of her employer.</b>

	<b>Role of the Employer</b>	<b>Role of the Employee</b>
<b>Adoption Leave</b>	Within 28 days of receiving employees dates for adoption leave the employee must receive written confirmation telling her/him when she is expected to return to work and given details on how s/he will be paid.	To inform his/her employer as soon as practicable that s/he will be absent from work and when s/he wishes to return.  This should be done within 7 days of being notified by the Adoption Agency.  And evidenced by producing a matching certificate within 28 days of the date s/he expects the adoption payments to commence.
	To determine with the employee what kind of contact you will have during their adoption leave.	8 weeks' notice must be given if the employee wishes to return from her maternity leave earlier than originally planned.
		The employee must inform the employer as to any changes in circumstances i.e. start work for another employer whilst on adoption leave, taken into legal custody
<b>Birth Leave</b>		The biological father, spouse or partner needs to request an SC3 form from HM Revenue and Customs. This must be completed and submitted to the Head Teacher/Line Manager along with a copy of the MAT B1 and a Special Leave request form.
<b>Shared Parental Leave</b>		Refer to table below.....
<b>Parental Leave</b>		A request must be made to employer giving 21 days' notice of the start date of the parental leave
		If asked by the employer, the employee must provide evidence the s/he is the person responsible for the child/adult.

## 9. Maternity Flowchart



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

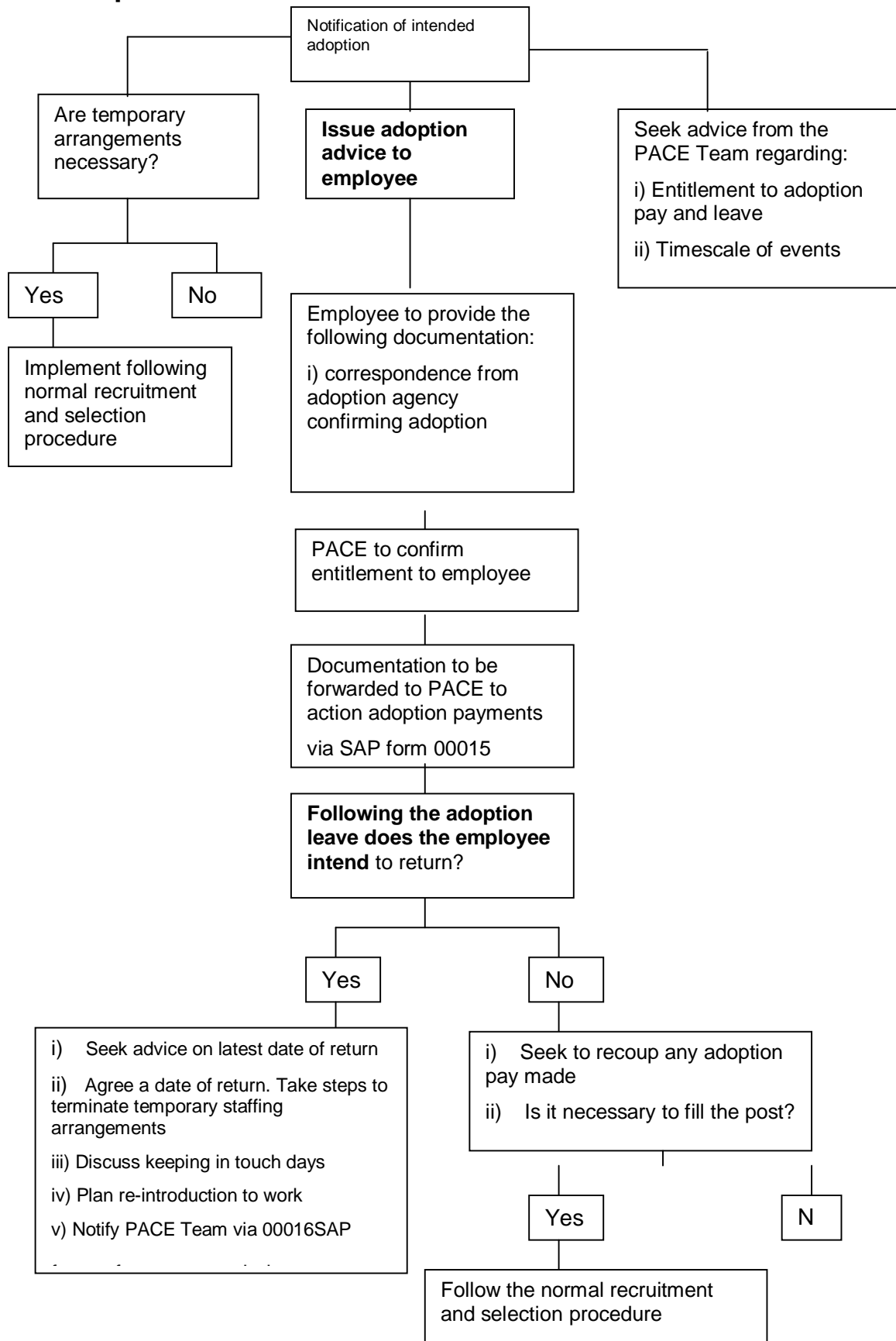
*\* Entitlement to Statutory Maternity Pay (SMP) is dependent on your level of earnings at the Qualifying Week (the 15<sup>th</sup> week before the Expected Week of Confinement - EWC) and your length of service. If your average earnings on this date are lower than the amount on which National Insurance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

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

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



## 10 Adoption Flowchart



## Guide to Adoption Pay – TEACHERS

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

## Guide to Adoption Pay – SUPPORT STAFF

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

## 11 A Guide to Birth/Paternity Leave and Pay

<b>Period of Paternity Leave</b>	<b>2 calendar weeks which can be taken at any time between 11 weeks prior to and 8 weeks after the birth. The leave has to be taken as either 1 single week or 2 consecutive weeks</b>
<b>Teachers Paternity Pay Entitlement</b>	<b>2 weeks paid leave at their normal weekly pay rate</b>
<b>Teachers Additional Paternity Pay Entitlement</b>	<b>Maximum of 26 weeks at the statutory paternity pay rate, or 90 per cent of average weekly earnings, whichever is less.</b>
<b>Support Staff Paternity Pay Entitlement</b>	<b>2 weeks paid leave at their normal weekly pay rate</b>
<b>Support Staff Additional Paternity Pay Entitlement</b>	<b>Maximum of 26 weeks at the statutory paternity pay rate, or 90 per cent of average weekly earnings, whichever is less.</b>

## 12 A Guide to Parental Leave

Please note that all parental leave is without pay

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

## 13 A Guide to Shared Parental Leave

	<b>Baby due on or after 5<sup>th</sup> April 2015</b>
	<b>Both parties have 26 weeks continuous service from 15<sup>th</sup> week EWC and remain in employment when leave is taken</b>
<b>Partner</b>	<b>Biological father, Civil partner, or partner of mother and must live with the mother in a family relationship (but not related to mother)</b>
<b>Period of Shared Parental Leave</b>	<b>To share a total of 52 weeks from EWC, mother must take first 2 weeks for recovery</b>
<b>Shared Parental Leave per year</b>	<b>Single continuous period – automatically agreed</b>  <b>Separate periods- employer to consider request within 14 days</b>
<b>Notice information</b>	<b>Can give up to 3 notices of intention</b>
<b>Notice required to the school</b>	<b>8 weeks before start date</b>

### Shared Parental Leave Notification Requirements

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

<p><b>employed before the period of leave, or, if it is not reasonably practicable for the employer to allow them to return to that post, to another job which is both suitable and appropriate for the employee to do in the circumstances.</b></p>	<p><b>to take</b></p> <p><b>An indication as to when the employee intends to take Shared Parental Leave (including the start and end date for each period of leave)</b></p>
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## **14 A Guide to the Accrual of Annual Leave for Teachers and Support Staff Working Term Time Only**

The entitlement of 28 days (5.6 weeks effective April 2009) annual leave, introduced by the Working Time (Amendment) Regulations 2007, came into effect on 1 October 2007.

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

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

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

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

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

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

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

Teachers or support staff working term time only do not have a contractual entitlement to paid leave on public or bank holidays. The Early May Day bank holiday is the only bank holiday that falls during term time. For the purposes of annual leave, the Early May Day bank

holiday will be classed as a school closure which counts against the statutory annual leave entitlement, which is currently 28 days.

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

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

### **Payment in Lieu**

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

### Frequently asked questions and answers – Annual leave

- **Do I accrue leave whilst on maternity or adoption leave?**

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

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

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

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

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

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

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

- **If I decide not to return to work following maternity/adoption leave what happens to my annual leave entitlement?**

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