



## Trinity Multi Academy Trust

<b>Policy:</b>	Family leave <ul style="list-style-type: none"><li>• Maternity</li><li>• Paternity</li><li>• Adoption Leave</li><li>• Parental Leave</li></ul>
<b>Date of review:</b>	April 2017
<b>Date of next review:</b>	April 2020
<b>Lead professional:</b>	HR Manager
<b>Status:</b>	Non-Statutory

## **1. Purpose of policy and guiding principles**

- 1.1. The purpose of this document is to provide the trust with a policy, and procedures, that Directors have adopted to promote a clear and consistent approach for managing maternity, paternity, adoption and other family leave provisions.
- 1.2. The purpose of this policy is:
  - to comply with statutory entitlements to leave
  - to ensure that all employees are aware of their rights with regard to leave, their pay and their employment
  - to clarify the conditions under which leave may be requested and agreed
  - to make employees aware of that obligations to their employer
  - to establish a system which is fair to all employees.
- 1.3. There may be occasions when a situation arises that is not identified in this policy. In these circumstances the decision to agree the leave is within the discretion of the Principal or CEO.
- 1.4. This policy recognises the statutory entitlements to family leave and the entitlements outlined in terms and conditions of employment.
- 1.5. The policy also recognises best practice in seeking to maintain good working relationships between staff and management and the operational needs of an academy or the trust. Wherever possible the trust has gone beyond its statutory requirements and has provided provision for time off, in certain circumstances.
- 1.6. This policy applies to all staff employed by the trust.
- 1.7. Where employees are required to give notice, or inform the employer, this term refers to the Principal of the employing academy, or the CEO in the case of trust staff. This will then be forwarded to the trust HR team.

## **2. Links with other policies or legislation**

- 2.1. This policy links with terms and conditions of employment for all staff.
- 2.2. Trinity Multi Academy Trust will treat all employees equally and consistently when dealing with requests for leave of absence, in accordance with the academy's Equality Policy.
- 2.3. This policy should be read in conjunction with other absence and leave request policies.

## **3. Consultation**

- 3.1. This policy has been developed in consultation with recognised Trade Unions.
- 3.2. The policy was approved after consultation and agreement with the recognised Trade Unions.

## **4. Procedure**

- 4.1. All requests will be based on individual circumstances and the trust will be mindful of consistency, fairness and statutory provisions.
- 4.2. Employees will appreciate that any abuse of these provisions may lead to disciplinary action being taken.
- 4.3. Please refer to the Leave of Absence policy for information on how to apply for time off for urgent personal, or family business and time off for dependants.
- 4.4. Maternity leave provisions are outlined in **Appendix 1**.
- 4.5. Maternity leave benefits are outlined in **Appendix 2**.
- 4.6. Paternity leave provisions are outlined in **Appendix 3**.
- 4.7. Adoption leave provisions are outlined in **Appendix 4**.
- 4.8. Additional Paternity leave provisions are outlined in **Appendix 5**.
- 4.9. Parental leave provisions are outlined in **Appendix 6**.

4.10. Maternity benefits in relation to annual leave are outlined in **Appendix 7**.

## **5. Roles and responsibilities**

5.1. The role of the CEO/Principal;

- The role of CEO is to ensure that this policy is applied fairly and consistently across the trust
- The CEO will ensure that this policy is available to the Board of Directors to review periodically and approve, and to Local Governing Bodies to monitor in its application
- The role of Principal is to ensure that this policy is applied fairly and consistently across their academy.

5.2. The role of the Directors/Governors

- The Directors/Governors will monitor, evaluate and review policies in line with statutory and best practice guidelines.

5.3. The role of the employee/other staff

- The HR team will acknowledge any requests, and confirm in writing details of dates and salary implications
- The HR team will monitor leave requests and record leave of absence and annual leave requests
- Employees are responsible for notifying their employer (either their line manager or the HR team), or requesting leave, within the timeframes outlined in this policy
- The role of Line Managers is to make themselves familiar with this policy and the provisions within it
- The Site Manager, or another appropriate person, is responsible for Health and Safety requirements, within this policy.

## **6. Monitoring and Evaluation**

6.1. Leave will be recorded and monitored to ensure compliance to the policy and to ensure that the policy is not abused.

6.2. Any concerns will be brought to the employee's Principal or CEO in the first instance.

6.3. Any reviews will be consulted on and this policy is subject to reviews that reflect changes in statutory provisions.

## Appendix 1

This appendix details Maternity Leave provisions

### 1. Introduction

- 1.1 The purpose of maternity leave is to allow employees to give birth and to recover from giving birth to their baby, as well as to bond with and care for their new child.
- 1.2 All pregnant employees are entitled to **52 weeks'** maternity leave, or as much of that period as they wish to take, regardless of their length of service.
- 1.3 It is up to each employee to decide how much maternity leave she would like to take, up to the 52 weeks maximum, however, the law requires that a minimum of two weeks' leave must be taken, this is known as Compulsory Maternity Leave.
- 1.4 Maternity leave is a single continuous period, made up of 26 weeks' Ordinary Maternity Leave (OML) and 26 weeks' Additional Maternity Leave (AML). Additional Maternity Leave follows Ordinary Maternity Leave and there must be no gap between the two.
- 1.5 Maternity leave payments and allowances are shown in Appendix 2.
- 1.6 There is the option of both parents or adoptees being able to choose parental leave options in the first year of the child's birth or adoption. Please refer to Appendix 5 for information on this provision.

### 2. Ordinary and additional maternity leave

- 2.1 Ordinary Maternity Leave (OML) lasts for 26 weeks and may begin no earlier than **11** weeks before the expected week of childbirth (EWC) with the latest start date being the date of birth.
- 2.2 If an employee is absent from work due to a pregnancy-related reason after the beginning of the fourth week before the expected week of childbirth, but before the date that she has notified that her maternity leave will commence, the maternity leave period begins automatically on the day after the first day of absence.
- 2.3 An employee's contract of employment continues throughout the 26 weeks of OML. During this time, the employee will continue to benefit from the terms and conditions of employment which would have applied had the employee been at work. The only element of the employee's contractual rights that changes is the salary.
- 2.4 Additional Maternity Leave (AML) lasts for 26 weeks and, if taken, must follow immediately after OML.
- 2.5 An employee's contract of employment continues throughout AML unless either party expressly ends it or it expires.

### 3. Notifying the employer of your pregnancy

- 3.1 The employee must inform her employer, in writing of her pregnancy as soon as possible, and no later than the end of the 15<sup>th</sup> week before the expected week of childbirth (EWC).
- 3.2 Early notification of pregnancy is appreciated, to enable planning of resources during her maternity leave. In addition, the employer has a duty of care to all employees, and early notice will enable a risk assessment to take place and the line manager will be aware that time off is allowed for antenatal care.
- 3.3 The letter should advise of the birth date, the date she intends to commence maternity leave and if she intends to return to work. She does not need to advise her return to work date, or intention to request a change of hours, however, it is appreciated if employees can try and provide as much information as possible.
- 3.4 An employee will be able to change her mind about when she wants to start her maternity leave provided she gives at least 28 days' notice. If it not possible to give 28 days' notice, for example, due to early childbirth or pregnancy-related illness, then notification should be given as soon as reasonably practicable.

- 3.5 As soon as possible she should provide the original MATB1 form to HR.
- 3.6 The employer will acknowledge her maternity leave, in writing, within 28 days of receiving her notification, confirming maternity pay and allowances.
- 3.7 Once the baby is born, she should advise the employer of the birth date.

#### **4. Antenatal appointments**

- 4.1 All pregnant employees are entitled to time off, with pay, to keep appointments for antenatal care made on the advice of a registered medical practitioner, registered midwife or registered health visitor. No qualifying service is required.
- 4.2 Fathers and partners of pregnant women are also legally entitled to two occasions of unpaid leave for antenatal appointments. The time off for an appointment is capped at six and a half hours. The trust will allow these occasions to be time off, with pay.
- 4.3 Antenatal care is not restricted to medical examinations. It could, for example, include relaxation classes and parent craft classes as long as these are advised by a registered medical practitioner, registered midwife or registered health visitor.
- 4.4 Except for the first appointment, the employer may request to see evidence of antenatal appointments, or advice on appointments outlined in 4.2. An employee must show either an appointment card or certificate confirming pregnancy; this can be provided by a registered medical practitioner, a registered midwife or a registered health visitor.

#### **5. Sickness absence and maternity leave**

- 5.1 If in the early months of pregnancy, an employee is advised by an approved medical practitioner to remain away from their place of work due to risk of rubella, she will be granted leave with full pay, provided that she does not unreasonably refuse to work in an alternative location, or undertake alternative suitable work, where there is not such undue risk.
- 5.2 If, due to illness, an employee is unable to return to work following her maternity leave, normal sickness absence procedures apply from the date she intended to resume duty. Paid sickness absence immediately following maternity leave terminates the maternity arrangements. Once the period of certificated sick absence has ended, the employee must return to work.

#### **6. Pay and allowances**

- 6.1 See the table in **Appendix 2** for maternity pay and allowances. Please note that teachers and support staff have different entitlements, as they have different terms and conditions of employment.
- 6.2 For teachers, in order to receive maternity pay under the Burgundy Book scheme, she must also declare in writing that it is her intention to return to work after the period of maternity leave. She may change her mind later about returning to work, although this may mean that she is required to repay part of her maternity pay.
- 6.3 Teaching staff must return to work after the birth for a period of at least 13 weeks. The working pattern for the 13 weeks must be equivalent to her working pattern prior to maternity leave. i.e. if she returned to a part-time role (when previously worked full time) she needs to complete the equivalent of 13 weeks full time. Academy holidays can be included.
- 6.4 For support staff, in order to receive maternity pay under the Green book scheme, she must also declare in writing that it is her intention to return to work after the period of maternity leave. She may change her mind later about returning to work, although this may mean that she is required to repay part of her maternity pay.
- 6.5 Support staff must return to work after the birth for a period of at least three months. The working pattern for the three months must be equivalent to her working pattern prior to maternity leave. i.e. if she returns to a part-time role (when she previously worked full time) she needs to complete the equivalent of three months full time. Academy holidays can be included.

6.6 In both cases the employer is entitled to reclaim part of the maternity pay that was paid. Only monies over and above SMP are subject to being reclaimed. Specific terms of what can be reclaimed are outlined in the respective terms and conditions of employment.

## **7. During maternity leave/Keep in Touch days**

7.1 All terms and conditions of employment, and related benefits, except for those relating to pay will apply during maternity leave.

7.2 Any information relating to restructures or potential redundancies will be sent by post to an employee on maternity leave. For all other information, such as circulars, vacancies, changes in the academy day and internal policies would usually be circulated electronically, using the employee's trust email address. Information will only be distributed in hard copy in exceptional circumstances. Additionally, access to the VLE/Staff handbook (or other staff communication systems) will be available during maternity leave. However, the employee has the right to request how they receive information, and this will be confirmed when the maternity leave is acknowledged.

7.3 Employees are encouraged to carry out up to 10 days work – known as Keeping in Touch (KIT) days. These days do not end maternity leave and do not result in losing maternity pay.

7.4 These days are paid and are for the purpose of catching up with the employer, attending INSET days, CPD events or working.

7.5 The days can be taken at a mutually agreed time during maternity leave, with the exception of the first two weeks after the baby's birth.

7.6 Any work on any day will count as a whole KIT day. Employees will be paid full pay for the hours, in half day blocks, unless agreed otherwise with the HR Director. In other words, if an employee comes in for a one-hour training session and carry out no other work that day; the employee will have used one of the Keeping in Touch days and be paid for half a day, based on their current level of pay.

## **8. Returning to work**

8.1 It is assumed that employees will take the full 52 weeks' maternity leave.

8.2 If an employee wishes to return to work prior to their maximum entitlement they need to give notice, in writing.

8.3 The notice should be given to the employer at least 21 days before the proposed return date.

8.4 If this notice period is not given then the employer has the right to postpone her return for up to 21 days or the end of her maximum maternity leave, whichever is earlier.

8.5 After maternity leave the employee has the right to return to the same job they were contracted for, prior to maternity leave. The 'same job' means the same hours, job description and pay conditions.

8.6 The exception to this is if the employee is unable to return to her job, because it is not practical due to redundancy.

## **9. Redundancy during maternity leave**

9.1 If, whilst an employee is on maternity leave, the workplace is involved in any reorganisation, the employee will be informed and given the opportunity to become involved in the process.

9.2 In cases of redundancy, where an employee on maternity leave cannot return to her former job, she is entitled to be offered (before that contract ends) a suitable alternative vacancy, where one is available.

9.3 Women taking maternity leave have a special right to be offered a suitable alternative post. Where a group of employees are facing redundancy, a woman taking maternity leave will be offered any suitable vacancy in priority to other employees.

- 9.4 If an employee is offered a suitable alternative vacancy, a four week trial period will apply, in which she may decide whether the employment is suitable. This period may be extended beyond four weeks by written agreement.
- 9.5 Where, due to redundancy, a woman cannot return to work, paragraphs 6.3 or 6.5 will not apply and there is no requirement to repay contractual maternity pay.

## **10. Pension benefits and Annual Leave**

10.1 The contract of employment continues during maternity leave. The employee will continue to receive contractual benefits throughout the first 26 weeks of maternity leave (OML), please see below.

10.2 For teachers:

- 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 HR for further information.
- Annual Leave - Under the Working Time (Amendment) Regulations 2007 from 1 October 2007 Teachers 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/academy closure arrangements.

10.3 For Support staff:

- 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 HR.
- Annual Leave – All Year Round support staff will continue to accrue annual leave during the whole of their maternity leave. Time off in lieu will accrue in respect of Bank Holidays during the whole of the maternity leave. Any time taken as maternity leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Periods of maternity leave will also count towards length of continuous service. Employees should discuss their annual leave entitlement fully with their 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 carryover 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.
- Annual Leave – Term Time Only Support Staff who work term time only have, under the Working Time (Amendment) Regulations 2007 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/academy closure arrangements.

10.4 **Appendix 7** provides a guide to accruing annual leave.

10.5 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. i.e. UPS progression for teaching staff; a teacher who has passed through the threshold will not be disadvantaged in making progress within the Upper Pay Spine whilst on maternity leave.

10.6 Childcare vouchers. If the employee is a member of the childcare voucher scheme then she has a choice whether to continue to contribute to the scheme without her pay falling below SMP. Alternatively, she is able to temporarily leave the scheme during the period of her maternity leave, re-joining on her return to work.

## **11. Health and Safety**

- 11.1 As soon as the employer has received notification in writing of her pregnancy, a risk assessment will be arranged at a mutually convenient time.
- 11.2 The risk assessment will review the specific risks with pregnancy and note appropriate steps and actions to reduce them. The assessment will be reviewed, during the pregnancy.
- 11.3 If a particular risk cannot be eliminated, then suitable alternative work will be discussed with the employee.
- 11.4 Although pregnant or breastfeeding mothers are unlikely to be exposed as a result of their work to particularly hazardous substances such as lead, there are many other hazards which need to be considered by an employer. The employer will seek guidance from the Health and Safety Executive for these risk assessments.
- 11.5 Where possible, risk assessments will be completed by an appropriate female member of staff.
- 11.6 The employer reserves the right to request an expectant mother to be referred to the Occupational Health service for further, specific advice on ensuring that reasonable steps have been taken to minimise any risks to mother and baby.



## Appendix 2 - Maternity Leave allowances and pay

Criteria TEACHERS	OML	AML
Teachers with at least 26 weeks' continuous employment with the trust as at the 15 <sup>th</sup> week before EWC <b>and</b> at least 1 year's continuous employment with one or more local authorities as at the 11 <sup>th</sup> week before EWC.	<ul style="list-style-type: none"> <li>• first 4 weeks of absence: full pay inclusive of Statutory Maternity Pay (SMP);</li> <li>• next 2 weeks: 90 per cent of a week's salary inclusive of SMP;</li> <li>• next 12 weeks: half pay plus SMP (not exceeding full pay);</li> <li>• next 8 weeks: SMP</li> </ul>	<ul style="list-style-type: none"> <li>• AML of up to a further 26 weeks, 13 of which will be paid at SMP rate, with the remaining 13 weeks unpaid.</li> </ul>
Teachers with less than 26 weeks' continuous employment with the trust as at the 15 <sup>th</sup> week before EWC <b>but with</b> at least 1 year's continuous employment with one or more local authorities as at the 11 <sup>th</sup> week before EWC.	<ul style="list-style-type: none"> <li>• first 4 weeks of absence: full pay inclusive of Maternity Allowance (MA), if eligible;</li> <li>• next 2 weeks: 90 per cent of a week's salary inclusive of (MA), if eligible;</li> <li>• next 12 weeks: half pay plus (MA), if eligible (not exceeding full pay);</li> <li>• next 8 weeks: MA if eligible, otherwise unpaid.</li> </ul>	<ul style="list-style-type: none"> <li>• AML of up to a further 26 weeks, 13 of which will be paid to teachers who qualify for MA, with the remaining 13 weeks unpaid.</li> </ul>
Teachers with at least 26 weeks' continuous employment with the trust as at the 15 <sup>th</sup> week before EWC but less than 1 year's continuous employment with one or more local authorities as at the 11 <sup>th</sup> week before EWC.*	<ul style="list-style-type: none"> <li>• first 6 weeks of absence: SMP equal to 90% of a week's salary;</li> <li>• next 20 weeks: SMP</li> </ul>	<ul style="list-style-type: none"> <li>• AML of up to 26 weeks, 13 weeks of which will be paid at the SMP, with the remaining 13 weeks unpaid.</li> </ul>
Teachers with less than 26 weeks' continuous employment with the trust as at the 15 <sup>th</sup> week EWC and less than 1 year's continuous employment with one or more local authorities as at the 11 <sup>th</sup> week before EWC.	<ul style="list-style-type: none"> <li>• 26 weeks' maternity leave for which no SMP will be payable but for which MA will be payable if eligible depending on their NI contributions.</li> </ul>	<ul style="list-style-type: none"> <li>• 26 weeks' statutory additional maternity leave, 13 weeks of which will be paid if eligible at the MA rate, with the rest in unpaid.</li> </ul>

\* Teachers who fall into this category can therefore remain absent for a total period of up to 12 months and will receive SMP for 39 weeks. They will also be entitled to take statutory unpaid parental leave at the end of this period, since they will satisfy the requirement for 1 year's continuous employment with the current employer.

SMP – To qualify for Statutory Maternity Pay you need to have at least 26 weeks continuous service with the trust as at the 15<sup>th</sup> week before EWC. You may be able to claim Maternity Allowance (MA) from Jobcentre Plus if you do not qualify for SMP.

Criteria SUPPORT STAFF	Maternity Leave pay
<p>Staff with at least 26 weeks' continuous employment with the trust and at least 1 year's continuous employment with one or more local authorities at the beginning of the 11th week before the EWC:</p>	<ul style="list-style-type: none"> <li>• first 6 weeks of absence: nine-tenths of a week's pay offset against payments made by way of SMP</li> <li>• an employee who declares, in writing, that she intends to return to work will for the subsequent 12 weeks' <u>absence</u> receive half a week's pay <u>plus SMP, where eligible</u>, without deduction except by the extent to which the combined pay and SMP (or MA and any dependant's allowances if the employee is not eligible for SMP) exceeds full pay. Alternatively the equivalent amount (i.e. 6 weeks' pay) may be paid on any other mutually agreed distribution.</li> <li>• for the remainder of the maternity leave period the employee will receive their entitlement to SMP (currently 39 weeks in total), where eligible.</li> <li>• followed by 13 weeks unpaid.</li> <li>• for employees not intending to return to work, payments during the subsequent 20 weeks shall be the employee's entitlement to SMP their maternity leave period following the first 6 weeks will be their entitlement to SMP (currently 39 weeks in total), where eligible.</li> <li>• payments made by the employer during maternity leave described above shall be made on the understanding that the employee will return to her employment for a period of at least three months, which may be varied by the employer on good cause being shown and, in the event of her not doing so, she shall refund the monies paid, or such part thereof, if any, as the employer may decide. Payments made to the employee by way of SMP are not refundable.</li> </ul>
<p>Staff with less than 26 weeks' continuous employment with the trust but with at least 1 year's continuous employment with one or more local authorities at the beginning of the 11th week before the EWC:</p>	<ul style="list-style-type: none"> <li>• first 6 weeks of absence: nine-tenths of a week's pay offset against payments made by way of Maternity Allowance (MA) for employees not eligible for SMP.</li> <li>• an employee who declares, in writing, that she intends to return to work will for the subsequent 12 weeks' <u>absence</u> receive half a week's pay <u>plus MA, where eligible</u>, without deduction except by the extent to which the combined pay and MA and any dependant's allowances if the employee is not eligible for SMP exceeds full pay. Alternatively the equivalent amount (i.e. 6 weeks' pay) may be paid on any other mutually agreed distribution.</li> <li>• for the remainder of the maternity leave period the employee will receive their entitlement to MA (currently 39 weeks in total), where eligible, followed by 13 weeks unpaid.</li> </ul>
<p>Staff with less than 1 year's continuous employment with one or more local authorities at the beginning of the 11th week before the EWC:</p>	<ul style="list-style-type: none"> <li>• 26 weeks SMP (where eligible) alternatively MA will be payable if eligible depending on their NI contributions.</li> </ul>

## Appendix 3

This appendix details Paternity Leave provisions.

### 1. Introduction

- 1.1. The purpose of paternity leave is to allow employees who have responsibility for a child, to time off to spend with, and care for, the child, or to support the mother.
- 1.2. Paternity leave is not restricted to the biological father. Any employee who has parental responsibility for bringing up the child is eligible. This may be the biological father, or partner of the mother. This right extends to same sex couples.
- 1.3. Ordinary Paternity Leave (OPL) is for a maximum of two weeks.

### 2. Length and eligibility for Paternity Leave

- 2.1. To be eligible for statutory paternity leave the employee must have 26 weeks' continuous service as at the 15<sup>th</sup> week before the expected week of confinement (EWC).
- 2.2. Paternity leave must be taken within 56 days of the birth date of the child.
- 2.3. Ordinary Paternity Leave is a maximum of two weeks, these must be taken consecutively.

### 3. Notifying the employer

- 3.1. The employee should notify the employer, in writing, of their intention to take paternity leave. They should advise the employer of the expected birth date, the length of leave requested and the expected date that leave will start.
- 3.2. The employee should give 28 days' notice of a change in date to commencing paternity leave, however, it is recognised that the date provided is likely to be the estimated birth date, and the employer will be as flexible as possible with the start date of paternity leave.
- 3.3. The employer can request from the employee confirmation of the EWC, or if the birth has occurred, the date of the child's birth. The employer reserves the right to request proof of the above.
- 3.4. Only one period of paternity leave is provided per pregnancy. Therefore if the employee's partner gives birth to twins, the entitlement remains a maximum of two weeks OPL.
- 3.5. The employer will acknowledge requests for paternity leave within 28 days notice of receiving written notification.

### 4. Ordinary Paternity Leave pay

- 4.1. OPL will be paid at SMP rates, depending on eligibility.

### 5. Returning to work

- 5.1. After OPL leave, the employee has the right to return to the same job they were contracted for, prior to leave. The 'same job' means the same hours, job description and pay conditions.
- 5.2. The exception to this is if the employee is unable to return to their job, because it is not practical due to redundancy. This is unlikely due to the maximum length of ordinary paternity leave available.

## Appendix 4

This appendix details Adoption Leave provisions.

### 1. Introduction

- 1.1. The purpose of adoption leave is to allow employees time off to spend time with, and support, their adopted children.
- 1.2. Adoptive parents have the same rights to parental leave as other parents and there is now a legal right for parents of either sex, to take time off around the time of adoption. Statutory adoption leave is paid at the same rate and same period as Statutory Maternity Pay (SMP).
- 1.3. There is the option of both parents or adoptees being able to choose parental leave options in the first year of the child's birth or adoption. Please refer to Appendix 5 for information on this provision.

### 2. Eligibility for Statutory Adoption Leave

- 2.1. The maximum period an employee is entitled to statutory adoption leave is 52 weeks. This is Ordinary Adoption Leave (OAL) for 26 weeks and Additional Adoption Leave (AAL) for a further 26 weeks. The leave must be continuous; there cannot be a gap between the two types of adoption leave.
- 2.2. Statutory Adoption Pay (SAP) is paid to the adopter for 39 weeks. Only one of the adoptive parents can take time off and receive SAP. In total the adopter can receive 39 weeks paid leave and 13 weeks unpaid leave.
- 2.3. The other adoptive parent is entitled to Ordinary Paternity Leave – see Appendix 3.
- 2.4. The chosen parent for adoption leave must have been continuously employed by the academy for at least 26 weeks ending with the week in which they receive formal notification (by an approved adoption agency), that they have been matched with a child.
- 2.5. Regardless of the number of children placed at one time, there is only an entitlement to one period of adoption leave.

### 3. Notifying the employer of the adoption

- 3.1. You must inform the employer, in writing of when they wish for their adoption leave to start, no later than 7 days after notification of placement has been received.
- 3.2. The employee should provide HR with a copy of the letter that advises of the date the leave might start along with the matching certificate from the adoption agency to support their entitlement to leave.
- 3.3. Employees can choose to start their adoption leave from the date of the child's placement, or from a fixed date which can be up to 14 days before the expected date of placement.
- 3.4. Employees are entitled to change the start date of adoption leave by giving 28 days' notice.
- 3.5. Within 28 days of receiving written notification the academy will acknowledge your request for adoption leave.
- 3.6. Once the placement has begun, you must advise the employer of the start date.

### 4. Pay and allowances

- 4.1. Teachers and support staff have different entitlements.
- 4.2. Teachers – teachers who have completed 26 weeks' continuous service as at the week they have been notified of a match receive:
  - first six weeks – 9/10<sup>ths</sup> of a weeks' pay (inclusive of SAP)
  - next 12 weeks – half pay plus SAP (capped at normal rate)
  - 21 weeks SAP
  - 13 weeks unpaid.
- 4.3. Teachers – teachers who have not completed 26 weeks' continuous service as at the week they have been notified of a match receive:
  - first six weeks – 9/10<sup>ths</sup> of a weeks' pay (inclusive of SAP)
  - next 33 weeks – SAP
  - 13 weeks Additional Adoption Leave will be unpaid.

- 4.4. Support staff – Support staff with less than 1 years continuous service, but more than 26 weeks continuous with the trust will be:
  - first six weeks – 9/10<sup>th</sup>s of a weeks' pay
  - followed by 33 weeks at SAP
- 4.5. Support staff – Support staff with at least 1 years continuous service will be:
  - first six weeks – 9/10<sup>th</sup>s of a weeks' pay, offset against payments made by way of SAP
  - weeks 7 -18 – half pay without deduction except to the extent that the half-pay plus SAP exceeds full pay. In the event of the employee not returning to their employment for at least three months the employee will be required to refund the 12 weeks half pay. If an employee is uncertain about their future intentions, it is permissible to delay a decision on receiving the twelve (12) weeks half pay leave of absence. In these circumstances payment of the additional half pay should be withheld and paid at a time that the employee feels ready to make an informed decision about returning to work;
  - weeks 19 – 39; for the remaining period the employee will receive their SAP entitlement. SAP is the same as rate as Statutory Maternity Pay.
  - 13 weeks Additional Adoption Leave will be unpaid.
- 4.6. An employee is entitled to a maximum of 3 days paid leave prior to placement for assessment purposes to be taken in multiples of half days. An employee is also entitled to a maximum of 7 days paid leave around the time of placement to make any pre-adoption arrangements necessary.
- 4.7. Employees with less than 26 weeks service will be entitled to take up to 6 weeks unpaid leave from the date of adoption of a child.

## **5. During adoption leave/Keep in Touch days**

- 5.1. All terms and conditions of employment, and related benefits, except for those relating to pay will apply during adoption leave.
- 5.2. Any information relating to restructures or potential redundancies will be sent by post to an employee on maternity leave. For all other information, such as circulars, vacancies, changes in the academy day and internal policies would usually be circulated electronically, using the employee's trust email address. Information will only be distributed in hard copy in exceptional circumstances. Additionally, access to the VLE/Staff handbook (or other staff communication systems) will be available during maternity leave. However, the employee has the right to request how they receive information, and this will be confirmed when the maternity leave is acknowledged.
- 5.3. Employees are encouraged to carry out up to 10 days work – known as Keeping in Touch (KIT) days. These days do not end adoption leave and do not result in losing adoption pay.
- 5.4. These days are paid and are for the purpose of catching up with the academy, attending INSET days, CPD events or working.
- 5.5. The days can be taken at a mutually agreed time during adoption leave.
- 5.6. Any work on any day will count as a whole KIT day. Employees will be paid full pay for the hours, in half day blocks, unless agreed otherwise with the HR Director. In other words, if an employee comes in for a one-hour training session and carry out no other work that day; the employee will have used one of the Keeping in Touch days and be paid for half a day, based on their current level of pay.

## **6. Returning to work (Adoption)**

- 6.1. It is assumed that employees will take the full 52 weeks' adoption leave.
- 6.2. If an employee wishes to return to work prior to their maximum entitlement they need to give notice, in writing.
- 6.3. The notice should be given to the employer at least 8 weeks before the proposed return date.
- 6.4. If this notice period is not given then the employer has the right to postpone the employees return for up to 8 weeks or the end of the maximum adoption leave, whichever is earlier.
- 6.5. If the child's placement ends during the adoption leave period, the employee will not be entitled to the full adoption leave. In this situation adoption leave will end 8 weeks after the end of the week in which the placement ended. There is no extension of adoption leave if disruption

occurs within less than 8 weeks leave remaining. The employee must advise the employer if this situation occurs.

- 6.6. The employment contract continues during adoption leave. During ordinary adoption leave your normal terms and conditions apply, except those relating to normal salary. During additional adoption leave your terms and conditions apply.
- 6.7. After adoption leave the employee has the right to return to the same job they were contracted for, prior to leave. The 'same job' means the same hours, job description and pay conditions.
- 6.8. The exception to this is if the employee is unable to return to their job, because it is not practical, due to redundancy.
- 6.9. If a redundancy situation has arisen, you are entitled to be offered a suitable alternative position on terms which are not less favourable.

## **7. Redundancy during adoption leave**

- 7.1. If, whilst an employee is on adoption leave, the work place is involved in any reorganisation, the employee will be informed and given the opportunity to become involved in the process.
- 7.2. In cases of redundancy, where an employee on adoption leave cannot return to their former job, they are entitled to be offered (before that contract ends) a suitable alternative vacancy, where one is available. This is provided that the work to be done in that post is suitable to the employee and appropriate to the circumstances, and that the capacity and place in which the employee is to be employed and terms and conditions of employment are not substantially less favourable than the employee's original job.
- 7.3. Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (e.g. a general re-organisation) which would have occurred whether or not the employee had not been in post, necessitate a change in the job in which the employee was employed prior to their absence. The work to be done should be suitable to the employee and appropriate to the circumstances and the capacity and place in which they are to be employed, and the employee's terms and conditions of employment should not be less favourable than if they had been able to return to the job in which they were originally employed.
- 7.4. If an employee is offered a suitable alternative vacancy, a four week trial period will apply, in which they may decide whether the employment is suitable. This period may be extended beyond four weeks by written agreement.

## Appendix 5

### 1. Introduction

- 1.1. Shared Parental Leave provisions are to allow eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed.
- 1.2. The purpose of this is to allow the mother or adopter to share some of the leave with her/his partner.

### 2. Length and eligibility for Shared Parental Leave

- 2.1. To be eligible for SPL the employee needs to meet any of the following conditions:
  - they are the father of the child
  - their wife, partner or civil partner has given birth to the child
  - they, or their partner has received notification that they are matched with a child for adoption; or
  - their spouse or civil partner is adopting a child from overseas and the child has entered Great Britain.
- 2.2. To qualify for leave the employee must have at least 26 weeks continuous service by the qualifying week, which is either:
  - the end of the 15<sup>th</sup> week before the start of the week when the baby is due.
  - at the week you are notified you are matched with your child (adopting within the UK); or
  - the date your child enters Great Britain for the purposes of adoption (adopting from overseas).
- 2.3. The employee must also still be employed by the trust the week before they wish to start SPL.
- 2.4. In order to opt into SPL and to claim SPLP, the employee must provide the employer with a declaration, signed by the other parent, to confirm that you meet the qualifying criteria.
- 2.5. The woman who has given birth cannot take SPL until after her period of compulsory maternity leave ends (2 weeks after the birth). This also applies to an employee taking adoption leave.
- 2.6. The employee is able to take SPL in three separate blocks.
- 2.7. The employee is entitled to take SPL between the baby's birth and first birthday (or within 1 year of adoption).

### 3. Notifying the employer

- 3.1. You should notify the employer, in writing, of your intention to take SPL. This should advise the expected birth date, how much leave is available, how much leave you are entitled to, how much leave you are intending to take and how you expect to take your leave.
- 3.2. The employee should give eight weeks' notice, in writing, of their intention to take SPL before the leave is due to start. The employer will acknowledge and confirm eligibility to SPL and pay within 28 days.
- 3.3. Each eligible employee is entitled to give up to three separate notices. Each notice can be for a block of leave, or the notice may be for a pattern of 'discontinuous' leave involving different periods of leave. The employer is entitled to decline an employee's request for 'discontinuous' leave if there is an impact on the business.
- 3.4. Employees have a six week notice period to inform the employer of a change to their start and finish dates for SPL.
- 3.5. The employer can request from the employee, confirmation of the birth, or adoption. The employer reserves the right to request proof of the above.

### 4. Shared Parental Leave pay

- 4.1. To qualify for Shared Parental Leave Pay (SPLP) the employee must earn at least the lower earnings limit (LEL) for National Insurance contributions for the 8 weeks' prior to the 15<sup>th</sup> week before the EWC.
- 4.2. In addition the mother, or adopter, must have:
  - returned to work and

- stopped claiming any relevant pay, with at least two weeks of unexpired Statutory Pay period remaining.
- 4.3. SPLP will be payable at the same rate as SMP, or 90% of the employee's average earnings (if this is less than the standard rate).

## **5. During SPL and Keep in Touch days (KIT)**

- 5.1. All terms and conditions of employment, and related benefits, except for those relating to pay will apply during SPL.
- 5.2. Any information, or circulars, such as vacancies, changes in the academy day and internal policies will be circulated electronically, using the employee's trust email address. Information will only be distributed in hard copy in exceptional circumstances. Additionally, access to the VLE/Staff handbook (or other staff communication systems) will be available during SPL.
- 5.3. Any information, or circulars, such as vacancies, changes in the academy day and internal policies will be circulated electronically, using the employee's academy email address. The academy will only distribute information in hard copy, in exceptional circumstances. Additionally, access to the VLE will be available during SPL.
- 5.4. Employees are encouraged to carry out up to 10 days work – known as Keeping in Touch (KIT) days. These days do not end SPL and do not result in losing SPLP.
- 5.5. These days are paid and are for the purpose of catching up with the academy, attending INSET days, CPD events or working.
- 5.6. The days can be taken at a mutually agreed time during shared parental leave.
- 5.7. Any work on any day will count as a whole KIT day. Employees will be paid full pay for the hours, in half day blocks, unless agreed otherwise with the HR Director. In other words, if an employee comes in for a one-hour training session and carry out no other work that day; the employee will have used one of the Keeping in Touch days and be paid for half a day, based on their current level of pay.

## **6. Returning to work**

- 6.1. After SPL leave the employee has the right to return to the same job they were contracted for, prior to leave. The 'same job' means the same hours, job description and pay conditions.
- 6.2. The exception to this is if the employee is unable to return to their job, because it is not practical due to redundancy.



## Appendix 6

This appendix details Parental Leave.

### 1. Introduction

- 1.1. Parental Leave is available to employees who have completed at least one year's continuous service with the trust (at the time of the request). A maximum of 18 weeks of unpaid leave can be taken up for children under 18 years.
- 1.2. The employee is required to give at least 21 days notice, from their intended start date of the leave, of their request for leave.
- 1.3. The employer can, at the Principal's (or CEO's) discretion, agree up to four weeks unpaid leave to an employee in any calendar year (September – August) for reasons concerning the parental care of a child and/or to deal with incidents involving a dependant.
- 1.4. For this purpose a week's leave should be regarded as equivalent to the time an employee would normally work in a week.
- 1.5. The unpaid leave should be taken in blocks of weeks, unless agreed otherwise.
- 1.6. Any application for unpaid leave in excess of the annual four weeks limit will be subject to approval by the Principal and as much notice should be given as is reasonably practical, in writing, in advance of the period of absence being requested.
- 1.7. The academy's Leave of absence policy covers provisions to deal with short term, emergency situations.

### 2. Other

- 2.1. Any parental leave must be taken in blocks of full weeks, with the minimum of one week taken on each occasion.
- 2.2. Unless the employee wants to take parental leave immediately after the birth or adoption, the employer can postpone parental leave for up to six months, if leave might disrupt teaching and learning.
- 2.3. The employer will discuss postponement with the individual, and confirm in writing, within seven days of the employee applying for leave, outlining the reason for postponement, and provide alternative dates for leave.
- 2.4. In the unlikely event of any perceived abuse of the scheme, the employer has the discretion to limit the parental leave taken by an employee to not less than the equivalent of thirteen weeks during the period of:
  - i. the first five years of the child's life
  - ii. up to five years after a child is placed for adoption or until the child is eighteen years of age, whichever is earliest
  - iii. up until the child's eighteenth birthday in the case of a disabled child. (NB. A disabled child is a child for whom disability living allowance is awarded).

## Appendix 7

This appendix outlines the accrual of annual leave for teachers and Term Time Only support staff.

The entitlement of 28 days (5.6 weeks) 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 can be contractually directed to for up to 1265 hours per year. These hours are worked over 39 weeks of the year as specified by the academy. Teachers therefore have 13 weeks (66 days including May Bank Holiday) leave each year to be taken when the academy 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/academy 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/academy 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 an academy 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 academy closures or in term time;

Teachers or support staff working TTO 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 three 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.