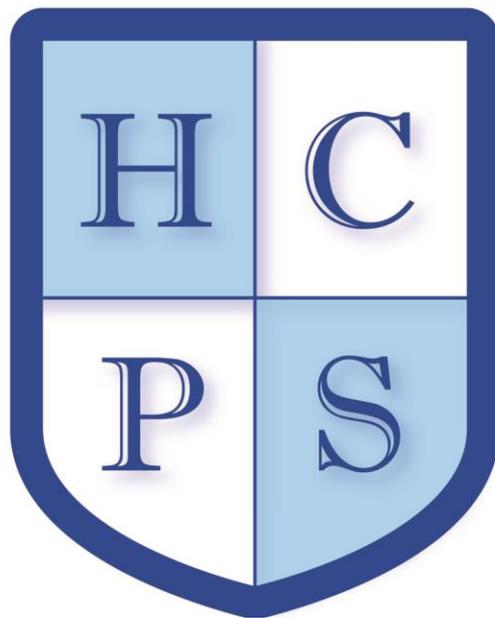


# Hunslet Carr Primary School



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

*Based on Model Policy from Leeds City Council*

**High Expectations  
Caring  
Positive Attitude  
Successful**

Policy reviewed: March 2019

Next review: March 2021

*High expectations, Caring, Positive Attitudes & Successful*

## **STRENGTHS OF OUR SCHOOL**



### **The Children**

- Are well behaved, calm and polite
- Are engaged, positive and resilient
- Are supportive and helpful towards others
- Have an input on important decisions
- Have a sense of belonging

### **The Community**

- School supports the whole family not just the child
- Recognises the importance of attendance
- Spreads our growing reputation as a good school
- Helps celebrate the children's achievements
- Supports the school on improving behaviour

### **The Curriculum**

- Is a fun curriculum that is engaging
- Maintains a strong focus on the basic skills
- Is enriched through extra-curricular activities
- Supports our most vulnerable children
- Provides a rich variety of experiences & opportunities

### **The Staff**

- Develop nurturing relationships with children
- Provide good quality teaching and learning
- Support one another to help the children
- Are consistent in how they treat children
- Identify children's SEN needs early

# THE CURRICULUM WE HOPE TO PROVIDE



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## **Skills**

Fluent and confident in Reading, Writing and Maths  
Communicate with confidence  
ICT skills fit for the future  
Life skills – social, money, time, cooking  
Safety skills – Swimming, healthy choices  
Problem solving skills – Patience & Resilience

## **Attitudes**

Confident, proud and independent  
The believe that 'Impossible is Nothing'  
Understand and celebrate a range of cultures  
Take responsibility for themselves & others  
Be honest and learn from their mistakes  
Respectful, caring and helpful

## **Experiences**

To have 1<sup>st</sup> hand experiences of...  
Going away on a residential trip  
Visiting a range of places of worship  
A chance to look after an animal  
Relevant trips to theatres/farms/beaches  
Taking part in public performances  
Work experiences & further education

## **Knowledge**

High school ready English & maths  
To know about local places of interest  
To know where we are in the world  
Life skills – money, time, cooking  
Information about possible careers  
To know major historical facts  
To know their own strengths

## **1. Policy Summary and Guiding Principles**

This policy applies to all school based staff and also includes Teachers employed directly by Leeds City Council.

This document is intended to provide a summary of employees' entitlements to maternity leave and is intended for general guidance only. It is not a comprehensive summary of employees' legal rights and in any case of dispute on interpretation, the wording used in legislation, Conditions of Service Handbooks and in Local Agreements will take precedence. If you require further information or have specific queries, please contact the Leeds City Council Schools Human Resources Team.

As soon as reasonably practical, employees should notify their Headteacher or Line Manager that they are pregnant, which will enable a risk assessment to be carried out. In the interests of Health and Safety it is very important to assess if any of the duties an employee is undertaking may put the baby's or her health at risk. Normally employees will be allowed to continue in their existing job unless any risks are identified. If employees have any concerns or worries, it is important that they are discussed with the Headteacher or someone from the Human Resources or Health & Safety Team at the earliest opportunity (for more information see Section 4)

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

The following definitions are used in this policy:

- 'Expected week of childbirth' means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.
- 'Qualifying week' means the 15<sup>th</sup> week before the expected week of childbirth.

The leave year for teachers:

- will run from 1 September to 31 August each year.

Statutory Maternity Pay (SMP)

Occupational Maternity Pay (OMP)

Birth Leave includes any arrangements for paternity leave.

## **2. 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. Please see annex for a list of the main legislation that has provided the legal background to this policy.

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.

### **3. Employee Guide to Maternity Provisions**

#### **3.1 Right to time off for Ante-Natal Care**

3.1.1 Time off with pay will be given for ante-natal care. Employees are asked to inform the Headteacher as far in advance as possible, of the date and time of an appointment and the best estimate of the length of absence from work, including travelling time if significant. Employees should seek to arrange appointments at the beginning or the end of the day, although schools recognise this may not always be possible.

3.1.2 Ante-natal care may include:

- Appointments with your GP or registered Midwife
- Hospital appointments for scans or tests
- Other appointments made on the recommendation of your GP or a Specialist Community Public Health Nurse
- Relaxation and Parent Craft classes

3.1.3 If employees are not sure whether a particular appointment is included in one of the above categories, they should contact their Headteacher for further advice.

3.1.4 Except in the case of the first appointment, employees will be required to produce for Headteachers:

- An appointment card or some other document showing that the appointment has been made.
- and**
- A certificate from a registered medical practitioner, registered Midwife or registered Nurse, stating that you are pregnant.

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

#### **3.2 The Expected Date of Childbirth**

3.2.1 The employee's midwife will provide a certificate stating the expected week of childbirth – MATB1. This will be issued after the 21st week of pregnancy. This certificate is required in order to claim Statutory Maternity Leave and Pay, if eligible. Please see the flow chart in the annex for further information.

3.2.2 As soon as the expected date of birth is confirmed on the MATB1 form, the earliest date for starting the period of maternity leave can be calculated, which is the beginning of the 11<sup>th</sup> week before the expected week of childbirth (EWC). To calculate this date employees should count back 11 weeks from the Sunday before the date of expected birth. Employees may commence maternity leave any time between this date and the expected date of birth.

However, maternity leave will start automatically if you are absent from work with a pregnancy-related illness during the 4 weeks before the baby is due, or if you give birth your maternity leave will commence the next day.

#### **3.3 Returning to Work**

3.3.1 Employees will need to decide if they intend to return to work after the baby is born. The Headteacher should be informed of the employee's intentions as soon as possible. There are three options:

**a) to definitely return to work** – Employees have the following legal rights when returning to work following a period of maternity leave: if returning during or at the end of the first 26 weeks (ordinary maternity leave) they are entitled to return to the same job on the same terms and conditions that they had before going on leave, unless this is not reasonably practicable by reason of redundancy.

If they take more than 26 weeks leave (additional maternity leave) they are also entitled to return to the same job on the same terms and conditions unless this is not reasonably practicable by reason of redundancy. If however there is some reason other than redundancy why it is not reasonably practicable for the employee to return to her original job, she is entitled to be offered suitable alternative work on terms and conditions no less favourable than the original job.

3.3.2 Employees may decide that their previous working arrangements no longer suit their circumstances and may wish to discuss other alternative working arrangements with the Headteacher. These may include flexible working options such as reduced hours, job share, or the option of taking some unpaid parental leave. If the employee wishes to make a request for varying her working arrangements, she will need to formally put this in writing to the Headteacher, giving as long a period of notice as possible so that suitable arrangements can be made if required. Whilst the employee has the right to request to vary her working arrangements there is no guarantee that her request will be granted. The decision is driven by the needs of the school. See the Guide to the Right to Ask to Work Flexibly (page 48 of this document)

3.3.3 To qualify for Occupational Maternity Benefits it must be the employee's intention to return to work at the school or within this Local Authority following maternity leave for a minimum period of 3 months. This period would extend, on a pro rata basis, if the employee was to return working fewer hours than they worked prior to maternity leave.

3.3.4 An employee does not need to give her employer advanced notice if she intends to access her full entitlement to ordinary and additional maternity leave. However, if the employee intends to return before the end of her full entitlement she must give not less than 8 weeks' notice in writing, of her proposed return date. The employer has the right to postpone any request to return to work earlier than planned, until they have had the 8 weeks notice required (as long as this is not postponed beyond the 52 week Maternity Leave period). Under the Burgundy Book (paragraph 7.1 of Section 5) teachers must give 21 days notice in writing if they wish to return before the end of their full entitlement.

**An employee may choose to defer the decision until after the birth** - if the employee is unsure about whether or not to return to work, they can elect not to receive occupational maternity pay. If they decide at a later date to return to work then any remaining entitlements will be paid to them following the completion of 3 months (or pro rata) service.

**An employee may choose to definitely leave work** - i.e. resign, which should be confirmed in writing if this is the chosen option.

3.3.5 If an employee resigns from her post and immediately takes up another post within this Local Authority she shall not be required to refund any payments made during her maternity leave

3.3.6 If an employee resigns from her post without having returned to work for the requisite period of time (referred to in paragraph 3.3.3 of this document) she shall be required to refund the OMP payments made during her maternity, leave other than those made during the first 6 weeks of leave.

#### 3.4 Maternity Leave and Pay Introduction

3.4.1 The entitlement to maternity leave and pay is underpinned by employment legislation. In addition to the entitlement to maternity leave and pay as defined by statute, the National Conditions of Service as they apply respectively to teaching and support staff also give women the right to occupational maternity leave and occupational maternity pay subject to sufficient qualifying service.

All the rights described in this section apply to full-time and part-time staff, no matter how many hours they work but are subject to length of service.

To apply for maternity leave and to receive the pay provisions under both the Occupational Maternity Scheme and Statutory Maternity pay the employee must complete the relevant maternity documentation and this must be sent together with the MATB1 form to your Headteacher/Line Manager if this is done no later than the 15th week before the expected week of confinement the employee will be entitled to 52 weeks maternity leave. Support staff with 26 weeks service with this Local Authority at the 11th week before the EWC can take up to 63 weeks maternity leave (11 weeks before the birth and 52 weeks after).

#### Pension and Annual Leave

3.4.4 The contract of employment continues during maternity leave. With the exception of normal remuneration, the employee will continue to receive contractual benefits throughout their Maternity Leave. This applies during ordinary maternity leave (OML) and additional maternity leave (AML). Please see the annex for detailed guidance.

#### For Teachers

3.4.5 Pension: Any period when receiving pay during maternity leave is regarded as pensionable service. 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 Leeds City Council's Business Support Centre (BSC) for further information.

3.4.7 Annual Leave: Under the Working Time Regulations 1998 (as amended), Teachers have a statutory right to paid annual leave amounting to 5.6 weeks (equivalent to 28 days for full-time staff, pro rata for part-time staff).

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

The annex provides a range of scenarios to illustrate various outcomes for teachers who have accrued annual leave whilst on maternity leave. A Guide to the Accrual of Annual Leave for Teachers (page 38 of this document)

#### For Support Staff:

3.4.8 Pension: Absence on paid or unpaid Maternity Leave is pensionable. Employees can continue to pay full pension contributions on maternity pay whether the pay element is a 9/10ths full pay or half pay. Payment for keeping-in-touch days will also be pensionable. On returning to work following a period of unpaid maternity leave the employee will be given the option of repaying her pension contributions for that period. These deductions can be made from her pay on return to work by arrangement with the employee and the BSC.

3.4.9 Annual Leave: Support staff who work all year round will continue to accrue annual leave during the whole of their maternity leave. Time off in lieu does accrue in respect of Bank Holidays during the whole of the maternity leave. Any time taken as maternity leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Periods of maternity 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 maternity leave or immediately prior to their return to work. Employees should be aware that normal provisions regarding the carry-over of annual leave will apply. An employee should be encouraged to plan to take any annual leave either before she starts maternity leave or when she comes back.

Annual leave cannot be carried over and could be lost if the holiday year ends whilst the employee is on maternity leave. Where an employee is planning not to return to work, she should be encouraged to plan to take any annual leave entitlement that she may be due, before commencing maternity leave.

3.4.10 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.**

The annex provides a range of scenarios to illustrate various outcomes for teachers who have accrued annual leave whilst on maternity leave this guidance will also apply to support staff working term time only. A Guide to the Accrual of Annual Leave for Teachers (page 38 of this document)

3.4.11 a woman resuming work after maternity leave is entitled to benefit from any general improvements to the rate of pay (or other terms and conditions) which may have been introduced while she has been away. For teaching staff this has implications for progression within the Upper Pay Spine for example. A teacher who has passed through the threshold will not be disadvantaged in making progress within the Upper Pay Spine whilst on maternity leave. Progression on UPS should be based on guidance as set out in the School Teachers' Pay and Conditions Document.

Maternity Leave

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

3.4.13 An employee must notify her employer at least 15 weeks, or as soon as reasonably practicable, before she intends to start her leave:

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

3.4.14 The employee will be required to notify her employer of her intention to take maternity leave by the 15th week before her EWC unless this is not reasonably practicable. A woman will be able to change her mind about when she starts her leave providing she tells her employer at least 28 days in advance (unless is this not reasonably practicable). Provisions contained within the Burgundy book state that a Teacher must notify her employer at least 21 days before she wishes to commence maternity leave. (Section 5, para 2)

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

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

- Maternity leave will automatically start from the beginning of an employee's absence from work for a pregnancy-related illness during the 4 weeks before the start of the EWC, regardless of when she has said she wants to start her maternity leave.

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

3.4.17 Women may work after the 11<sup>th</sup> week before the EWC. A woman may commence her Maternity Leave at any time up to the birth of her child, providing she is medically fit to do so. The employee must make an assessment of any health risk to herself or/and the expected baby in determining the start of her Maternity Leave.

3.4.18 An employee does not need to give her employer advanced notice if she intends to access her full entitlement to ordinary and additional maternity leave. However, if the employee intends to return before the end of her full entitlement she must give 8 weeks' notice, in writing, of her proposed return date for support staff. Under the Burgundy Book (paragraph 7.1 of Section 5) teachers must give 21 days' notice in writing if they wish to return before the end of their full entitlement.

3.4.19 In the case of officers the employer has the right to postpone any request to return to work earlier than planned, until they have had the 8 weeks' notice required (as long as this is not postponed beyond the 52 week Maternity Leave period).

3.4.20 Women who do not wish to return to work after the birth of their baby may resign from their post in accordance with the normal resignation procedures.

3.4.21 Where a Teacher with at least one year's continuous service at the 11<sup>th</sup> week before the expected week of childbirth, does not wish to return to work, she may resign for maternity reasons, giving at least 14 weeks' prior notice of the expected date of childbirth. Employment will terminate at a date 11 weeks prior to the expected week of confinement or at a later date if the employee wishes to continue beyond this date and is medically fit to do so. Salary will normally cease on the last working day unless the employee has continued working up to the end of the notional term or the day preceding the resumption of the school, whichever is the earlier. The employee will still be entitled to SMP.

3.4.22 Alternatively a Teacher may resign from her post prior to the 11<sup>th</sup> week before expected childbirth, in the normal way at the end of a school term, irrespective of the fact that she is pregnant. This is also the option available to teachers with less than one year's service.

#### Maternity Pay

3.4.23 There are two key entitlements:

- Entitlement to Statutory Maternity Pay (SMP)
- Entitlement to Occupational Maternity Pay (OMP)

The entitlements are summarised in the annex.

#### Statutory Maternity Pay (SMP)

3.4.24 All women are entitled to either SMP (which is offset against any Occupational Maternity Pay) or they may claim Maternity Allowance from the Benefits Agency (where their earnings are below the minimum earnings limit).

3.4.25 Any employee who has been continuously employed for 26 weeks up to and including the 15<sup>th</sup> week before the baby is due, is entitled to receive Statutory Maternity Pay (SMP) for a maximum of 39 continuous weeks with the remaining 13 weeks leave being unpaid.

3.4.26 SMP is paid whether or not the employee intends to return to work for her employer, providing she is still working for the employer at the 15<sup>th</sup> week before the EWC. Where staff are entitled to Occupational Maternity Pay, SMP is offset against OMP.

3.4.27 SMP cannot start earlier than the start of the maternity leave period (i.e. the 11th week before the EWC apart from in the exceptional circumstances listed in paragraph 3.4.16 above). SMP is not paid where the employee goes outside the EEC during the maternity period, where she does any paid work after the birth in the paid maternity period (excluding 'Keeping in Touch' days) or if she is in legal custody at any time during the maternity pay period.

#### Maternity Allowance

Women who do not qualify for SMP may be entitled to Maternity Allowance (MA). Entitlement to MA is based on a woman's employment and earnings in the 66 weeks ending with the week before the expected week of childbirth. The HR Administration team at the BSC will send a form to the employee detailing how she can apply for Maternity Allowance (MA) from the Benefits Agency. Further information can be obtained from the Benefits Agency direct.

#### **Occupational Maternity Pay – Teaching Staff**

3.4.29 Teachers under the Burgundy Book (local authority employment) conditions of service, with 26 weeks continuous service with their current employer and at least one year or more continuous service with one or more LEA's, will be entitled to the full statutory entitlements and the full entitlement under the Burgundy Book. For the statutory entitlement the qualifying dates are the beginning of the 15<sup>th</sup> week before the date of EWC, but the 11<sup>th</sup> week before the EWC for the Burgundy Book entitlements.

The entitlements are summarised in the annex. Guide to Maternity Pay – TEACHERS (page 36 of this document)

3.4.30 OMP payments made to the employee during Maternity Leave are made on the understanding that the employee will return to work either at the school or within this Local Authority for a period of at least 3 months after the maternity leave period. This period would extend, on a pro rata basis, if the employee was to return working fewer hours than they worked prior to maternity leave. In the event of the employee not being available, or being unable, to return to her job for the required period, she shall refund the OMP payments made during her maternity leave other than those made during the first 6 weeks of leave. Payments made by the way of SMP are not refundable. However, should the employee be made compulsorily redundant during her period of maternity leave, no refund would be payable.

#### Shared Parental Leave

##### Introduction

3.5.1 Mothers of babies due on or after 5 April 2015 or those adopting a child on or after this date will now have the option to bring their maternity/adoption leave to an end early and convert the remainder of the leave into shared parental leave. Shared Parental Leave can be taken by either of the baby's parent in periods of a week or multiples of a week.

The mother and father (or the mother's spouse, civil partner or partner) are entitled to share Shared Parental Leave. However, the mother cannot return to work before the end of the first 2 weeks following the birth. Shared Parental Leave cannot be taken after the baby's first birthday. They can share the leave if both are eligible and in doing so may choose to take the leave at the same time or separately.

##### Eligibility

3.5.2 To be eligible for Shared Parental Leave the employee:

- must have at least 26 weeks continuous employment at the 15<sup>th</sup> week before the expected week of childbirth, and remain in that employment until at least the week before he or she starts any period of Shared Parental Leave

- their partner must also meet and “employment and earnings test” under which:
  - he or she must have been an employed or self-employed earner in Great Britain for a total of at least 26 weeks in the period of 66 weeks leading up to the expected week of childbirth, and
  - he or she must have earned an average of £30 a week in 13 of those weeks.

The partner may be the birth father of the child, or the mother’s spouse, civil partner or partner. The partner can be the same or different sex, but must share the main responsibility for the child at the date of birth.

#### Notification

Employees who qualify for Shared Parental Leave must notify their employers of their intention to take it at least eight weeks before they intend the leave to start.

Notification from must be accompanied by a declaration<sup>1</sup> from both the employee and his or her partner.

When an employee gives notice of entitlement to take Shared Parental Leave, his or her employer may request evidence within 14 days beginning with the date on which that notice was given:

- A copy of the child's birth certificate
- The name and address of the partner's employer
- When the partner gives a notice for Shared Parental Leave, his/her employer may (within 14 days beginning with the date on which that notice was given) request:
  - A copy of the child's birth certificate, and/or
  - The name and address of the other parent/spouse/civil partner/partner's employer
  - If the birth certificate has yet to be issued, the employee must instead provide a signed declaration, which states the date and location of the child's birth, within 14 days of the child being born.

#### 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.

#### **Taking Shared Parental Leave**

If employees have asked for a single continuous period of leave, they are entitled to take it. If they have asked for separate periods of leave, (must be in week blocks and no more than 3 separate blocks) the employer can:

- Agree to the requested pattern of leave
- Refuse the request
- Refuse the request but propose alternative dates

Employees can split shared parental leave into up to 3 separate blocks, even if they are not sharing it with a partner. If the employer agrees, the employee may be allowed to split a block of leave into shorter periods of at least a week. For example, they might ask to work every other week during a 12-week block, using a total of 6 weeks of their Shared Parental Leave.

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<sup>1</sup> For the details that must be included in the respective declarations see Page 47

Employers cannot turn down a request for a block of leave if the employee is eligible and gives the correct notice. Employers do not have to agree to the employee breaking the block of leave into shorter periods.

If an agreement between employer and employee cannot be reached within 14 days, employees can withdraw their request, or take the leave requested as a single continuous period. An employee can give up to three notices of their intention to take leave.

If a notice is withdrawn because a leave pattern cannot be agreed between employee and employer, it does not count towards this limit. This also applies to a variation to the original leave request. A written notice to vary the period of leave may:

- Vary the start date or end date of shared parental leave provided that the notice is given at least 8 weeks before both the date varied and the new date
- Vary the leave to request that a continuous period of leave become discontinuous and vice versa
- Vary (including cancel) the amount of leave requested provided that the notice is given at least 8 weeks before any period of leave varied by the notice is due to commence.

There is a requirement on employers to respond to an employee's notification of his/her leave plans within 28 days. An employer will need to write to the employee setting out the date on which he/she are expected to return to work.

Unless notified otherwise, Head teachers/ Line Managers should assume that the employee will be taking statutory maternity leave.

Statutory Shared Parental Pay is either at the statutory rate or 90% of the employee's average weekly earnings, whichever is the lower.

### **Right to Return after Shared Parental Leave**

If the employee returns to work after a period of shared parental leave, which when added to any other statutory leave taken by the employee in relation to the child amounts to a total of 26 weeks or less, the employee is entitled to return to the job in which the employee was employed before the period of leave.

If the employee returns after shared parental leave which:

- When added to any other statutory leave taken by the employee in relation to the child amounts to more than 26 weeks; or
- was the last of two or more consecutive periods of relevant statutory leave which included a period of parental leave of more than four weeks, a period of additional maternity leave, or a period of additional adoption leave; or
- The employee is entitled to return from leave to the job in which they were employed before the period of leave, or, if it is not reasonably practicable for the employer to allow them to return to that post, to another job which is both suitable and appropriate for the employee to do in the circumstances.

## **3.6 Sickness Absence**

3.6.1 Sickness absence before the start of maternity leave, which is certified as being unrelated to pregnancy, shall be treated as sick leave. If, however, the cause of absence is wholly or partly related to the employee's pregnancy and occurs during the 4 weeks before the expected week of childbirth (EWC) then maternity leave shall commence on the day after her first complete day of sickness.

### 3.7 Contact during Maternity Leave

3.7.1 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.

### 3.8 Keeping - In - Touch Days

3.8.1 Keeping-in-touch days can also enable an employee and the Headteacher /Line Manager to keep in touch during the maternity leave period to ease the return to work. Following agreement with her Headteacher/Line Manager, the employee can work for up to 10 days during her maternity leave period without bringing her maternity leave period to an end. For these purposes, 'work' may include any activity undertaken to assist her keeping in touch with the workplace such as conferences, team meetings, training etc. The provisions apply to the entire period of her maternity leave, except during the first 2 weeks after childbirth which is a period of compulsory maternity leave.

3.8.2 From 5 April 2015, the number of Shared Parental leave keeping in-touch days will be 20, with both the mother and the partner (if Shared Parental Leave is taken) entitled to them. This is in addition to the 10 keeping in touch days already available for maternity or adoption leave.

3.8.3 Any work done during maternity leave must be by agreement and neither the employee, nor her Headteacher/Line Manager, can insist on it. It is also important to note that even if she only agrees to work for a few hours on each occasion, it will still be counted as 'days' under the maternity scheme. A form to register any hours worked whilst keeping-in-touch will be available to the Headteacher/Line Manager from the Leeds City Council Schools Human Resources Team or can be downloaded from InfoBase. The form should be returned to FusionHR to process.

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

### Protection against Unfair Treatment or Dismissal

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

### 3.10 Frequently Asked Questions - Pay and conditions

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.

### 3.11 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.

What if I want to adopt a child?

Please refer to the Part 5 of this policy guidance document for further information on adoption leave.

#### **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.

##### **4.1 Risk Assessment**

4.1.2 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.

4.1.3 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.

4.1.4 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.

##### **4.2 Removal of Staff from Risk**

4.2.1 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

4.2.2 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

4.2.3 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. Adoption Leave (also see shared parental leave)**

### 5.1 Introduction

5.1.1 This section is intended to provide a summary of employees' entitlements to adoption leave. It is not a comprehensive summary of employees' legal rights and in any case of dispute on interpretation, the wording used in legislation, Conditions of Service Handbooks and in local Agreements will take precedence. If you require further information and advice, or have specific queries, please contact FusionHR.

5.1.2 The following provisions do not apply to those staff formally adopting the child of a partner. Current provision is contained in a local agreement which has been applied to all staff.

### 5.2 Pre-Adoption Leave

5.2.1 All staff who legally adopt a child may take reasonable time off, with pay, to attend pre-adoption interviews, visits, and for court appearances.

### 5.3 Qualifying Conditions

5.3.1 Since April 2003 there has been a legal right to adoption leave and, where employees qualify, for pay during this leave. Our Adoption Leave Scheme goes beyond the statutory minimum.

5.3.2 All staff who have been continuously employed for a period of 26 weeks by the week in which they are notified that they have been matched with a child may take paid adoption leave when adopting a child, see section 5.6 for details of Adoption Leave and Pay.

5.3.3 Correspondence must be sent from the adoption agency confirming the adoption and the employee should inform their employer in writing as soon as is reasonably practical that they will be absent from work due to adoption and whether they intend to return to work.

5.3.4 Employers will have 28 days in which to respond. An employer will need to write out to the employee, setting out the date on which they expect the individual to return to work if the full entitlement to adoption leave is taken. Adopters who intend to return to work at the end of their full adoption leave will not have to give any further notification to their employer.

5.3.5 The contract of employment continues during adoption leave. The employee receives all contractual benefits except wages or salary during Adoption Leave; this includes ordinary adoption leave and additional adoption leave. Please see the annex for detailed guidance. Maternity Benefits at a Glance (page 39 of this document). An employee resuming work after Adoption Leave is entitled to benefit from any general improvements to the rate of pay (or other terms and conditions) which may have been introduced while he/she has been away.

## 5.4 Pensions and Annual Leave

For Teachers:

5.4.1 Pension: Any period when receiving pay during Adoption Leave 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 BSC for further information.

5.4.2 Annual Leave: those principles defined in section 3.4 Maternity Leave and Pay also applies to those teachers taking adoption 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.

For Support Staff:

5.4.3 Pension: Absence on paid or unpaid Adoption Leave is pensionable. Employees can continue to pay full pension contributions on adoption pay whether the pay element is a 9/10ths full pay or half pay. Payment for keeping-in-touch days will also be pensionable. On returning to work following a period of unpaid adoption 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 BSC.

5.4.4 Annual Leave: Support staff who work all year round will continue to accrue annual leave during the whole of their adoption leave. Time off in lieu does accrue in respect of Bank Holidays. Any time taken as adoption leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Periods of adoption 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 adoption leave or immediately prior to the return to work.

Employees should be aware that normal provisions regarding the carryover 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 adoption 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.**

The annex provides a range of scenarios to illustrate various outcomes for teachers who have accrued annual leave whilst on maternity leave this guidance will also apply to support staff working term time only. A Guide to the Accrual of Annual Leave for Teachers

## 5.5 Adoption Leave

Attending Ante-Natal and Child Care Clinics

5.5.1 All employees can request up to 5 absences to attend ante-natal and child care clinics. For each absence a period of up to ½ day can be paid.

Returning To Work

5.5.2 Employees may be considering the possibility of varying their working arrangements when they return from adoption leave. Whilst they do not need to do this until after the child is placed, it may be helpful for them to discuss the range of options that may be available with the Headteacher prior to going off on adoption leave.

The Headteacher/Line Manager may also invite Human Resources to support these discussions. However, if they want to request varying their working arrangements, they will need to formally put this in writing to their Headteacher/Line Manager providing as long a period of notice as possible so that suitable arrangements can be made if required.

5.5.3 An employee does not need to give their employer advanced notice if s/he intends to access her full entitlement to ordinary and additional adoption leave. However, if the employee intends to return before the end of their full entitlement they must give 8 weeks' notice in writing, of their proposed return date. The employer has the right to postpone any request to return to work earlier than planned, until they have had the 8 weeks' notice required (as long as this is not postponed beyond the 52 week Maternity Leave period). Employees have the following legal rights:

- To definitely return to work – Employees have the following legal rights when returning to work following a period of adoption leave:
  - If returning during or at the end of the first 26 weeks (ordinary adoption leave) they are entitled to return to the same job on the same terms and conditions that they had before going on leave, unless this is not reasonably practicable by reason of redundancy.
  - If they take more than 26 weeks leave (additional adoption leave) they are also entitled to return to the same job on the same terms and conditions unless this is not reasonably practicable by reason of redundancy. If however there is some reason other than redundancy why it is not reasonably practicable for the employee to return to their original job, s/he is entitled to be offered suitable alternative work on terms and conditions no less favourable than the original job.

5.5.4 Employees may decide that their previous working arrangements no longer suit their circumstances and may wish to discuss other alternative forms of working with the Headteacher/Line Manager. These may include flexible working options such as reduced hours, job share, or the option of taking some unpaid parental leave. If the employee wishes to make a request for varying his/her working arrangements, he/she will need to formally put this in writing to the Headteacher/Line Manager, giving as long a period of notice as possible so that suitable arrangements can be made if required. Whilst the employee has the right to request to vary their working arrangements there is no guarantee that their request can be granted, the decision is driven by the needs of the school.

To qualify for Occupational Adoption Benefits it must be the employee's intention to return to work at the school or within the Local Authority following adoption leave for a minimum period of 3 months. This period would extend, on a pro rata basis, if the employee was to return working less hours than they worked prior to adoption leave. In the event of the employee not being available, or being unable, to return to work for the required period, he/she shall refund the OAP payments made during the adoption leave other than those made during the first 6 weeks of leave. However, should the employee be made compulsorily redundant during the period of adoption leave, no refund would be payable.

An employee does not need to give their employer advanced notice if s/he intends to access her/his full entitlement to ordinary and additional adoption leave. However, if the employee intends to return before the end of their full entitlement s/he must give 8 weeks' notice in writing, of her/his proposed return date. The employer has the right to postpone any request to return to work earlier than planned, until they have had the 8 weeks' notice required (as long as this is not postponed beyond the 52 week Adoption Leave period).

- to defer the decision until after the adopted child is placed - if the employee is unsure about whether or not to return to work they can elect not to receive occupational adoption pay. If they decide at a later date to return to work then any remaining entitlements will be paid to them following the completion of 3 months (or pro rata) service.
- to definitely leave work - i.e. resign, which should be confirmed in writing if this is their chosen option.

5.5.6 If an employee resigns from her/his post and immediately takes up another post within this Local Authority s/he shall not be required to refund any payments made during her/his adoption leave

5.5.7 If an employee resigns from their post without having returned to work for the requisite period of time (referred to in paragraph 3.3.3 of this document) s/he shall be required to refund the OAP payments made during her/his adoption, leave other than those made during the first 6 weeks of leave.

## 5.6 Adoption Leave & Pay

5.6.1 All employees with 26 weeks continuous service (by the week in which they are notified that they have been matched with a child) with Leeds City Council are entitled to 52 weeks adoption leave. (For support staff, the maximum is 54 weeks if the employee opts to take 2 additional weeks off before the actual date of the child's placement). Employees with 26 weeks continuous service with Leeds City Council, who intend returning to work after adoption, will be entitled to 39 weeks paid leave at the rates outlined below, where these are enhanced above the statutory minimum:

- 6 weeks at 9/10 pay offset by Statutory Adoption Pay (SAP)
- 20 weeks at half pay plus SAP (standard rate) capped at the normal rate of pay
- 13 weeks SAP (standard rate)

5.6.2 Employees with 26 weeks continuous service who adopt are not intending to return to work should refer to the annex for details of the Adoption Pay entitlement. (Adoption Flow chart)

5.6.3 Where two employees of Leeds schools or Leeds City Council are adopting together, only one adopter may take paid adoption leave. The employee not taking this may be eligible to Paternity Leave or Additional Paternity Leave (please refer to Section 6 ('Birth Leave') of this document for further information). For further information on sharing adoption leave, please refer to Section 5.8 below.

5.6.4 Leave may start from the date of the child's placement or from a fixed date which can be 14 days before the expected date of placement. Only one period of leave will be available irrespective of whether more than one child is placed for adoption. If the child's placement ends during the adoption leave period, the adopter will be able to continue adoption leave for up to eight weeks after the end of the placement.

## 5.7 Claiming the entitlement

5.7.1 Adopters should notify the Headteacher/Line Manager of their intention to take adoption leave within 7 days of being notified of a match by their adoption agency. This must be evidenced by production of a matching certificate within at least 28 days of the date they expect Statutory Adoption payments to commence.

## 5.8 Sharing Adoption Leave

5.8.1 In circumstances where both the partners work for Leeds schools or Leeds City Council, and one partner is eligible for the maximum adoption leave, then the period of unpaid leave can be shared provided appropriate arrangements can be made by both employing schools or Leeds City Council.

## 5.9 Keeping-in-Touch Days

5.9.1 Keeping-in-touch days can enable an employee and their Headteacher/Line Manager to keep in touch during the adoption leave to ease the employee's return to work. Following agreement with the Headteacher/Line Manager employees can work for up to 10 days during the adoption leave period without bringing the adoption leave period to an end. For these purposes, 'work' may include any activity undertaken to assist them in keeping in touch with the workplace, such as conferences, team meetings, training etc. The provisions apply to the entire period of the adoption leave.

5.9.2 Any work done during adoption leave must be by agreement and neither the employee nor the Headteacher/Line Manager can insist on it. It is also important to note that even if the employee only agrees to work for a few hours on each occasion it will still be counted as 'days' under the adoption scheme. A form to register any hours worked whilst keeping-in-touch will be available to Headteachers/Line Managers from the HR Team or can be downloaded from InfoBase. Once complete the form should be returned to the HR Team to process.

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

## 5.10 Change in Circumstances

5.10.1 Employees must notify Headteachers/Line Manager in writing if any of the following events occur as your entitlement to Statutory Adoption Pay (SAP) will be affected:

- a) you start work for another employer during your adoption leave
- b) you are taken into legal custody

## 5.11 Frequently Asked Questions Relating to Pay and Conditions

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.

## 5.12 Frequently Asked Questions – 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 Birth Leave (including rights to Paternity Leave)**

### 6.1 Introduction

6.1.1 This section is intended to provide a summary of employees' entitlements to birth leave. It is not a comprehensive summary of employees' legal rights and in any case of dispute on interpretation, the wording used in legislation, Conditions of Service Handbooks and in Local Agreements will take precedence. If you require further information or have specific queries, please contact Fusion HR Team.

6.1.2 Birth leave covers staff who are entitled to Paternity Leave, and is seen as leave which enables the father (or person of mother's choice) to give much needed practical and emotional support at or around the time of the birth.

6.1.3 Since April 2003 there has been a legal right to paternity leave and, where employees qualify, for pay during this leave. The Leeds City Council/Schools Birth Leave provisions exceed these statutory provisions as they do not require an employee to have 26 weeks continuous service to qualify for payments to be made during approved absence.

### 6.2 Qualifying for Birth/ Paternity Leave

Is the employee the biological father, spouse or partner?

6.2.1 In order to claim their entitlement to paternity leave the employee will need to request an SC3 form from HM Revenue and Customs. These forms are available from the website address [www.hmrc.gov.uk/forms/sc3.pdf](http://www.hmrc.gov.uk/forms/sc3.pdf). This must be completed and submitted to the Headteacher/Line Manager along with a copy of the MATB1 and a Special Leave request form. This should be submitted at least 15 weeks before the baby is due.

Is the employee the nominated person of the mother's choice?

6.2.2 In order to apply for birth leave they will need to provide a copy of the MATB1 or birth certificate along with a letter from the mother confirming they are the nominated person.

### 6.3 Attending Ante-Natal and Child Care Clinics

6.3.1 Up to 5 absences can be requested to attend ante-natal and/or child care clinics. For each absence a period of up to ½ day can be paid.

### 6.4 Attending the Birth

6.4.1 One day's absence can be requested to attend the child's birth if this falls on a working day. Any requirements beyond this (e.g. arising from complications during birth) would have to be considered under special leave provisions.

## 6.5 Birth/Paternity Leave

6.5.1 An employee is entitled to a maximum of two calendar weeks Birth or Paternity Leave. This must be taken within 8 weeks of the birth. The leave can be taken as one whole week, or two whole weeks consecutively (the leave cannot be taken as two separate weeks).

## 6.6 Birth/ Paternity Leave Pay

6.6.1 An employee is entitled to 2 weeks paternity pay as follows:  
Teachers are entitled to 2 weeks paternity pay at the Statutory Paternity Pay rate.  
Support Staff are entitled to 2 weeks paid leave at their normal rate of pay.

## 6.7 Notice of Absences

Whilst schools/manager appreciate that employees cannot always determine in advance the precise time the absence will occur, employees should recognise that Headteachers/Line Managers are required to make cover arrangements, and so should endeavour to give the Headteacher/Line Manager the correct amount of notice. You should tell them in writing at least 15 weeks before the beginning of the week when the baby's due

Ordinary Paternity Leave can start on any day of the week (but not before the baby is born). It has to finish within 56 days of the baby's birth. If the baby is born before the week it was due, it must finish within 56 days of the first day of that week.

## 6.8 Additional Paternity Leave

6.8.1 In order to claim their entitlement to Additional Paternity Leave the employee will need to request an SC7 form from Revenue and Customs. These forms are available from the website address: <http://www.hmrc.gov.uk/forms/sc7.pdf>. This must be completed along with a copy of the MATB1 and Special Leave form to the Headteacher, giving at least eight weeks' notice. (Employees should complete the SC8 form for adoptions; <http://www.hmrc.gov.uk/forms/sc8.pdf> and the SC9 form for overseas adoptions; <http://www.hmrc.gov.uk/forms/sc9.pdf>)

6.8.2 Additional Paternity Leave is for a maximum of 26 weeks. If an employee's partner has returned to work, the leave can be taken between 20 weeks and one year after an employee's child is born. To qualify, an employee must be taking the time off to care for the child and the mother (or adopter) must have started work again and any relevant payment (Statutory Maternity Leave, Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Leave or Pay) must have stopped.

6.8.3 To qualify for Additional Statutory Paternity Pay, the mother (or adopter) must have started working again and any relevant payment must have stopped, with at least two weeks of the 39 week payment period remaining. Additional Statutory Paternity Pay is only payable during the period of an employee's partner's 39 week Maternity Allowance, Statutory Maternity or Statutory Adoption Pay period.

6.8.4 All Additional Paternity Leave taken after the end of the period for which Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Pay would be paid without pay.

6.8.5 If your partner dies during Maternity Leave or Adoption Leave you may be entitled to extended additional paternity leave. Additional Paternity Leave can last up to 52 weeks. It can start at any point after the mother or adopter that took adoption leave died. You may be entitled to Additional Statutory Paternity Pay during your extended Additional Paternity Leave. This is paid during the 39 weeks your partner would have received Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Pay.

You may not take extended Additional Paternity Leave if you have already completed a period of Additional Paternity Leave for your child.

If you are on a period of Additional Paternity Leave at the time of the mother's or adopter's death you can extend your leave.

6.8.6 Additional Paternity Leave may be used up to 4<sup>th</sup> April 2015 instead of shared parental leave.

## 6.9 Pensions and Annual Leave

For Teachers:

6.9.1 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.

6.9.2 Annual Leave: those principles defined in section 3.4 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](#) (page 38 of this document)

For Support Staff:

6.9.3 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.

6.9.4 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 3.7 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. Parental Leave

### 7.1 Introduction

7.1.1 The right to parental leave is contained in the Maternity and Parental leave etc. Regulations 1999, made under the Employment Rights Act, as amended by the Employment Relations Act 1999. It gives the parents the right to take a period of 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 their children. The leave is unpaid.

7.1.2 The contract of employment continues during paternal leave. The employee will continue to receive contractual benefits throughout the first 4 weeks of parental leave, thereafter they are as follows:

For Teachers:

As the period of parental leave is without pay, the employee may not pay into the pension scheme, during their period of leave. However, it may be possible to pay for additional pension and employees should contact the Business Support Centre for further information.

For Support Staff:

7.1.3 Pension: Absence on parental leave is pensionable. On returning to work following a period of unpaid paternity leave the employee will be given the option of repaying 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.

7.1.4 Annual Leave: Support staff who work all year round, as opposed to Term Time Only, will continue to accrue annual leave during the whole of their parental leave. Time off in lieu does accrue in respect of Bank Holidays which fall during the first 4 weeks only. Any time taken as parental leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Periods of parental leave will also count towards length of continuous service. Employees should discuss their annual leave entitlement fully with their Headteacher to ensure that they have the opportunity to take their annual leave either before commencing parental leave or immediately prior to the return to work. Employees should be aware that normal provisions regarding the carryover of annual leave will apply.

7.1.5 An employee returning to work after parental leave is entitled to benefit from any general improvements to the rate of pay (or other terms and conditions) which may have been introduced while he/she has been away. For teaching staff this has implications for progression within the Upper Pay Spine for example.

### 7.1.6 Qualifying Conditions

Parents can take the leave up until the child's 6th birthday. This is extended to the 18<sup>th</sup> birthday for disabled children. From April 2015 this will be extended to the 18<sup>th</sup> birthday for all children.

In adoption cases, the leave can be taken during the first five years after the child is placed with the family (or the child's 18<sup>th</sup> birthday if that comes sooner). This is extended to the 18<sup>th</sup> birthday for disabled children.

For the purposes of parental leave, a disabled child is one for whom disability living allowance has been awarded.

## 7.2 Length of Leave

7.2.1 Staff are entitled to a total of 13 weeks leave for each qualifying child. Parents of disabled children are entitled to a total of 18 weeks leave. Parental leave is for each child therefore if an employee has twins the leave is doubled.

### 7.3 Procedures for Taking Leave

#### 7.3.1 The procedures for taking leave are as follows:-

Leave must be taken in blocks or multiples of one week, except for the parents of disabled pupils who can take leave in blocks or multiples of one day.

A maximum of four weeks' parental leave can be taken in a year in respect of any individual child.

A request must be made to employer giving 21 days' notice of the start date of the parental leave

The employer can postpone the leave for up to six months where the business would be particularly disrupted if the leave was taken at the time requested.

Leave cannot be postponed when the employee gives notice to take it immediately after the time a child is born or placed with the family for adoption.

### 7.4 Record Keeping

7.4.1 It is advisable to keep records of parental leave taken. When a member of staff joins the school and requests parental leave Headteachers/Line Managers may enquire about how much leave has already been taken under this entitlement in any previous employment.

### 7.5 Evidence of Entitlement to Parental Leave

7.5.1 An employer can ask to see evidence to confirm that the employee is the parent or the person legally responsible for the child, evidence might take the form of information contained in the child's birth certificate, adoption papers etc. The employer's request must be reasonable.

### 7.6 The Right to Return to the Same Post after Parental Leave

7.6.1 At the end of parental leave an individual is guaranteed the right to return to the same job as before, if the leave was for a period of 4 weeks or less. If the leave was for a longer period the individual is entitled to return to the same job, or if that is not reasonable practicable, a similar job which has the same or better status, terms and conditions as the old job.

7.6.2 When parental leave follows maternity leave, the general rule is that a woman is entitled to return to the same job as she had before the leave. If this is not reasonably practicable, a woman is entitled to return to a job which has the same or better status, terms and conditions as the old job.

### 7.7 Time Off To Deal with Family Emergencies

7.7.1 Staff also have the right to take time off work to deal with a family emergency, giving all staff the right to take a reasonable period of time off work to deal with an emergency involving a dependant. This leave is covered by the Special Leave policy.

## **8. The Right to Ask to Work Flexibly**

8.1 All employees now have the right to apply to work flexibly, subject to 26 weeks qualifying service. Please note that there is no automatic right to work flexibly, only a right to make the request, and employers have a statutory duty to consider these requests seriously. The annex provides further guidance in processing a flexible working request. A Guide to The Right to Ask to Work Flexibly (see page 46 of this document)

8.2 This will enable employees to request to work flexibly. It will not provide an automatic right to work flexibly as there will always be circumstances when the employer is unable to accommodate the employee's desired work pattern. It aims to facilitate discussion and encourage both the employee and the employer to consider flexible working patterns and to find a solution that suits both.

8.3 Eligible staff will be able to request a change in the hours they work, a change to the times when they are required to work and to work from home.

8.4 Employees will need to apply in writing indicating why flexible working would assist them and when they would like the working pattern to begin. They will be able to make one application per year and an accepted change will be a permanent change to the employee's terms and conditions of employment. They should also outline any implications for the employer.

8.5 Within 28 days of the request being received, the employer will arrange to meet with the employee. This will provide an opportunity to discuss the request in depth and how it may best be accommodated. It will also be an opportunity to discuss alternative work patterns. Employees have the right to be accompanied by a trade union official or work colleague.

8.6 Within 14 days of the meeting the employer will write to the employee to either agree a new work pattern and a start date, or clear business grounds why the application cannot be accepted.

8.7 The employee has a right to appeal against the employer's decision; this must be made within 14 days of being notified of the decision.

8.8 The employer must arrange an appeal meeting to take place within 14 days after receiving notice of the appeal. The employee can be accompanied.

8.9 The employer must notify the employee of the outcome of the appeal in writing within 14 days of the date of the appeal.

## **9. Other Information**

9.1 The Leeds Childcare website at [www.leeds.gov.uk/childcare](http://www.leeds.gov.uk/childcare), 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. It operates a telephone information helpline on 0113 2474386 Monday to Fridays from 8.30a.m. To 5.00pm.

9.2 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. Please contact Busy Bees on 08000 430860 ([www.busybees.com](http://www.busybees.com)) for further information.

9.3 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.

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

- Tiger website – [www.tiger.gov.uk](http://www.tiger.gov.uk) (for tailored information on maternity rights)
- Parentline 0808 800 2222 (confidential Freephone helpline run by Parentline Plus providing support to families)
- Childcare Link 0800 096 0296 (Freephone helpline for childcare information). Website – [www.childcarelink.gov.uk](http://www.childcarelink.gov.uk)
- Working Families' Tax Credit helpline – 0845 300 3900
- Department for Work and Pensions website – [www.dwp.gov.uk](http://www.dwp.gov.uk) (advice to employers claiming social security)

- Department for Work and Pensions employer's helpline 08457 143 143 (for employers seeking advice on Statutory Maternity Pay)
- Health and Safety Executive website - [www.hse.gov.uk](http://www.hse.gov.uk) Tel 0845 345 0055

## 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>   |
|--------------------------|---|---|
| Maternity Leave          | Conduct a risk assessment and remove risks or make alternative arrangements.  | To inform her employer she is pregnant. This should be done by the 15 <sup>th</sup> week before the EWC.  |
|                          | 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.<br><br>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. | 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.<br><br>Provide the MAT B1 maternity certificate.<br><br>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. |
|                          |   | 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.   |
|                          | To determine with the employee what kind of contact you will have during her maternity leave.   | 8 weeks' notice must be given if the employee wishes to return from her maternity leave earlier than originally planned.<br><br>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.  |
|                          |   | 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   |
| Health and Safety        | 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.  | 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.  |
| Adoption Leave           | 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.<br><br>This should be done within 7 days of being notified by the Adoption Agency.<br><br>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  |
| Birth Leave              |   | 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.  |
| Parental Leave           |   | 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.  |
| Flexible Working Request | <a href="#">A Guide to The Right to Ask to Work Flexibly</a> (page 43)  |   |

## 11. Equality Impact Assessment

The work and families policies are developed in conjunction with national standards and within the guidance of Employment Laws. A full and formal consultation process with Trade Union professionals is conducted in the development of this policy. It is for that reason that we do not believe that this policy will have an adverse impact on any group.

As part of our ongoing assessment we are committed to regular monitoring as to the impact of this policy.

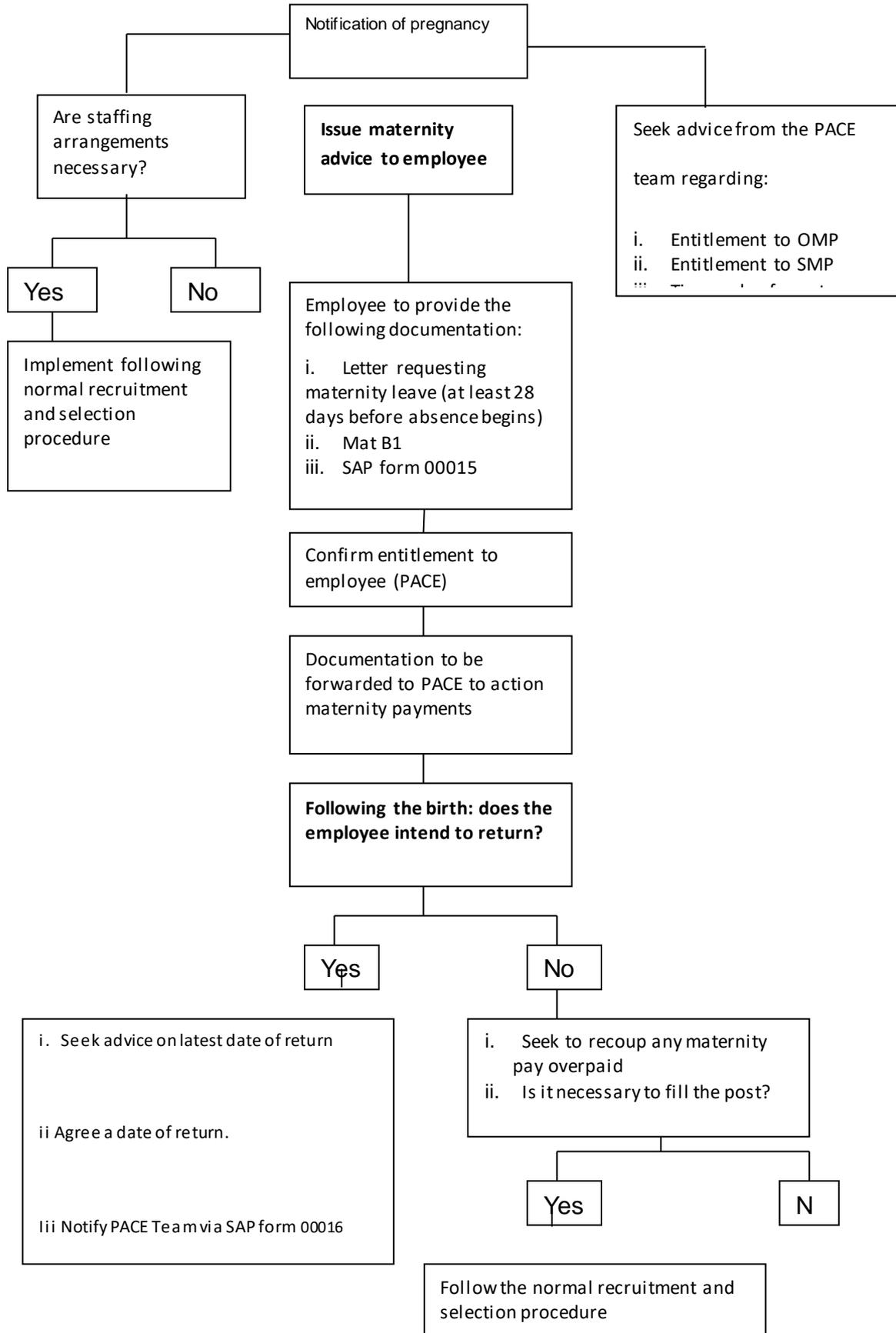
### Annex 1

#### 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.

## 2. Maternity Flowchart



Guide to Maternity Pay – TEACHERS

| <p><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></p>   | <p><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></p>  | <p><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></p> | <p><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></p> |
|--|--|---|--|
| <p>4 weeks full pay (off set by SMP)</p> <p>2 weeks 9/10ths of a week's salary (off set against payments of SMP)</p> <p>12 weeks at half pay plus SMP (capped at normal rate of pay)</p> <p>21 weeks SMP</p> <p>Max 13 weeks unpaid leave to the date of the return of the Teacher</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> | <p>4 weeks full pay (off set by MA if applicable*)</p> <p>2 weeks 9/10ths of a week's salary (off set against MA if applicable *)</p> <p>12 weeks at half pay (plus MA if applicable*)</p> <p>21 weeks MA (if applicable *)</p> <p>Max 13 weeks unpaid leave to the date of the return of the Teacher</p> <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> | <p>6 weeks at 9/10ths of a week's salary (off set against payments of SMP)</p> <p>33 weeks at SMP</p> <p>Max 13 weeks unpaid Leave to the date of the return of the Teacher</p>   | <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*

Guide to Maternity Pay – SUPPORTSTAFF

| <p><b>At least 26 weeks continuous service with current employer at the 11<sup>th</sup> week before EWC</b></p>  | <p><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></p>  | <p><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></p> |
|--|--|--|
| <p>Max leave entitlement:<br/><b>Up to 11 weeks before EWC and 52 weeks after</b></p> <p>Pay:<br/>6 weeks at 9/10 pay <b>(includes SMP or MA*)</b><br/>4 weeks at 9/10 Pay <b>(includes SMP or MA*)</b><br/>20 weeks 1/2 pay <b>plus SMP or MA*, capped at normal rate of pay</b><br/>9 weeks standard rate SMP/MA* or 9/10 pay <b>whichever is lower.</b><br/>13 weeks unpaid leave</p> <p><b>Occupational Maternity Pay paid during maternity leave is only payable on the condition that the employee returns to work for at least 13 weeks (or longer if the return is on a part-time basis)</b></p> | <p>Max leave entitlement:<br/><b>52 weeks</b></p> <p>Pay:<br/>6 weeks at 9/10 pay <b>(offset by MA*)</b><br/>12 weeks 1/2 pay <b>plus MA*, capped at normal rate of pay</b><br/>21 weeks MA*<br/>13 weeks unpaid leave</p> <p><b>Occupational Maternity Pay paid during the first 18 weeks of maternity leave is only payable on the condition that the employee returns to work for at least 13 weeks (or longer if the return is on a part-time basis)</b></p> | <p>Max leave entitlement:<br/><b>52 weeks</b></p> <p>Pay:<br/><b>May be eligible for Maternity Allowance (MA)*</b></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*

## 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.

**Below are a range of scenarios to illustrate various outcomes of the annual leave entitlement for teachers.**

**Scenario 1**

The teacher starts maternity leave on 1 October and takes OML only.

|                        | Se<br>p | Oct     | Nov     | Dec              | Jan     | Feb     | Mar     | Apr                  | Ma<br>y  | Ju<br>n | Jul      | Aug      |
|------------------------|---------|---------|---------|------------------|---------|---------|---------|----------------------|----------|---------|----------|----------|
|                        |         | OM<br>L | OM<br>L | OML              | OM<br>L | OM<br>L | OM<br>L |                      |          |         |          |          |
| School<br>Closure<br>s |         | 1wk     |         | 2wks<br>Xma<br>s |         | 1wk     |         | 2wks*<br>*<br>Easter | 1<br>wk. |         | 2wk<br>s | 4wk<br>s |

\*\* March or April

The teacher will benefit from up to 9 weeks of closure during Easter, July and August so there will be no additional entitlement to annual leave.

**Scenario 2**

The teacher starts maternity leave on 1 March and takes OML only.

|                        | Se<br>p | Oc<br>t | No<br>v | Dec              | Ja<br>n | Feb     | Mar     | Apr                  | May      | Jun     | Jul      | Aug      |
|------------------------|---------|---------|---------|------------------|---------|---------|---------|----------------------|----------|---------|----------|----------|
|                        |         |         |         |                  |         |         | OM<br>L | OML                  | OM<br>L  | OM<br>L | OM<br>L  | OM<br>L  |
| School<br>Closure<br>s |         | 1w<br>k |         | 2wks<br>Xma<br>s |         | 1w<br>k |         | 2wks*<br>*<br>Easter | 1<br>wk. |         | 2wk<br>s | 4wk<br>s |

The teacher will already have had the benefit of 4 weeks (20 days) of school closure in October, December and February. There will be an additional entitlement of 4 days which will be carried over to the next leave year as the teacher is returning on 1 September. This will be taken following the first 24 days of annual leave entitlement in school closure periods.

### Scenario 3

The teacher starts maternity leave on 1 October and takes OML & AML.

#### Leave Year 1

|                 | Sep | Oct    | Nov | Dec       | Jan | Feb    | Mar | Apr               | May   | Jun | Jul     | Aug     |
|-----------------|-----|--------|-----|-----------|-----|--------|-----|-------------------|-------|-----|---------|---------|
|                 |     | OML    | OML | OML       | OML | OML    | OML | AML               | AML   | AML | AML     | AML     |
| School Closures |     | 1wk SC |     | 2wks Xmas |     | 1wk SC |     | 2wks*<br>* Easter | 1 wk. |     | 2wks SC | 4wks SC |

#### Leave Year 2

|                 | Sep | Oct    | Nov | Dec       | Jan | Feb    | Mar | Apr              | May   | Jun | Jul     | Aug     |
|-----------------|-----|--------|-----|-----------|-----|--------|-----|------------------|-------|-----|---------|---------|
|                 | AML |        |     |           |     |        |     |                  |       |     |         |         |
| School Closures |     | 1wk SC |     | 2wks Xmas |     | 1wk SC |     | 2wks**<br>Easter | 1 wk. |     | 2wks SC | 4wks SC |

Leave year 1 – the teacher has had no annual leave but has an entitlement to 24 days which will be carried over to the next leave year on her return from maternity leave.

Leave year 2 – the teacher will benefit from 13 weeks of school closure. This will include her 24 days entitlement for that leave year (which will be taken in the October, December, February and first 4 days of the April school closure periods) and the 24 days entitlement from Leave year 1. She will not be entitled to any additional leave.

### Scenario 4

The teacher resigns and does not return at the end of the maternity leave period.

|                 | Sep | Oct     | Nov | Dec       | Jan | Feb    | Mar | Apr               | May   | Jun | Jul     | Aug     |
|-----------------|-----|---------|-----|-----------|-----|--------|-----|-------------------|-------|-----|---------|---------|
|                 |     |         |     |           | OML | OML    | OML | OML               | OML   | OML |         |         |
| School Closures |     | 1wk SC* |     | 2wks Xmas |     | 1wk SC |     | 2wks*<br>* Easter | 1 wk. |     | 2wks SC | 4wks SC |

The teacher has not worked a full leave year and will be entitled to a pro rata'd statutory annual leave entitlement (10 months entitlement = 20 days [based on 24 days statutory provision]). The teacher will have already had 3 weeks (15 days) in school closure periods (October and December) so 5 days' pay in lieu will be due on termination.

Please see the payment in lieu calculation in the covering letter to these examples.

**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.

## Maternity Benefits at a Glance

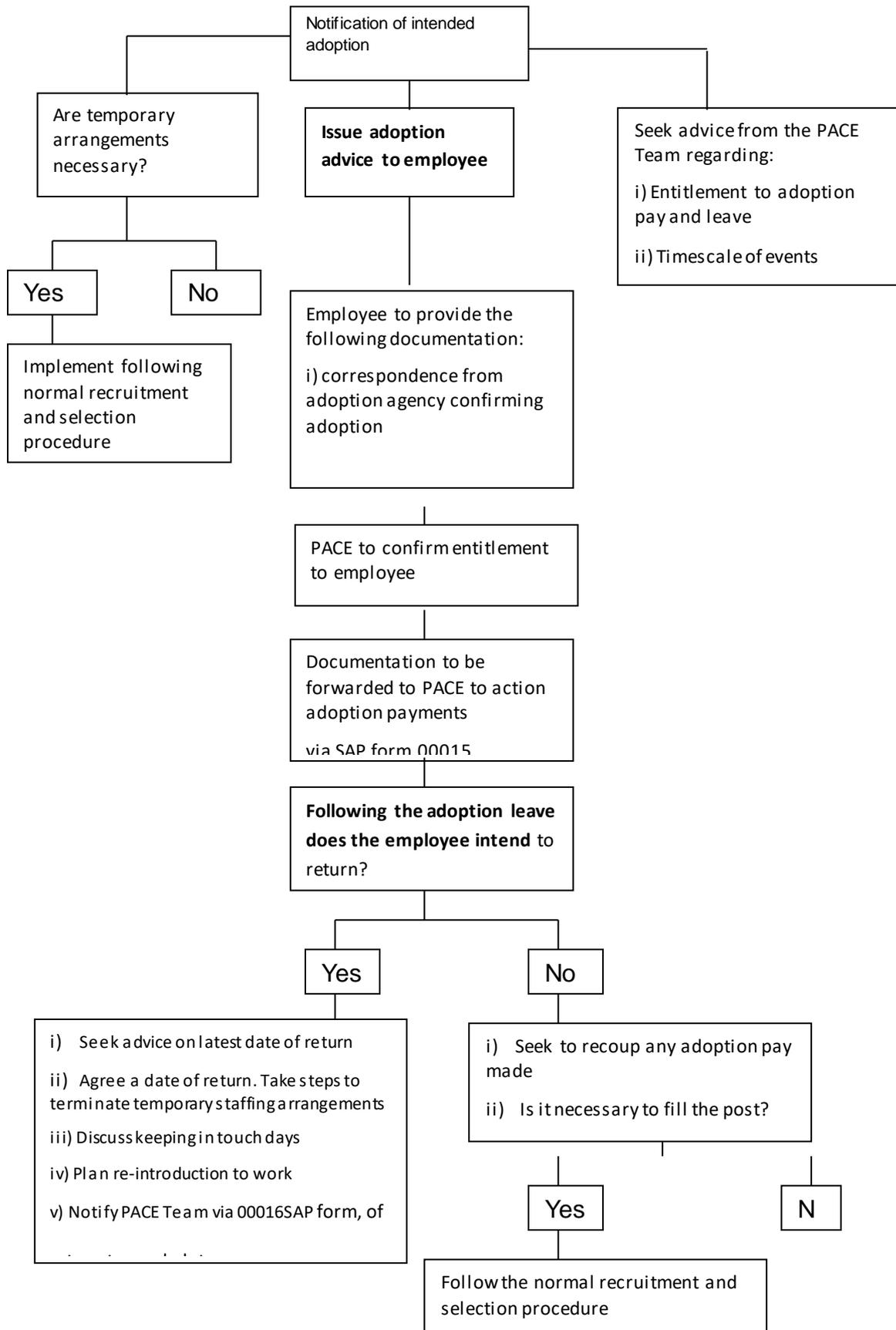
For women whose expected week of childbirth is on or after 5<sup>th</sup> October 2008 the Sex Discrimination Act 1975 (Amendment) Regulations 2008 provide that a women on either ordinary or additional maternity leave will be entitled to receive all benefits of their employment, except pay (unless this is maternity-related remuneration).

Women whose expected week of childbirth is on or after 5<sup>th</sup> October 2008 must receive the same benefits on additional maternity leave as they do during ordinary maternity leave. The benefits most likely to be affected include essential car user allowance, laptops, and mobile phones.

In light of the changes made to the Sex Discrimination Act 1975 (Amendment) Regulations 2008 the following terms and conditions will apply to women whose expected week of childbirth is on or after 5<sup>th</sup> October 2008.

| EWC before 5 <sup>th</sup> October 2008   | EWC on or after 5 <sup>th</sup> October 2008   |
|---|--|
| <p><b>No need to pay or provide in any part of maternity leave (unless your contract states otherwise)</b><br/>           Salary<br/>           Wages<br/>           Attendance allowance<br/>           Overtime pay<br/>           Call-out allowance<br/>           Company car if provided purely for business use</p>  |  |
| <p>If the bonus relates to a period of time before the employee started maternity leave, then you must make the payment in full even if she is on maternity leave when the payment falls due.</p> <p>If the bonus relates to a period of time which includes a period of maternity leave then you must make a payment on a proportionate or pro-rata basis to reflect the proportion of the time when the employee was:<br/>           working<br/>           on compulsory maternity leave (two or four weeks following the birth)<br/>           suspended on pregnancy or maternity grounds.<br/>           It does not matter whether the bonus is contractual or discretionary</p> |  |
| <p><b>Must pay or provide in ordinary maternity leave (first 26 weeks)</b><br/>           Car allowance<br/>           Luncheon and childcare vouchers<br/>           Private use of mobile phone<br/>           Gym membership<br/>           Laptops if not purely for business use</p>   | <p><b>Must pay or provide during full maternity leave</b><br/>           Car allowance<br/>           Luncheon and childcare vouchers<br/>           Private use of mobile phone<br/>           Gym membership<br/>           Laptops if not purely for business use</p> |
| <p><b>Must pay or provide in paid maternity leave period (39 weeks unless you pay extra)</b><br/>           Pension contributions/rights<br/>           Life insurance, private health insurance, medical cover</p>   | <p><b>Must pay or provide during full maternity leave</b><br/>           Pension contributions/rights<br/>           Life insurance, private health insurance, medical cover</p>   |
| <p><b>Must pay or provide at all times during maternity leave</b><br/>           Christmas bonuses and other gratuitous bonuses<br/>           Loyalty bonuses<br/>           Redundancy payment</p>  |  |

# Adoption Flow chart



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> |
| <p>6 weeks 9/10ths of a weeks salary (<b>off set against payments of Statutory Adoption Pay</b>)</p> <p>20 weeks at half pay plus SAP (capped at normal rate of pay)</p> <p>13 weeks SAP</p> <p>Max 13 weeks unpaid leave <b>to the date of the return of the Teacher</b></p> <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> | <p>6 weeks 9/10ths of a weeks salary (<b>off set against SAP</b>)</p> <p>33 weeks SAP (<b>if applicable</b>)</p>  |

Guide to Adoption Pay – SUPPORTSTAFF

|  |   |
|--|---|
| <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> |
| <p>6 weeks 9/10ths of a weeks salary (<b>off set against payments of Statutory Adoption Pay</b>)</p> <p>20 weeks at half pay plus SAP (capped at normal rate of pay)</p> <p>13 weeks SAP</p> <p>Max 13 weeks unpaid leave <b>to the date of the return of the employee</b></p> <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> | <p>6 weeks 9/10ths of a weeks salary (<b>off set against SAP</b>)</p> <p>33 weeks SAP (<b>if applicable</b>)</p>  |

## A Guide to Birth/Paternity Leave and Pay

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

## 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 to their 18<sup>th</sup> birthday (for whom a Disability Living Allowance is being paid)</b> |
| <b>Period of Parental Leave</b>   | A total of 13 weeks for each qualifying child  | A total of 18 weeks for each qualifying child  |
| <b>Maximum Leave per year</b>   | 4 weeks for any individual child. In block or multiples of 1 week  | 4 weeks for any individual child. In blocks or multiples of 1 day.   |
| <b>Notice required to the school</b>  | 21 days notice   | 21 days notice   |

## A Guide to Shared Parental Leave

| <b>Both Teaching and Support Staff are eligible to apply for Shared Parental Leave</b> |  |  |
|--|--|--|
|  | <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><br><br><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

| <b><u>Notification from the Employee</u></b>   | <b><u>Notification from the partner</u></b>   |
|--|---|
| <p>The names of the mother and of the father/spouse/civil partner/partner.</p> <p>The start and end date of any statutory maternity leave taken or to be taken by the mother</p> <p>The total amount of Shared Parental Leave available</p> <p>Child's expected week of birth</p> <p>Date of birth (if the child is not yet born, this information must be provided as soon as reasonably practicable after the birth and , in any event, before the first period of Shared Parental Leave is taken</p> <p>How much Shared Parental Leave each parent intends to take</p> <p>An indication as to when the employee intends to take Shared Parental Leave (including the start and end date for each period of leave)</p> | <p>Their name</p> <p>Mother's name</p> <p>The start and end dates of any: Statutory maternity leave taken or to be taken by the mother</p> <p>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 period)</p> <p>Maternity allowance received or to be received by the mother (where statutory maternity leave was not or is not to be taken in relation to that period)</p> <p>The total amount of Shared Parental Leave available</p> <p>Child's expected week of birth and date of birth</p> <p>How much Shared Parental Leave both parents intend to take</p> <p>An indication as to when the partner intends to take Shared Parental Leave (including the start and end date for each period of leave)</p> |

### A Guide to the Right to Ask to Work Flexibly

The right to request flexible working applies to all staff who have 26 weeks or more continuous service at the date of application. Agency workers do not have a right to request flexible working. Employees must not have made another application to work flexibly under the right during the past 12 months.

All eligible staff can request a wide range of changes to their hours of work. This not only includes job share and part-time working, but also compressed hours or a move to term-time only.

In the event that a request to work flexibly cannot be dealt with informally the attached application form can be completed to make a formal application. Flexible working application form (see page 50 of this document). However if agreement is reached informally then a note of the request, discussion and outcome should be made and placed on file, and any resulting change to contractual terms & conditions of employment should be formally notified in the usual way.

The following details the rights and responsibilities for both the employee and the employer:

### **Employees' rights**

- To apply to work flexibly.
- To have their application considered properly in accordance with the set procedure and refused only where there is a clear business ground for doing so.
- To have a companion when meeting the employer to discuss the application.
- Where an application is refused, to have a written explanation.
- To appeal against an employer's decision to refuse an application.
- To take a complaint to a tribunal in certain circumstances.
- To be protected from detriment or dismissal for making an application under the right.

### **Employees' responsibilities**

- To provide a carefully thought-out application.
- To ensure their application is valid by checking that all the eligibility criteria are met and that they have provided all the necessary information.
- To ensure the application is made well in advance of when they want it to take effect.
- To arrive at meetings on time and to be prepared to discuss their application in an open and constructive manner.
- If necessary, be prepared to be flexible themselves in order to reach an agreement with the employer.

### **Employers' rights**

- To reject an application when the desired working pattern cannot be accommodated within the needs of the business.
- To seek the employee's agreement to extend timescales where it is appropriate.
- To consider an application withdrawn in certain circumstances.

### **Employers' responsibilities**

- To consider requests properly in accordance with the set procedure.
- To ensure they adhere to the time limits contained within the procedure.
- To provide the employee with appropriate support and information during the course of the application.
- To decline a request only where there is a recognised business ground and to explain to the employee in writing why it applies.
- To ensure that any variation of the procedure is agreed in advance with the employee and recorded in writing.
- To ensure that they do not subject an employee to detriment or dismissal for making an application under the right.

### **How should an application be declined?**

There will always be circumstances where, due to the needs of the business, the employer feels they are unable to accept a request. In all such circumstances, the employer must in writing:

state which of the listed business ground(s) apply as to why the request cannot be accepted;

provide an explanation of why the business reasons apply in the circumstances;

set out the appeal procedure;

And ensure the written notice is dated.

### **What is a business ground?**

An application can be refused only where there is a clear business reason. It may potentially be sex discrimination if the employee is unjustifiably refused a change to her working pattern. The business ground(s) for refusing an application must be from one of those listed below.

#### **Business grounds for refusing a request**

Burden of additional costs.  
Detrimental effect on ability to meet customer demand.  
Inability to reorganise work among existing staff.  
Inability to recruit additional staff.  
Detrimental impact on quality.  
Detrimental impact on performance.  
Insufficiency of work during the periods the employee proposes to work.  
Planned structural changes.

### **How should the refusal be explained?**

In addition to providing a specific business ground the employer must include an explanation about why the business ground applies in the circumstances. Experience shows that an employee who understands why a business reason is relevant will accept the outcome and be satisfied that their application has been considered seriously, even if they are disappointed that their application has been refused. It also shows that the reverse is true, particularly if the explanation is not sufficient for understanding.

The explanation should include the key facts about why the business ground applies. These should be accurate and clearly relevant to the business ground. To prevent any uncertainty, the explanation should avoid the use of unfamiliar jargon and should be written in plain English.

An explanation of around two paragraphs will usually be sufficient, although the actual length of explanation necessary to demonstrate why the business ground applies will differ depending on each individual case.

An example might be a Headteacher in a small primary school who receives a request from an employee to not work on Thursdays. The Headteacher rejects the request, because the work cannot be organised amongst the other staff. The explanation might say:

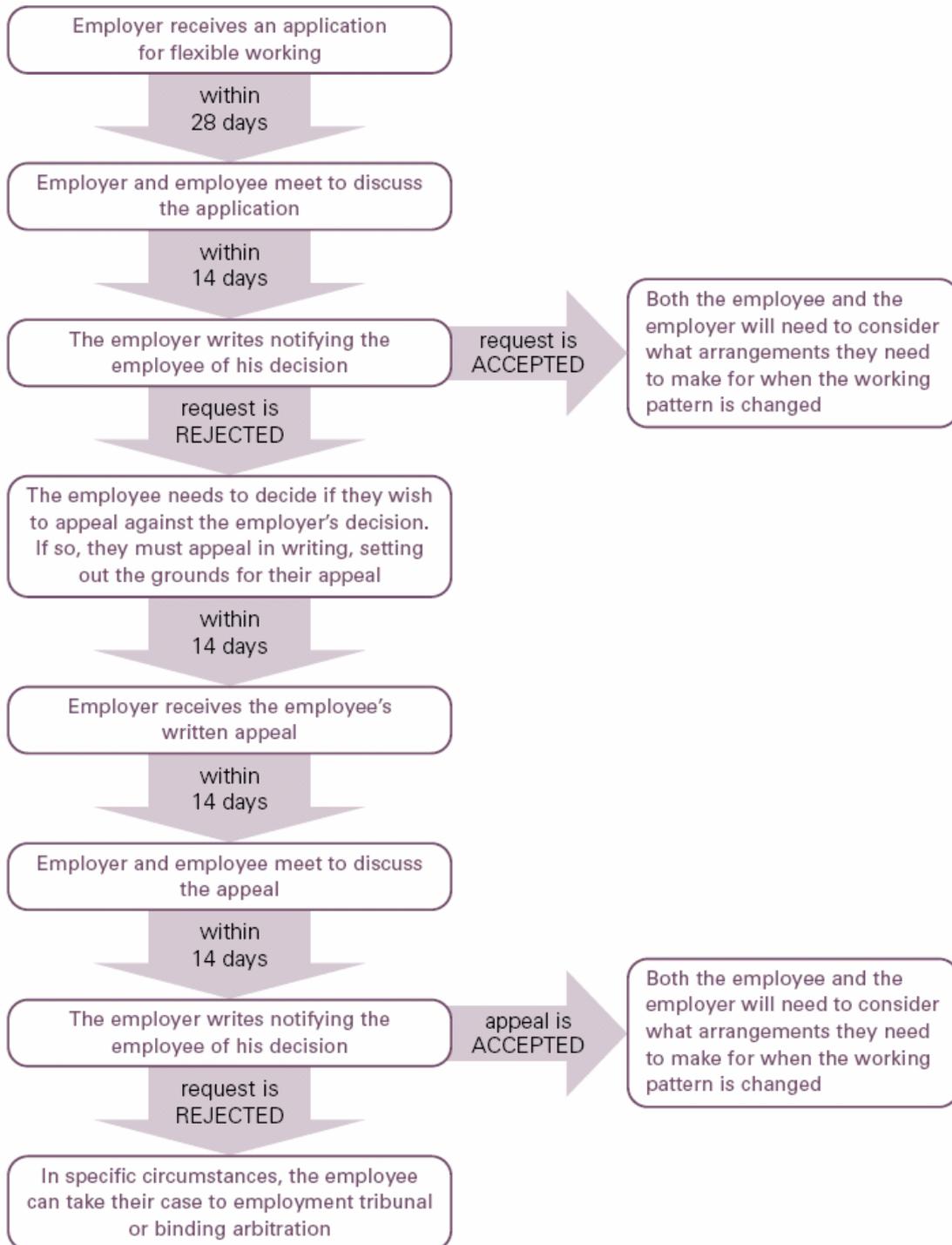
*'I am sorry that I cannot grant your request to change the days that you work, but to allow you to not work on a Thursday would have a detrimental effect on the delivery of education for the school.'*

*It is necessary for the school to maintain a staff to pupil ratio of x. We cannot grant your request to work flexibly as this ratio will be adversely affected having a detrimental impact on the curriculum delivery for the pupils; additionally we will not be able to meet our health and safety obligations.*

*As I indicated when we met to discuss the application, if you decide to change the day you would prefer not to work to one earlier in the week, then I would be happy to reconsider your application'.*

Any facts quoted in the explanation must be accurate. It is not a necessity for the employer to provide the detail in the explanation, but they should ensure that they are able to back up any facts should they subsequently be disputed. A decision based on incorrect facts to reject an application would provide an employee with a basis to make a complaint to an employment tribunal.

## Flexible Working Request Flow Chart



## Flexible Working Application Form

### **Note to the employee**

You can use this form to make an application to work flexibly under the right provided in law.

You should note that under the right it may take up to 14 weeks to consider a request before it can be implemented and possibly longer where difficulties arise. You should therefore ensure that you submit your application to the appropriate person well in advance of the date you wish the request to take effect.

It will help your employer to consider your request if you provide as much information as you can about your desired working pattern. It is important that you complete all the questions as otherwise your application may not be valid. When completing sections 3 & 4, think about what effect your change in working pattern will have both on the work that you do and on your colleagues. Once you have completed the form, you should immediately forward it to your employer (you might want to keep a copy for your own records). Your employer will then have 28 days after the day your application is received in which to arrange a meeting with you to discuss your request. If the request is granted, this will normally be a permanent change to your terms and conditions unless otherwise agreed.

### **Note to the employer**

This is a formal application made under the legal right to apply for flexible working and the duty on employers to consider applications seriously. You have 28 days after the day you received this application in which to either agree to the request or arrange a meeting with your employee to discuss their request.

You should confirm receipt of this application using the attached confirmation slip.

## 1. Personal Details

Name: \_\_\_\_\_ Staff or payroll number: \_\_\_\_\_

Manager: \_\_\_\_\_ National Insurance No: \_\_\_\_\_

### To the employer

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided under section 80F of the Employment Rights Act 1996. I confirm I meet each of the eligibility criteria as follows:

I have worked continuously as an employee of the company for the last 26 weeks.

I have not made a request to work flexibly under this right during the past 12 months.

Date of any previous request to work flexibly under this right: \_\_\_\_\_

If you do not meet these criteria then you do not qualify to make a request to work flexibly under the statutory procedure. This does not mean that your request may not be considered, but you will have to explore this separately with your employer. Many employers offer flexible working to their staff as best practice.

**2a. Describe your current working pattern (days/hours/times worked):**

**2b. Describe the working pattern you would like to work in future (days/hours/times worked):**

**2c. I would like this working pattern to commence from:**

Date: \_\_\_\_\_

**3. Impact of the new working pattern**

I think this change in my working pattern will affect my employer and colleagues as follows:

**4. Accommodating the new working pattern**

I think the effect on my employer and colleagues can be dealt with as follows:

Name: \_\_\_\_\_ Date: \_\_\_\_\_

**NOW PASS THIS APPLICATION TO YOUR EMPLOYER**

**Employer's Confirmation of Receipt** (to be completed and returned to employee)

Dear:

I confirm that I received your request to change your work pattern on:

Date:

I shall be arranging a meeting to discuss your application within 28 days following this date. In the meantime, you might want to consider whether you would like a colleague to accompany you to the meeting.

From:

Flexible Working Application Rejection Form

**Note to the employer**

You must write to your employee within 14 days following the meeting with your decision. This form can be completed by you when declining an application. Before completing this form you must ensure that full consideration has been given to the application. You must state the business ground(s) as to why you are unable to agree to a new working pattern and the reasons why the ground(s) applies in the circumstances. The list of the permissible business grounds under which a request may be refused are detailed in the **Considering a request – reaching a decision** section of the guidance on the right to request flexible working (available on BERR's website [www.berr.gov.uk/employment/workandfamilies/flexible-working/index.html](http://www.berr.gov.uk/employment/workandfamilies/flexible-working/index.html)).

Dear:

Staff Number:

Following receipt of your application and our meeting on: (date)  
I have considered your request for a new flexible working pattern.

I am sorry but I am unable to accommodate your request for the following business ground(s):

The grounds apply in the circumstances because:

(You should explain why any other work patterns you may have discussed at the meeting are also inappropriate. Please continue on a blank sheet if necessary).

If you are unhappy with the decision you may appeal against it. Details of the appeal procedure are set out below.

Name:

Date:

## **The Appeal Process**

### **To the employee**

If your employer turns down your request for flexible working, you have the right to appeal against the decision. If you wish to appeal, you must write to your employer, setting out the grounds for your appeal, within 14 days after receiving written notice of his decision.

### **To the employer**

If you reject your employee's request for flexible working, your employee has the right to appeal against your decision.

If your employee appeals against your decision to refuse a request for flexible working, you must arrange a meeting with your employee to discuss the appeal within 14 days after receiving the appeal letter.

After the meeting has been held, you must write to your employee within 14 days to notify him of the outcome of the appeal.

## **NOW RETURN THIS FORM TO YOUR EMPLOYEE**

### ***Flexible Working Appeal Form***

#### **Note to the employee**

If your application has been refused, you may appeal against your employer's decision. You can use this form to make your appeal. You should set out the grounds on which you are appealing, and do so within 14 days of receiving written notice that your application for flexible working has been turned down.

#### **Note to the employer**

This is a formal appeal made under the legal right to apply for flexible working. You have 14 days following your receipt of this form in which to arrange a meeting with your employee to discuss their appeal.

Dear:

I wish to appeal against your decision to refuse my application for flexible working. I am appealing on the following grounds:

(Please continue on a blank sheet if necessary).

Name:

Date:

## **NOW RETURN THIS FORM TO YOUR EMPLOYER.**