

# Family Leave Policy and Procedure

## Version 1.1

<b>Important:</b> This document can only be considered valid when viewed on the school website. If this document has been printed or saved to another location, you must check that the version number on your copy matches that of the document online.	
<b>Name and Title of Author:</b>	Ellie Jarrett, HR Advisor
<b>Name of Responsible Committee/Individual:</b>	Board of Directors
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<b>Monitoring</b>	This policy will be monitored and reviewed by the relevant body in conjunction with Union local secretaries on an annual basis.
<b>Target Audience:</b>	All Staff
<b>Related Documents:</b>	National Agreement on Pay and Terms and Conditions for Teachers (Burgundy Book) National Agreement on Pay and Terms and Conditions for Associate Staff (Green Book)

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## POLICY STATEMENT

The Education Alliance [TEAL] supports staff wishing to access maternity, paternity, adoption and parental leave in a fair, consistent, transparent way which adheres to legal and statutory requirements.

### 1. PURPOSE AND SCOPE

This Policy applies to all staff employed by TEAL and provides guidance and clarification regarding the leave employees are entitled to, assisting employees in understanding their options. The Policy adheres to the Employment Rights Act 1996; Maternity and Parental Leave Regulations 1999; Paternity and Adoption Leave (Amendment) Regulations 2006; Maternity and Parental Leave and Paternity and Adoption Leave (Amendment) Regulations 2008; Additional Paternity Leave Regulations 2010; Additional Statutory Paternity Pay (General) Regulations 2010; Parental Leave (EU Directive) Regulations 2013, Paternity and Adoption Leave (Amendment) Regulations 2014; Children's and Families Act 2014; Shared Parental Leave Regulations 2014 and the Conditions of Service for School Teachers in England and Wales (Revised August 2000) Burgundy Book.

### 2. ROLES AND RESPONSIBILITIES

The **Board of Directors** is responsible for approving this policy.

The **CEO** is responsible for ensuring that employees are treated fairly and consistently in the application of this policy and procedure.

The **Human Resources Department** is responsible for developing, reviewing, implementing and monitoring the effectiveness of this policy, ensuring employees are aware of their rights and the processes they must follow. The HR Department will provide employees and managers with advice and guidance regarding the Policy and Procedure, ensuring the Policy is applied fairly and consistently. The team will also ensure that employees are able to readily access support and clarification regarding leave and associated pay.

**Managers** and employees with supervisory or leadership responsibilities must ensure they are aware of this policy and that employees they are responsible for adhere to its requirements. They must also ensure they deal with leave requests sensitively, fairly and consistently.

**Employees** must comply with the requirements of this policy and procedure, submitting relevant documentation that is accurate within required timeframes.

### 3. EQUALITY AND DIVERSITY

TEAL is committed to:

- Promoting equality and diversity in its policies, procedures and guidelines
- Delivering high quality teaching and services that meet the diverse needs of its student population and its workforce, ensuring that no individual or group is disadvantaged

## **4. MATERNITY LEAVE AND PAY**

### **Entitlement**

All pregnant employees, with the exception of those on fixed term contracts, are entitled to a total of 52 weeks statutory maternity leave, regardless of length of service and number of hours worked. This consists of 26 weeks' ordinary maternity leave (OML) and 26 weeks' additional maternity leave (AML). Employees can choose to take up to 52 weeks total Maternity Leave, however pregnant employees must take a minimum of 2 weeks' compulsory maternity leave which is the 2 week period immediately following childbirth.

Statutory maternity pay (SMP) is payable for 39 weeks for those who qualify (otherwise staff may be able to claim Maternity Allowance from the Government). Entitlement to Occupational maternity pay (OMP) varies according to job role and employment status and is detailed further in this policy.

### **Contractual rights during Maternity Leave**

During maternity leave the employee's contract will remain continuous (unless there is a fixed term contract which ends without renewal, or an organisational change issue that results in redundancy). Maternity leave does not constitute a break in service and therefore counts as continuous service for annual leave, sickness and redundancy purposes. With the exception of remuneration, employees will continue to benefit from all their terms and conditions that would have applied should they have remained at work.

### **Fixed term contracts**

Pregnant employees on fixed term contracts are entitled to take statutory maternity leave up to the point where their fixed term contract ends, regardless of their length of service and number of hours worked. Statutory maternity pay (SMP) is payable for 39 weeks for those who qualify (otherwise staff may be able to claim Maternity Allowance from the Government). Any entitlement to occupational maternity pay (OMP) will end when the fixed term contract ends.

### **Starting Maternity Leave**

Employees can choose to start their maternity leave on any date within the 11 week period before their expected week of childbirth (EWC), however, it can begin sooner than anticipated if they are absent due in part of wholly related to their pregnancy or; if the employee's baby is born earlier than anticipated. Employees who give birth early start their SMP, OMP and maternity pay period (MPP) on the day following the date of childbirth. Employees who are absent from work due to sickness wholly or partly related to pregnancy within 4 weeks of the EWC will start their SMP, OMP and MPP on the first day of absence.

### **Notification of pregnancy**

Employees can tell their manager they are pregnant as soon as they want to. This can be before they have decided when they want to take their maternity leave. Employees must inform their manager and the HR Department by the 15<sup>th</sup> week before the expected week of childbirth (EWC), or as soon as reasonably practicable, of the date on which they want to start their maternity leave and begin to receive maternity pay. A form is provided by the HR department to enable employees to make this notification. Employees will also receive a MATB1 from their medical practitioner after the 20<sup>th</sup> week of pregnancy, which should be passed to the HR Department.

Once notified, a member of the HR Department will contact the employee and their manager to provide advice and guidance (e.g. to ensure a risk assessment has been undertaken and that it will be regularly reviewed by the manager and the employee). A member of the HR department will write to the employee and will offer to meet with them to discuss the policy

and procedure, providing additional useful information as appropriate (e.g. childcare, kiddivouchers, employee assistance package, keep in touch days and planning for a return to work), whilst also notifying the Payroll Department of maternity dates.

The line manager and employee should discuss and mutually agree keep in touch arrangements prior to the commencement of maternity leave to ensure that the employee remains informed and updated whilst absent from the workplace. If changes occur at work that impact on the employee's role, the employee should be consulted with just as any other member of staff is, thus reducing the risk of claims of sex discrimination and ensuring employees remain engaged throughout their protected period.

Employees will be informed by letter of their intended maternity leave start date and return to work dates within 28 days of receipt of the employee's maternity notification form. Employees can change their notified start date for maternity leave with 28 days' notice. Where the HR Department has received confirmation of a pregnancy, but not a completed maternity notification form, a reminder will be sent to pregnant employees prior to the 15<sup>th</sup> week before EWC.

### **Ante-Natal Appointments**

Pregnant employees are entitled to time off work to attend ante-natal appointments (preferably at the start or end of the day to minimise the impact on students and service delivery). Ante-natal care includes midwifery appointments, GP appointments, hospital clinics and relaxation classes. Employees are required to produce an appointment card or other documentation that confirms the appointment prior to permission being granted. Requests should be submitted using the Special Leave Policy and Procedure and associated request form.

### **Risk Assessments**

Protection under the Management of Health and Safety at Work (MHSW) Regulations 1992 includes protection for new and expectant mothers, which includes women who are either pregnant, who have given birth in the last 6 months or those who are breastfeeding. The line manager will undertake a risk assessment when they are notified of the pregnancy and this should be regularly reviewed throughout the pregnancy. If the risk assessment identifies risk for the employee's health or that of their baby, arrangements will be made to control or remove the risk. If that is not possible, TEAL will try to re-organise duties (the employee's pay will not be affected).

In exceptional circumstances, if no suitable alternative work is available and the risks associated with their substantive role cannot be adequately controlled, the employee may be instructed not to attend work. If this happens the employee will continue to receive their pay in the usual way. If the employee is offered a suitable alternative and they unreasonably refuse they may be suspended on health and safety grounds due to pregnancy and they may lose their right to be paid during their period of suspension. The decision to suspend or redeploy a pregnant employee sits with the CEO (or the Executive Principal in their absence).

### **Pregnancy-related Sickness Absence**

Pregnancy related sickness absence will be monitored in the usual way, but won't count in any calculation which may trigger a formal warning. If a pregnant employee is absent due to pregnancy related sickness on the first day after the beginning of the fourth week before their EWC their OML will commence the following day. Similarly, if the employee gives birth before their OML has commenced, their OML will commence the following day. In such circumstances, the HR Department will write to the employee to confirm the date on which their OML commenced; when it will end and when their AML will commence and cease.

### **Unexpected events**

If an employee either suffers a stillbirth after 24 weeks of pregnancy, or if their baby is born alive, but subsequently dies within the period of maternity leave, the employee will retain their right to maternity leave.

### **Keep in Touch Days**

Up to 10 keep in touch (KIT) days may be accessed. Employees must seek agreement for KIT days with their line manager. Any work undertaken on a KIT day will be viewed as 1 full KIT day (e.g. 2 hours would count as 1 day), however, the employee will be paid for as either a half or full day's pay depending on the number of hours worked. It is vital that managers approach discussions regarding KIT days with a flexible approach and sensitivity and if they require any guidance or support they should contact the HR Department.

Access to KIT days must be by mutual agreement between the employee and their manager and employees will not be penalised for not working KIT days. Similarly, the manager may not agree to a KIT day if there would be no/little value in the employee working it.

Where employees work KIT days they will receive payment at their standard hourly rate if they are not in receipt of maternity pay when they work and they must complete a KIT form and submit this to the HR Department. If they are in receipt of maternity pay they may receive a top up amount which takes them up to their standard hourly rate.

### **Statutory Maternity Pay**

Employees are entitled to receive SMP if:

- They have continuous service of at least 26 weeks at the start of the 15<sup>th</sup> week before the EWC
- Their average weekly earnings in the 8 weeks up to and including the qualifying week are not less than the lower earnings limit for the payment of National Insurance Contributions (NIC)

For the first 6 weeks SMP is paid at a rate of 90% of the employee's average weekly earnings (the average is based on the 8 week period prior to the fifteenth week before the EWC). The remaining 33 weeks of SMP are paid at either the SMP flat rate or 90% of the employee's earnings if this is less than the SMP flat rate. SMP is automatically recalculated if pay awards are implemented during the MPP.

### **Maternity Allowance**

Where staff do not meet the criteria for SMP they may be able to access maternity allowance (MA), which is paid by the Benefits Agency for the first 39 weeks after the employee ceases work. Employees may qualify for MA if they:

- Have ceased work wholly or partly due to pregnancy or childbirth
- Are not entitled to SMP and
- Earn less than the lower earnings limit, but at least £30.00 a week averaged over a 13 week period

Where an employee is not eligible for SMP the Payroll Department will send the employee a SMP1 form that they must complete and send to the Benefits Agency via Job Centre Plus, along with their MATB1. Further information regarding Maternity Allowance can be found at [www.gov.uk/maternity-allowance/eligibility](http://www.gov.uk/maternity-allowance/eligibility).

### **Occupational Maternity Pay (OMP) – Teachers**

In addition to SMP, employees who have completed 1 year's continuous teaching service with one or more Local Authorities (LAs) at the beginning of the 11<sup>th</sup> week before the EWC are

entitled to receive occupational maternity pay (OMP). OMP enhances the first 4 weeks of SMP to full pay and provides an additional 12 weeks payment at half pay, paid between weeks 7 to 19 of an employee's maternity pay period (MPP), on the understanding that the employee will return to their post for a period of at least 13 weeks full time service or equivalent part time service (including periods of school closure). If the employee does not return they will be expected to pay back the 12 weeks half pay. It is possible to pay the equivalent to 12 weeks half pay (i.e. 6 weeks' pay) on any other mutually agreed distribution.

Where an employee is entitled to OMP and SMP they can be paid as follows\*:

Period	Entitlement
First 4 weeks	Full pay (inclusive of SMP), plus
Following 2 weeks	90% of the employee's average weekly pay (including SMP) plus
<b>For employees intending to return to work for at least 3 months</b>	
Weeks 7-18	Half pay plus SMP (the total must not exceed the employee's normal weekly pay)
Weeks 19-39	SMP at the SMP flat rate or 90% of the employee's average weekly pay (whichever is the least)
<b>For employees not intending to return to work</b>	
Weeks 7-39	SMP at the SMP flat rate or 90% of the employee's average weekly pay (whichever is the least)
Weeks 40-52	Unpaid leave

*\*NB Where employees are working under a fixed term contract any entitlement to OMP will end when the fixed term contract ends.*

### **Occupational Maternity Pay (OMP) – Support Staff**

In addition to SMP, employees with at least 1 year's completed service at the beginning of the eleventh week before the EWC are entitled to receive occupational maternity pay (OMP) if they intend to return to work following maternity leave for a period of at least three months. OMP is an additional 12 weeks payment at half pay, paid between weeks 7-19 of an employee's maternity pay period (MPP) on the understanding that the employee will return to work for a period of at least 3 months. If the employee does not return they will be expected to repay the OMP.

If the employee resigns or their contract is terminated prior to the start of maternity leave or during maternity leave, providing they were in employment at the Trust at the qualifying week they will be entitled to receive SMP.

Where an employee is entitled to OMP and SMP they can be paid as follows\*:

Period	Entitlement
First 6 weeks	90% of the employee's average weekly pay (including SMP) plus
<b>For employees intending to return to work for at least 3 months</b>	
Weeks 7-18	Half pay plus SMP (the total must not exceed the employee's normal weekly pay)

Weeks 19-39	SMP at the SMP flat rate or 90% of the employee's average weekly pay (whichever is the least)
<b>For employees not intending to return to work</b>	
Weeks 7-39	SMP at the SMP flat rate or 90% of the employee's average weekly pay (whichever is the least)
Weeks 40-52	Unpaid leave

*\*NB Where employees are working under a fixed term contract, any entitlement to OMP will end when the fixed term contract ends.*

### **Bank Holidays**

Bank holiday entitlements will be paid at the rate of pay received whilst on maternity leave at the time of the bank holiday. Bank holidays, extra-statutory days and concessionary days are not accrued and cannot be carried over.

### **Deductions from Pay**

Any non-statutory deductions from pay will continue to be charged during the period of maternity leave unless the employee has reached a point at which their maternity pay does not cover for such payments. Employees must ensure that they make adequate financial provision for the payment of such deductions which may include alternative arrangements to maternity pay.

### **Returning to work**

Employees intending to return to work following AML do not need to provide notification of their return as they will be expected to return on the date stated in their letter from the HR Department, however they are strongly encouraged to contact their manager prior to their return to work to ensure their return to work is managed and supported effectively. Employees are able to return to work at any time after the 2 weeks compulsory maternity leave and before the end of their 52 weeks combined OML and AML, unless they are employed on a fixed term contract which ends without renewal. Employees wishing to return to work before the date specified in their letter from the HR Department must write to the HR Department advising of their wish to return to work. Employees must do this at least 8 weeks before the employee's new proposed date of return. A form is available to employees to submit this notification.

With the exception of employees on fixed term contracts, employees on maternity leave are entitled to return to their job following OML, or to a suitable alternative post following AML should a return to their substantive role not be practicable. However, where organisational change means their substantive role no longer exists, their protected period means they should be given first consideration above other affected staff should opportunities for suitable alternative employment arise.

Employees preparing to return from maternity may wish to request a return to a varied working pattern (e.g. reduced hours). All flexible working requests are given serious consideration by managers and requests are approved wherever possible (although there are occasions where the request cannot be approved and either an alternative may be suggested or the request will be rejected with clear rationale provided).

### **Resignation**

If an employee decides to resign before or during their maternity leave they must do so in writing to either their manager, the HR Department or the Executive Principal. Employees

must be mindful that if they submit a resignation and it takes effect prior to the commencement of their maternity leave they will lose their right to maternity leave and associated pay. However, if they are employed during the fifteenth week before the EWC and qualify for SMP, and they leave after the start of the fifteenth week, they will be entitled to SMP.

## 5. PATERNITY LEAVE AND PAY

### Entitlement

Employees will be eligible for ordinary paternity leave (OPL) if:

- They have, or expect to have, responsibility for their child's upbringing and are either the biological father or the mother's husband/partner/civil partner, or;
- They are the spouse/partner/civil partner of an individual who adopts, or the member of a couple adopting jointly who does not take adoption leave and has, or expects (in the case of adoption) to have, responsibility for the child's upbringing and;
- They wish to take the time off either to care for the child or to support the mother/adoptive parent.
- They have not already taken shared parental leave (SPL) in relation to the child.

Partner is defined as a person who lives with the mother or adopter in an enduring family relationship, but is not a relative of the primary adopter.

Employees who qualify for paternity leave can take up to two weeks' ordinary paternity leave (OPL) on the birth or adoption of a child. The leave must be taken to care for the child or to support the child's mother/adopter and it can be taken as a single block of either one or two weeks. If an employee takes a single weeks' leave they cannot take a second weeks' leave at a later date. This leave can be taken on a date of the employee's choosing within 56 days' of the birth or adoption placement, unless a child is born prematurely. In such cases the leave must be taken within 56 days of the expected week of childbirth (EWC).

If the employee has already taken shared parental leave (SPL) to care for the child under the Shared Parental Leave Regulations they may not also take paternity leave.

### Contractual rights during Paternity Leave

The employment contract continues as normal during OPL, with the exception of terms and conditions relating to remuneration. This means that the period spent on OPL will count towards the employee's continuous service and annual leave will accrue throughout the paternity leave.

### Notification of Paternity Leave

To be eligible to take OPL the employee must complete a paternity leave notification form, notifying the HR Department of his/her intention to take paternity leave. Notice must be given in or before the 15th week before the EWC, or within seven days of the employee having been notified of matching in cases of adoption. If it is not reasonably practicable to give notice at that time, notice must be given as soon as it is reasonably practicable. The notice must specify:

- The EWC/date of matching and expected date of placement
- The period of leave the employee wants to take
- When the employee expects the leave to commence

Once notified, a member of the HR Department will contact the employee and their manager to provide advice and guidance. A member of the HR Department will write to the employee and will offer to meet with them to discuss the policy and procedure.

An employee can change the date on which they wish OPL to commence as long as they provide the HR Department with 28 days' notice of the change. If this is not reasonably practicable, notice must be given as soon as is reasonably practicable.

An employee cannot take more than one period of OPL even if more than one child is born or adopted at the same time.

### **Ante-Natal Appointments**

Expectant fathers or partners of a pregnant woman are entitled to take unpaid time off work to accompany the expectant mother to up to 2 of her ante-natal appointments. The right extends to those who will become parents through a surrogacy arrangement if they expect to satisfy the conditions for and intend to apply for a Parental Order for the child born through that arrangement.

Employees wishing to request unpaid time off work to attend ante-natal appointments must complete a special leave form.

### **Adoption Appointments**

The primary adopter can take time off on up to five occasions to attend adoption appointments. An employee who exercises the right to paid time off is not entitled to take ordinary paternity leave in respect of the child so it will usually be the parent taking adoption leave who exercises the right to paid time off. The other adoptive parent is entitled to unpaid time off to attend up to two adoption appointments.

Employees wishing to request unpaid time off work to attend adoption appointments must complete a special leave form and attach evidence of the date and time of the appointment and confirmation that it has been arranged by an adoption agency.

### **Unexpected events**

In circumstances of stillbirth after 24 weeks of pregnancy, where a baby dies after childbirth or placement, or where an adoption placement ends unexpectedly, the employee's entitlement to paternity leave remains.

### **Statutory Paternity Pay**

Employees with less than 1 year's continuous service at the beginning of the 11<sup>th</sup> week before the EWC or for adoption at the date the child is placed with the adoptive parent, will be entitled to 2 weeks leave at the statutory paternity (SPP) rate only (if eligible). To be eligible for SPP the employee must:

- Have average earnings not less than the lower earnings limit in the eight weeks prior to the employee notifying the HR Department of their intention to take OPL
- Provide details of the EWC or placement, the actual date of birth or placement (if this has already occurred), the date on which OPL will commence and the period of OPL that will be taken
- Submit to the HR Department a written declaration about their relationship with the child or the child's mother/adopter and that they are taking leave to care for the child or to support the mother/adopter

These notifications and declarations must be given at least 28 days before the employee would like statutory paternity pay to commence.

### **Occupational Paternity Pay**

Employees with at least one year's continuous service or more at the beginning of the 11<sup>th</sup> week before the EWC or for adoption at the date the child is placed with the adoptive parent, will be entitled to 2 weeks leave including one weeks' full pay (OPP) (with SPP being inclusive) and one weeks' statutory paternity pay (SPP).

To be eligible for this pay and leave the employee must satisfy the requirements for statutory paternity pay shown above.

**Deductions from pay**

Any non-statutory deductions from pay will continue to be charged during the period of paternity leave unless the employee has reached a point at which their paternity pay does not cover for such payments. Employees must ensure that they make adequate financial provision for the payment of such deductions which may include alternative arrangements to paternity pay.

**Return to work**

The employee has a right to return to work after OPL without giving notice. Employees returning from one or two weeks' OPL are entitled to return to the same job they were doing before the leave period commenced.

## 6. SHARED PARENTAL LEAVE

### Entitlement

Shared parental leave (SPL) is available to both pregnant employees and their partners or to parents who have a child placed with them for adoption. Employees who qualify have a right to convert a period of leave and pay into a period of shared parental leave (SPL) and shared parental pay (ShPP) that can be taken by either parent (or the mother's spouse or partner or civil partner). The amount of pay and leave available can be calculated as follows:

- Deduct the number of weeks' maternity/adoption leave already taken, or which will be taken, from 52
- Deduct the number of weeks' SMP or SAP or MA the mother/adopter has or will receive from 39

Shared parental leave can be taken as a single continuous period or in periods of a week or multiples of a week. A parent can take a period of shared parental leave while the other parent is also on SPL, maternity or adoption leave.

Employees can make up to three requests for periods of SPL. Leave must be taken before the child's first birthday and the right to take SPL applies to each birth, regardless of the number of children born and is in addition to the right to 18 weeks' unpaid parental leave under the Maternity and Parental Leave Regulations 1999.

### Eligibility

An employee will qualify for SPL if the other parent meets certain basic work and earnings conditions. The other parent must have been in employment or self-employment for at least 26 weeks in the 66 weeks before the child's EWC/week of matching and have a period of 13 weeks of minimum earnings of £30 per week. If the basic employment and earnings criteria is satisfied the employee must also satisfy the continuity of employment test:

- The employee must have 26 weeks' continuous employment at the 15<sup>th</sup> week before the EWC/week of matching and remain in employment.
- The employee must have the main responsibility for the child's care with the other parent.
- The mother must have cut short her maternity leave period, or her maternity pay period where she qualifies for SMP or MA, but is not entitled to maternity leave.
- In an adoption situation the parent must have cut short their adoption leave or pay period.
- Employees must give the relevant notifications (e.g. notice of entitlement and intention to take leave, and a request for leave) to the employer at least 8 weeks before the first period of leave and provide any evidence required by the Trust.
- The applicant must not have already taken paternity leave or adoption leave in relation to the child.

SPL must be taken before the child is 1 year old or before the first anniversary of a child's placement for adoption.

### Contractual rights during Shared Parental Leave

During shared parental leave the employee's contract will remain continuous (unless there is a fixed term contract which ends without renewal, or an organisational change issue that results in redundancy). All terms and conditions that would have applied to the employee had they not been absent due to SPL will continue, other than terms and conditions relating to remuneration. Employees continue to accrue their statutory and contractual annual leave entitlement during SPL.

### **Notification requirements**

An employee must fulfil the three notification requirements before being entitled to take SPL:

- The mother must bring her maternity leave to an end by serving a leave curtailment notice. An adopter must bring adoption leave to an end by serving a curtailment notice.
- The parent wishing to take leave must submit a notice of entitlement and intention to take leave.
- The parent wishing to take leave must submit notice to take leave.

Each of the above submissions of notice must be given at least 8 weeks before the first period of leave the employee wishes to take.

The date chosen for the end of maternity/adoption leave:

- Cannot be before the end of the two week compulsory maternity leave period following the birth of a child or the end of the two weeks of ordinary adoption leave
- Must be at least 8 weeks after the date the notice is given to the school
- Must be at least one week before the date the maternity/adoption leave would otherwise have ended

The notice of entitlement must contain the following:

- The parents' names
- The start and end dates of the mother's maternity leave (or maternity pay where the father is giving notice and the mother is eligible for SMP or MA, but not maternity leave) or adoption leave
- The child's EWC and date of birth, or date of matching and date of placement
- The total amount of SPL and pay available
- The amount of SPL and pay each parent intends to take
- A non-binding indication of when the parent giving notice intends to take SPL

The notice of entitlement and intention to take leave must be accompanied by written declarations from both parents about their eligibility to take leave and the accuracy of the information. The employee giving notice must confirm they will notify the school if they cease to be eligible for SPL and the other parent must provide their name, address, national insurance number, consent to the leave his/her partner wishes to take, confirmation that he/she will notify the school if they cease to be eligible for SPL and they must also agree to the processing of the information in the declaration. The indication of how the SPL and pay will be divided between the parents can be altered by the parents submitting a variation of notice of entitlement to the HR Department.

All notifications must be submitted to the HR Department and relevant forms are available to help employees submit the correct information. Please contact a member of the HR Department if you would like assistance in requesting SPL.

TEAL is not required to check the employee's eligibility for leave, however, the employee is required to provide the HR Department with a copy of the child's birth certificate (or evidence from the adoption agency regarding the date of matching and the date of placement) and the name and address of the other parent's employer within 14 days of the birth/placement.

Employees can withdraw or cancel a leave curtailment notice if they stop being eligible for SPL, if the other parent dies or if the leave curtailment notice was given before the child's birth. If the curtailment notice was given before the child's birth, the mother has a 6 week period

following the birth to cancel the curtailment notice. In such circumstances the mother can submit a further leave curtailment notice if she wishes at a future date. When the mother submits her leave curtailment notice she must also give the school a notice of entitlement and intention to take SPL, or a declaration of consent and entitlement confirming that the other parent has given such notice to their employer.

### **Requests for multiple periods of leave**

If more than one period of shared parental leave is requested the notice must detail the start and finish dates for the periods of leave the employee wishes to take. If the employee has requested a single period of SPL they are entitled to take the leave on the dates requested, however, if they have requested multiple periods of leave in the same notice, TEAL will have 2 weeks in which it will either:

- Agree to the periods of leave requested
- Propose alternative dates for the periods of leave
- Refuse the request without proposing alternative dates

TEAL will agree to periods of leave requested wherever possible. If a pattern of leave cannot be agreed the employee can either withdraw their request or submit notice for a single continuous period. If an employee wishes to change a period of SPL that has already been agreed they must submit a leave variation notice. Employees can submit up to three period of leave notices in total. Notices withdrawn due to a failure to agree do not count towards this limit, whilst variation notices will count.

### **Shared Parental Leave 'in Touch' Days**

With TEAL's agreement, employees can take up to 20 SPL 'in touch' days (SPLIT days) during a period of SPL. Any work carried out on a particular day will count as a day's work for the purposes of calculating SPLIT days worked; however, the employee will be paid for as either a half or full day's pay depending on the number of hours worked. Access to SPLIT days must be by mutual agreement between the employee and their manager and employees will not be penalised for not working SPLIT days. Similarly, the manager may not agree to a SPLIT day if there would be no/little value in the employee working it.

Where employees work SPLIT days they will receive payment at their standard hourly rate if they are not in receipt of SPL pay when they work. If they are in receipt of SPL pay they may receive a top up amount which takes them up to their standard hourly rate.

SPLIT days are in addition to the 10 KIT days that can be worked during a period of maternity leave.

### **Statutory Shared Parental Pay**

Statutory shared parental pay (ShPP), paid at the lower rate of SMP will be available for eligible employees in accordance with how the parents have decided to split their statutory shared parental pay entitlement between them. No more than 39 weeks of SMP and ShPP can be paid in total to both parents, with a maximum of 37 weeks being paid as ShPP.

### **Occupational Shared Parental Pay**

Employees with at least 1 year's completed service at the beginning of the 11<sup>th</sup> week before the EWC or adoption matching date are entitled to receive occupational shared parental pay (OShPP) if they intend to return to work following shared parental leave for a period of at least three months.

Employees who have already received occupational maternity pay (OMP) or occupational adoption pay (OAP) in relation to the child will not be eligible to receive OShPP.

OShPP is up to 12 weeks payment at half pay, depending on the amount of SPL being taken, which is paid between weeks 7-19 of an employee's SPL on the understanding that the employee will return to work for a period of at least 3 months. If the employee does not return they will be expected to repay the OShPP.

### **Bank Holidays**

Bank holiday entitlements will be paid at the rate of pay received whilst on shared parental leave at the time of the bank holiday. Bank holidays, extra-statutory days and concessionary days are not accrued and cannot be carried over.

### **Deductions from Pay**

Any non-statutory deductions from pay will continue to be charged during the period of SPL unless the employee has reached a point at which their ShPP pay does not cover for such payments. Employees must ensure that they make adequate financial provision for the payment of such deductions which may include alternative arrangements to pay.

### **Returning to Work**

Unless there is a fixed term contract which ends without renewal, employees intending to return to work following SPL of 26 weeks or less will return to their job. Where organisational change means their substantive role no longer exists, their protected period means they should be given first consideration above other affected staff should opportunities for suitable alternative employment arise (e.g. if they meet the essential criteria of a vacant suitable alternative they needn't apply for it).

With the exception of employees on fixed term contracts, employees returning to work following a period of SPL of more than 26 weeks have the right to return to the same job unless it is not reasonably practicable, in which case they will be offered a suitable alternative role. If a redundancy situation arises, an employee on SPL who is at risk of redundancy has the right to be offered a suitable alternative vacancy in preference to other employees, just as women who are at risk of redundancy during a period of maternity leave are.

## **7. ADOPTION LEAVE AND PAY**

### **Entitlement**

All employees who qualify for adoption leave, with the exception of those on fixed term contracts, have a right to take up to 52 weeks' adoption leave. This is made up of 26 weeks' OAL and 26 weeks' additional adoption leave (AAL). They may also be entitled to up to 39 weeks' statutory adoption pay (SAP). Parents of a child placed for adoption on or after 5 April 2015 may also be eligible to take a period of shared parental leave (SPL) if adoption leave is curtailed, however, the same parent may not apply for shared parental leave in relation to a child for whose care they have already taken statutory adoption leave or paternity leave. Where a couple is adopting a child jointly they are required to choose which parent will take adoption leave and pay and the other parent will have access to paternity or parental leave instead.

### **Eligibility**

To qualify for adoption leave and associated pay the employee must be newly matched with a child for adoption by an approved adoption agency (this does not include circumstances whereby a step parent adopts a step child or private adoptions). To qualify for ordinary statutory adoption leave the employee must have notified the adoption agency that they agree to the placement and the date. An employee will qualify for additional adoption leave if they have taken a period of ordinary adoption leave (OAL) and the placement has not ended prematurely.

### **Contractual rights during Adoption Leave**

The employee's contract continues as normal throughout the adoption leave period, with the exception of remuneration, and the period of adoption leave will count towards their continuous service. They will accrue annual leave in the same way as employees on maternity leave.

### **Notification of Adoption**

Employees can tell their manager they intend to adopt as soon as they want to. This can be before they have decided when they want to take their adoption leave. Employees must notify the HR Department of their intention to take adoption leave within seven days of being notified of a match with the child by the adoption agency. A form is available from the HR department to help employees in making notification of intention to take leave. If this is not reasonably practicable the employee must give notice as soon as it is reasonably practicable. The employee must inform the HR Department of:

- The date the child is expected to be placed with them for adoption
- The date that he/she wishes adoption leave to commence

The employee can request to commence adoption leave:

- From the actual date of the child's placement, or;
- From a fixed date up to 14 days before the expected date of placement (but no later than the date of placement)

Leave can begin on any day of the week and only one period of leave is permitted for each placement, regardless of the number of children placed at that time. If the adopter wishes to vary the date they would like their leave to commence they must notify the HR Department as soon as possible, giving at least 14 days' notice of the new start date (unless this is not reasonably practicable). The HR Department will respond to the employee's request for adoption leave within 14 days of receipt of the request, notifying the employee of the date on which their additional adoption leave will come to an end. The employee will be required to submit documentary evidence from the adoption agency of the placement for adoption (e.g. a matching certificate) prior to approval being given.

### **Time Off for Adoption Appointments**

An employee who has been notified that a child is to be placed for adoption has the right to paid time off to attend adoption appointments arranged by the adoption agency to have contact with the child or for any other purpose connected with the adoption. The primary adopter can take time off on up to five occasions to attend adoption appointments. An employee who exercises the right to paid time off is not entitled to take ordinary paternity leave in respect of the child so it will usually be the parent taking adoption leave who exercises the right to paid time off. The other adoptive parent is entitled to unpaid time off to attend up to two adoption appointments.

Employees wishing to request paid or unpaid time off work to attend appointments must complete a special leave form and attach evidence of the date and time of the appointment and confirmation that it has been arranged by an adoption agency.

### **Unexpected events**

If the placement is not successful and ends during the adoption leave period, or the child dies, the employee will be allowed to continue the leave for a maximum of eight weeks after the placement ends.

### **Keep in Touch Days**

Employees on adoption leave may wish to access KIT days and further details can be found in the maternity section of this policy as the process and principles apply for maternity, shared parental and adoption leave.

### **Statutory Adoption Pay**

Eligible employees (those with 26 weeks continuous service ending with the week in which the employee is notified they are matched with a child) are entitled to 39 weeks SAP. The first 6 weeks will be paid at 90% of the employee's average weekly pay (including SAP) followed by 33 weeks of SAP or 90% of average weekly earnings if this is less than the SAP rate.

### **Occupational Adoption Pay (OAP) - Teachers**

In addition to SAP, employees who have completed 1 year's continuous teaching service with one or more Local Authorities (LAs) at the date the child is placed with them are entitled to receive occupational adoption pay (OAP). OAP enhances the first 4 weeks of SAP to full pay and provides an additional 12 weeks payment at half pay, paid between weeks 7 to 19 of an employee's period of leave, on the understanding that the employee will return to their post for a period of at least 13 weeks full time service or equivalent part time service (including periods of school closure). If the employee does not return they will be expected to pay back the 12 weeks half pay. It is possible to pay the equivalent to 12 weeks half pay (i.e. 6 weeks' pay) on any other mutually agreed distribution.

Where an employee is entitled to OAP and SAP they can be paid as follows\*:

<b>Period</b>	<b>Entitlement</b>
First 4 weeks	Full pay (inclusive of SAP), plus
Following 2 weeks	90% of the employee's average weekly pay (including SAP) plus
<b>For employees intending to return to work for at least 3 months</b>	
Weeks 7-18	Half pay plus SAP (the total must not exceed the employee's normal weekly pay)

Weeks 19-39	SAP at the SAP flat rate or 90% of the employee's average weekly pay (whichever is the least)
<b>For employees not intending to return to work</b>	
Weeks 7-39	SAP at the SAP flat rate or 90% of the employee's average weekly pay (whichever is the least)
Weeks 40-52	Unpaid leave

*\*NB Where employees are working under a fixed term contract any entitlement to OAP will end when the fixed term contract ends.*

### **Occupational Adoption Pay (OAP) – Support Staff**

In addition to SAP, employees with at least 1 year of continuous service at the date the child is placed with them will receive SAP plus half pay (as long as this doesn't exceed the employee's normal weekly pay) for weeks 7-18, providing they return to work at TEAL for at least 3 months following their period of adoption leave. Employees that fail to return to work for at least 3 months will be required to repay the half pay.

If the employee resigns or their contract is terminated prior to the start of adoption leave or during adoption leave, providing they were in employment with TEAL at the qualifying week they will be entitled to receive SAP. Where employees are working under a fixed term contract, any entitlement to OAP will end when the fixed term contract ends.

Employees must do the following to access statutory adoption pay (SAP):

- Have average earnings of at least the lower earnings limit for NIC in the eight weeks prior to the matching date
- Give the HR Department at least 28 days' notice of the date on which they would like the payment of SAP to commence (or as soon as is reasonably practicable)
- Submit evidence of their entitlement to SAP in the form of documents provided by the adoption agency (such as a matching certificate)

### **Bank Holidays**

Bank holiday entitlements will be paid at the rate of pay received whilst on adoption leave at the time of the bank holiday. Bank holidays, extra-statutory days and concessionary days are not accrued and cannot be carried over.

### **Deductions from Pay**

Any non-statutory deductions from pay will continue to be charged during the period of adoption leave unless the employee has reached a point at which their adoption leave pay does not cover for such payments. Employees must ensure that they make adequate financial provision for the payment of such deductions which may include alternative arrangements to adoption pay.

### **Returning to Work**

With the exception of employees working under fixed term contracts which are due to end during the period of leave, any employee taking adoption leave has an automatic right to return to work after their additional adoption leave period and they do not need to provide any notice of this unless they wish to return earlier than planned (e.g. before the end of their additional adoption leave period). In such circumstances the employee must provide the HR Department with 8 weeks' notice in writing. If they fail to provide adequate notice their return may be delayed.

If TEAL is undergoing organisational change which places the adoptive parent at risk of redundancy, the employee will have the right to be offered a suitable alternative role in preference to other employees that are not in a protective period.

Unless they are working under a fixed term contract which is due to end during the period of leave, employees returning from ordinary adoption leave are entitled to return to the same job they were doing before the leave period commenced. However, if the leave immediately follows a period of additional adoption leave, or a period of parental leave lasting more than four weeks the employee should check with the HR Department the impact this may have on their right to return to their substantive role. If the employee takes additional adoption leave they are entitled to return to their substantive role, however, where this is not feasible the employee must be offered an alternative role which is suitable and appropriate and has no less favourable terms and conditions.

## 8. PARENTAL LEAVE

### Entitlement

Parental leave is available for employees with at least one years' continuous service. To be eligible the employee must have, or expect to have, responsibility for the child. Parental leave must be taken:

- Before the child is 18 years old
- Within five years of the start of the placement if the child is adopted and before the child is 18 years old

Employees who qualify for parental leave may take up to 18 weeks' **unpaid** parental leave in total for the purposes of caring for a child. The right to take leave applies in relation to each of the employee's children, including twins or other multiple births. They may access:

- A maximum of four weeks' leave per child during a particular year
- Parental leave can only be taken in blocks of a week or multiples of a week, unless the child is disabled. A week is based on an employees working pattern over seven days, when an employees working pattern is irregular a week's leave is calculated by the total number of days the employee works in a year divided by 52.

### Notification of intention to take Parental Leave

An employee wishing to access parental leave must submit a request to the HR Department, providing at least 21 days' notice, detailing the dates on which they wish the period of leave to commence and cease. Whilst TEAL will try to accommodate parental leave requests wherever possible, there may be occasions where an alternative period may be proposed. The HR Department will respond within seven days of receipt of the request and if the outcome is a postponement, the Trust will agree to allow the employee to take the same period of leave at a later date, providing the opportunity for a period of consultation with the employee regarding the date and the reason for the postponement.

If a father wishes to take parental leave on the birth of a child he must give the HR Department at least 21 days' notice of the EWC, detailing the period of parental leave he wishes to take. Similarly, if an employee wishes to take parental leave at the time of a placement for adoption they must give the HR Department at least 21 days' notice of the week the placement is expected to occur and the period of parental leave they wish to take. If it is not possible to give 21 days' notice the employee must give notice as soon as is reasonably practicable. TEAL will not be in a position to postpone parental leave where it is being taken on the birth of a child or the placement of a child for adoption.

### Parental Leave pay and contractual rights

The employee's contract continues as normal throughout the parental leave period, with the exception of pay as parental leave is unpaid. The period of parental leave will count towards their continuous service and they will accrue annual leave in the same way as employees on maternity leave.

Parental leave does not count towards LGPS membership unless an employee makes contributions as they would have if they had been at work. If an employee wishes to do this they must inform the HR Department within 30 days of returning to work (or within 30 days of leaving if they do not return).

### Returning to work

An employee taking either of the following is entitled to return to their substantive role:

- parental leave of a single period of four weeks or less, or;
- parental leave for a period of four weeks or less which was the last of two or more consecutive periods of statutory leave which did not include any period of additional

maternity leave or additional adoption leave or a period of parental leave of more than four weeks

However, if the parental leave covers a single period of more than four weeks, or it was immediately preceded by a period of statutory leave which included a period of additional maternity or adoption leave the employee should check with the HR Department the impact this may have on their right to return to their substantive role. If a return to their substantive role is not feasible the employee must be offered an alternative role which is suitable and appropriate and has no less favourable terms and conditions.

## 9. SURROGACY

Whilst the intended mother is not legally entitled to maternity leave in a surrogacy situation, intended parents in a surrogacy arrangement who are entitled and intend to make an application for a parental order to become the child's legal parents are entitled to paternity leave and pay and adoption leave and pay (assuming the other relevant conditions are met, as specified within this policy). They will also be able to opt into the SPL system if the parent taking adoption leave chooses to bring the leave to an end early (as specified within the Paternity, Adoption and Shared Parental Leave (Parental Order Cases) Regulations 2014).

## 10. PENSIONS

In all cases please seek advice from your pension provider.

### Pension - Teachers

- Whilst in receipt of SMP, OMP, SAP, OAP, SPP, OPP, ShPP or OShPP pensionable service will continue to accrue at the same proportion as the employee's teaching post.
- Any maternity leave or parental leave without pay will not count as pensionable service.
- Members of the Teachers' Pension Scheme can opt in or out at any time. Employees can opt out in advance of their leave by completing the Opting Out Form online at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk). This means that no contributions are paid on any payments received during leave.
- Employees who opt out and then return are able to re-join the Teachers' Pension Scheme by completing the Election to Join the Scheme Form available online at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk). There is no limit to the number of times employees can opt out and rejoin the Teachers' Pension Scheme but employees should note the significance of opting out for a period of 5 years or more, whereby they will be treated as a new scheme member when they opt back in.
- Employees who are paying additional voluntary contributions (AVC's) must continue to make payments on pay received, unless the employee opts to stop this payment.
- Employees who are paying additional regular contributions (ARC's) to purchase additional annual pension or purchase added years of membership must make contact with the Teachers' Pension Scheme, the Union's pension section or a Financial Advisor
- **Employees wishing to opt out of the Teachers' Pension Scheme are strongly advised to seek advice from their trade union or financial advisor and clarification can be sought via the Finance Department or the Teachers Pensions.**

### Pension – Support Staff

- During periods of paid leave, the employee will continue with full membership of the LGPS for the first 26 weeks off work. Pension contributions will be based on the actual pay the employee receives during this period.
- Employees taking additional leave will continue with full membership of the LGPS for that period and pension contributions will be based on the actual pay the employee receives during the period.
- If an employee opts to take additional unpaid leave their pension membership will not count unless they have the right to return to work, in which case the employee can choose to pay back pension contributions to cover the unpaid period, thus making it count. An employee wishing to do this must inform the HR Department within 30 days of returning to work (or within 30 days of leaving if they do not return to work). The cost of paying back is based on the last rate of pay the employee has received, ignoring any increase in pay due to working a KIT day.
- If any employee is paying extra LGPS contributions or AVCs they should either contact the LGPS or visit their website ([www.lgps.org.uk](http://www.lgps.org.uk)) for more information.

- **Employees wishing to opt out of the LGPS are strongly advised to seek advice from their trade union or financial advisor and clarification can be sought via the Finance Department or the LGPS.**

## **11. MISUSE OF THE POLICY**

If an employee is found to have deliberately misused this Policy the matter will be dealt with under the Disciplinary Policy and Procedure.

## **12. MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF THE POLICY AND PROCEDURE**

Effectiveness and compliance of this Policy and Procedure will be monitored by the HR Department.

## **13. REFERENCES**

Employment Rights Act 1996  
 Equality Act 2010  
 Maternity and Parental Leave Regulations 1999  
 Paternity and Adoption Leave (Amendment) Regulations 2006  
 Maternity and Parental Leave and Paternity and Adoption Leave (Amendment) Regulations 2008  
 Parental Leave (EU Directive) Regulations 2013  
 Additional Paternity Leave Regulations 2010  
 Additional Statutory Paternity Leave Regulations 2008  
 Management of Health and Safety at Work Regulations 1992  
 Children and Families Act 2014  
 Paternity and Adoption Leave (Amendment) Regulations 2014  
 Shared Parental Leave Regulations 2014  
 Conditions of Service for School Teachers in England and Wales (Revised August 2000) Burgundy Book.  
[www.cipd.co.uk](http://www.cipd.co.uk)  
[acas.org.uk](http://acas.org.uk)  
[www.gov.uk](http://www.gov.uk)

## **14. ASSOCIATED DOCUMENTATION**

National Agreement on Pay and Conditions of Service  
 Special Leave Policy  
 Flexible Working Policy  
 Disciplinary Policy and Procedure  
 Health and Wellbeing Policy and Procedure

## **15. REVIEW**

This Policy and Procedure will be reviewed within 2 years of the date of implementation.

## Appendix

## Glossary

OML	Ordinary Maternity Leave
AML	Additional Maternity Leave
EWC	Expected Week of Childbirth
SMP	Statutory Maternity Pay
NIC	National Insurance Contributions
OMP	Occupational Maternity Pay
MPP	Maternity Pay Period
MHSW	Management of Health and Safety at Work Regulations 1992
KIT	Keep in Touch
SLT	Senior Leadership Team
MA	Maternity Allowance
LGPS	Local Government Pension Scheme
AVC	Additional Voluntary Contributions
OPL	Ordinary Paternity Leave
APL	Additional Paternity Leave
SPP	Statutory Paternity Pay
OPP	Occupational Paternity Pay
SPL	Shared Parental Leave
ShPP	Statutory Shared Parental Pay
OShPP	Occupational Shared Parental Pay
OAL	Ordinary Adoption Leave
AAL	Additional Adoption Leave
SAP	Statutory Adoption Pay
OAP	Occupational Adoption Pay