

Parenting Policies

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Purpose	To detail all of the procedures relating to parenting provisions (maternity, paternity, adoption, shared parental leave and unpaid parental leave). This policy breaks down pay and leave entitlements and the processes in place.		

Document accessibility

If you would like this information in another language or format please speak to your Headteacher/Principal

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1. INTRODUCTION

- 1.1 This procedure details the processes in place within schools and academies regarding requests for taking leave, work arrangements and pay in relation to parenting provisions. The procedure outlines employee entitlement and the processes that should be used to help and support employees during the following set of circumstances;
- Maternity
 - Adoption
 - Paternity
 - Maternity Support Leave
 - Shared Parental Leave
 - Unpaid Parental Leave
- 1.2 The majority of policies provide times when notification of the intention to take leave under these policies, should be given to the school/academy. The notice periods are in line with statute and in line with the Burgundy Book and Green Book respectively. It is recommended that employees take into account the school/academy year when any notice is given in order to allow Headteacher/Principal to arrange staffing of the school/academy appropriately. Where the documents refer to notification to the Headteacher/Principal this includes any nominated person.
- 1.3 The policies are designed to be as comprehensive as possible. However, if you have any queries which are not answered or if you have any other questions, further advice may be sought from your HR Consultant on any of the policies. However, for some queries you may be directed to your Payroll Services provider.
- 1.4 Separate arrangements apply to other leave and time off such as emergency time-off for dependants, and other compassionate leave, including Parental Bereavement leave. Please see the time-off policy.

2. MATERNITY

Maternity key stages and the employees' and Headteacher/Principal's responsibilities overview can be seen in [Appendix 1](#).

2.1 ANNOUNCING PREGNANCY

A pregnant employee must notify her Headteacher/Principal in writing, as soon as possible but no later than the end of the 15th week before the expected week of childbirth (EWC) of:

- the pregnancy;
- the expected week of childbirth, this must be confirmed by a maternity certificate (MAT B1).
- the date she plans to start her maternity leave.

Early notification is potentially important due to Health and Safety reasons. The letter should be forwarded to HR to be placed on the personal file.

The employee should request a Maternity Leave Form from HR Payroll Services. The employee should complete the form, attaching the MAT B1, and return it to the Headteacher/Principal at least 28 days before she intends to start maternity leave.

The Headteacher/Principal should forward the completed Maternity Leave Form and the MAT B1 to your Payroll provider, who will notify the employee of the expected date of return.

2.2 HEADTEACHER OR PRINCIPAL'S RESPONSIBILITIES FOLLOWING PREGNANCY ANNOUNCEMENT

Conduct a workplace risk assessment

Headteachers/Principals have a legal obligation to ensure the health, safety and welfare of pregnant employees as soon as they are aware that they are pregnant and until six months after childbirth, or until the employee stops breastfeeding, whichever is later.

Headteachers/Principals need to complete a workplace risk assessment (or review an existing risk assessment) and review as necessary throughout the pregnancy and post pregnancy (as relevant). Advice and guidance is available from Safety, Health and Wellbeing Services.

Where an unacceptable risk is identified and cannot be avoided, Headteachers/Principals may in consultation with the employee:

- alter the employees working conditions or hours
- explore the possibility of suitable alternative employment
- arrange for the employee to take paid leave if no suitable alternative work can be found.

Where there is a medical room available, this can be used by expectant mothers to rest and in the absence of a medical room alternative arrangements should be arranged in conjunction with the Headteacher/Principal.

Support discussions

Employees and Headteachers/Principals are encouraged to discuss the following in order for appropriate support to be provided:

- Provision of any emergency contact details.
- What sort of contact employees would like to have whilst on maternity leave and the best methods for this.
- Annual leave entitlement and how this might be taken.

2.3 MATERNITY LEAVE

Duration

Pregnant employees can take up to 52 weeks maternity leave made up of 26 weeks of ordinary maternity leave (OML) followed by 26 weeks of additional maternity leave (AML), regardless of

length of service. Employees are entitled to all contractual benefits, except pay, for the full 52 weeks of maternity leave.

New mothers must take a minimum of 2 weeks maternity leave (compulsory period) following the birth of the baby.

Mothers can choose to share their maternity leave (once they have taken the compulsory period) with their partner / co-parent by ending their period of maternity leave and instead taking shared parental leave. Refer to [Shared Parental Leave \(SPL\)](#) section 7 for further guidance.

Start date

The earliest a woman can start her maternity leave is 11 weeks before the EWC. The latest a woman can start her maternity leave is her expected due date. Employees must give their Headteacher/Principal at least 28 days notice in writing of the date they would like their maternity leave to commence. The employee may request to change this date after giving notice and they should give their Headteacher/Principal as much notice as possible if they wish to do this.

If the baby is born earlier than the date which the employee had planned to commence maternity leave then the period of maternity leave will commence automatically. In this situation the employee should inform their Headteacher/Principal of the baby's date of birth as soon as possible and the Headteacher/Principal should notify Payroll Services.

If the employee is absent from work with a pregnancy-related illness, within 4 weeks of their due date, maternity leave will start automatically, even if they had intended to start their maternity leave later.

Returning to work

Employees are under no obligation to tell their Headteacher/Principal of their intentions to return to work before they commence their maternity leave. Any discussions at this point are not binding and employees are not required to finalise any arrangements at this time.

For statutory maternity pay (SMP) purposes, employees who are not returning after the birth should not resign from their post until the end of their maternity leave. They should indicate that they do not wish for the occupational maternity pay (OMP) to be paid to them, and then resign in writing giving their contractual notice.

2.4 MATERNITY PAY

Types of maternity pay and qualifying criteria

- Occupational Maternity Pay (OMP) – to qualify for OMP employees need to have completed a minimum of 1 year's continuous service by the 15th week before the EWC.
- Statutory Maternity Pay (SMP) – to qualify for SMP employees need to have completed a minimum of 26 weeks continuous service by the 15th week before the EWC and their average weekly earnings must not be less than the lower earnings

limit for National Insurance contributions (the current limit can be checked on www.gov.uk).

- Maternity Allowance – employees who are not eligible for SMP may instead be eligible for maternity allowance. Employees in this category will be written to with a SMP1 form regarding how maternity allowance should be claimed from the Department of Work and Pensions.

Continuous service is calculated as service the employee has accrued with one or more Local Authorities without a break in service.

Maternity pay entitlement is calculated by Payroll Services on receipt of a completed Maternity Leave Form and the submission of a MAT B1 form. The MAT B1 is issued by a doctor or midwife at around week 20 – 24 of pregnancy. The original of the MAT B1 is required in order to receive maternity pay. Additional copies of the MAT B1 certificate should be made if required as it cannot normally be re-issued.

Once maternity pay entitlement has been calculated, HR Payroll Services will contact employees providing details of pay entitlement and significant dates. The statutory entitlement is based on the salary at the qualifying week (15th week before EWC) and OMP is based on salary at the commencement of maternity leave.

Employees who are not entitled to OMP, SMP or maternity allowance will still be entitled to 52 weeks unpaid maternity leave.

Employees will not be entitled to SMP if any of the following applying to them during the period in which they are being paid SMP:

- Start working, after birth of the baby for another employer, this includes another authority or Foundation school; and /or
- Are taken into custody

It is the employee's responsibility to notify the Headteacher/Principal if any of the above events occur during the period in which they are being paid SMP.

TEACHERS' MATERNITY PAY ENTITLEMENT

Teachers' maternity pay entitlement varies according to length of service. Those with one or more years' continuous local government service by the 11th week before EWC will be entitled to 4 weeks' full pay in accordance with the Burgundy Book. The different schemes of maternity pay entitlement are shown below.

However, it is important to note that where a teacher chooses to leave an academy and return to local government, employment service is only considered continuous for redundancy purposes (as per the Redundancy Modification Order). The teacher will have to start to build up local government continuous service for statutory and occupational maternity rights, and the rights provided by the Burgundy Book above.

- i) A teacher with one or more year's continuous local government service at the start of the 11th week, and has more than 26 weeks' continuous service with the School/Walsall Council by

the end of the 15th week before the EWC, and has an average salary above the lower earnings limit is entitled to:

Weeks 1 - 4	Full pay This is offset against payments made by the way of higher rate SMP
Weeks 5-6	OMP – 90% of basic pay This is offset against payments made by the way of higher rate SMP
Weeks 7 - 18	OMP – 50% of basic pay This will be in addition to SMP standard rate (providing the total does not exceed normal pay, where it would then the teacher shall only be paid an amount equivalent to her normal full pay)
Weeks 19 – 39	SMP or 90% of an employee's average weekly earnings (whichever is lower)
Weeks 40 - 52	Without pay

- ii) A teacher with one or more year's continuous local government service at the start of the 11th week, and has less than 26 weeks' continuous with the School/Walsall Council by the end of the 15th week before the EWC, and has an average salary above the lower earnings limit is entitled to:

Weeks 1 - 4	Full pay This is offset against payments made by the way of Maternity Allowance
Weeks 5-6	OMP – 90% of basic pay This is offset against payments made by the way of Maternity Allowance
Weeks 7 - 18	OMP – 50% of basic pay This will be in addition to Maternity Allowance (providing the total does not exceed normal pay, where it would then the teacher shall only be paid an amount equivalent to her normal full pay)
Weeks 19 – 39	Maternity Allowance
Weeks 40 - 52	Without pay

- iii) A teacher with less than one year's continuous local government service at the start of the 11th week, but more than 26 weeks' continuous with the School/Walsall Council by the end of the 15th week before the EWC, and has an average salary above the lower earnings limit is entitled to:

Weeks 1 - 6	SMP - 90% of an employee's average weekly earnings
Weeks 7-39	SMP or 90% of an employee's average weekly earnings (whichever is lower)
Weeks 40 - 52	Without pay

- iv) A teacher with less than one year's continuous local government service at the start of the 11th week, but more than 26 weeks' continuous with the School/Walsall Council by the end of the 15th week before the EWC, and has an average salary below the lower earnings limit may be entitled to:

Weeks 1 - 39	Maternity Allowance
Weeks 40 - 52	Without pay

- v) A teacher with less than 26 weeks' continuous service with the School/Walsall Council by the end of the 15th week before the EWC may be entitled to:

Weeks 1 - 39	Maternity Allowance
Weeks 40 - 52	Without pay

OMP / SMP are based on an employee's current salary and will be adjusted to reflect any pay increases during the maternity leave period.

Teachers' 12 weeks half pay (OMP)

Teachers have an obligation to return to work for at least 13 weeks (including periods of school/academy closure) in order to qualify for occupational maternity pay (the 12 weeks half pay). If employees do not return for the required time then any half pay OMP paid to them will be claimed back.

If employees are unsure of their intentions to return, they can elect to have their half pay OMP deferred and paid, usually in a lump sum, at a later date upon return to work

Where the school/academy agrees that a full-time teacher may return to work on a part-time basis, the obligation to return to work is for a period which equates to 13 weeks of full-time service (i.e. a teacher going from fulltime to 0.5 FTE must return for 26 weeks). Similarly, where the school/academy agrees, a part-time teacher may return to work on a different part-time basis, the obligation to return to work is for a period which equates to 13 weeks part-time service relating to her previous contract.

The 13 week period (or part-time equivalent) starts from the date the teacher actually returns to work or the date during the school/academy holiday on which the teacher has notified the school/academy that she is available to work provided she actually returns to duty on the first day after the period of closure.

If a teacher has more than one contract of employment with the School/Walsall Council and only returns to one of these contracts, they will not be required to pay back any half pay OMP, provided they complete 3 months service, in respect of, at least one of their contracts.

Employees are not required to pay back any SMP or Maternity Allowance received, even if they do not return to work.

Teachers' Pension Scheme

If a teacher is a member of the Teachers' Pension Scheme, contributions will continue to be deducted while they are in receipt of maternity pay and the school/academy will continue to pay the employer's contribution. Contributions will be based on the pay which the employee is receiving.

Contributions cannot be made for any unpaid maternity leave period.

Teachers can seek advice from the Walsall Council's Pensions section on 01922 655660, or directly with the Teachers' Pension Scheme.

SCHOOL/ACADEMY SUPPORT STAFF MATERNITY PAY ENTITLEMENT

Maternity leave period	Employee has completed a <u>minimum of 26 weeks continuous local government service</u> by the 15th week before the EWC and has an average salary above the lower earnings limit.	Where an employee has completed a <u>minimum of 1 year's continuous local government service</u> by the 15th week before the EWC and has an average salary above the lower earnings limit.
Weeks 1 - 6	(SMP higher rate) 90% of an employee's average weekly earnings	(OMP higher rate) 90% of an employee's basic pay
Weeks 7 - 18	SMP or 90% of an employee's average weekly earnings (whichever is lower)	Occupational Maternity Pay (OMP) 50% of an employee's basic pay This will be in addition to SMP standard rate (providing the total does not exceed normal pay)
Weeks 19 – 39	SMP or 90% of an employee's average weekly earnings (whichever is lower)	SMP or 90% of an employee's average weekly earnings (whichever is lower)
Weeks 40 - 52	Without pay	Without pay

OMP / SMP are based on an employee's current salary and will be adjusted to reflect any pay increases during the maternity leave period. When receiving maternity pay National Insurance, tax and pension will be deducted from the gross pay.

Employees who are not eligible for SMP may instead be eligible for maternity allowance instead.

School/Academy Support Staff 12 weeks half pay (OMP)

Employees are required to return to work for a minimum of 12 weeks at the end of their maternity leave period to qualify for half pay OMP. If employees do not return for the required time then any half pay OMP paid to them will be claimed back.

If employees are unsure of their intentions to return, they can elect to have their half pay OMP deferred and paid usually in a lump sum at a later date on return to work.

If an employee has more than one contract of employment with the School/Walsall Council and only returns to one of these contracts, they will not be required to pay back any half pay OMP, provided they complete 3 months service in at least one of their contracts.

Employees are not required to pay back any SMP or Maternity Allowance received, even if they do not return to work.

Local Government Pension Scheme

If the employee is a member of the local government pension scheme, pension contributions will be deducted while they are in receipt of maternity pay and the school/academy will continue to pay the employer's contribution based on the employee's normal full pay.

During any unpaid maternity leave period, an employee can choose whether or not to continue making contributions. The school/academy will pay the employer's contribution if the employee elects to make additional pension contributions within 30 days of return to work. If the employee does not pay any contributions during this time, the period will not count as service for pension purposes.

Employees can seek expert advice on this matter from Walsall Council's Pensions section on 01922 655660, or directly with the West Midlands Pension Fund.

2.5 OTHER ENTITLEMENTS AND REQUIREMENTS RELATED TO MATERNITY LEAVE (TEACHING AND SCHOOL/ACADEMY SUPPORT STAFF)

Contractual status whilst on Maternity Leave

Whilst on maternity leave employees are still employed by the School/Academy/Walsall Council and should not enter into any other form of contractual employment (paid or otherwise) during this time. They may however, undertake training courses.

Employees may move to another employer during maternity leave but leave is not transferable from the School/Academy/Walsall Council. If an employee commences work with a non local government / modification order employer (having followed procedure for resigning from their post), maternity leave will cease and any outstanding SMP / OMP will not be paid. Any half pay OMP paid before this time would be reclaimed. If however an employee takes up employment with another recognised body (such as another local authority) without a break their service will be considered continuous and SMP / OMP will not be reclaimed under these circumstances.

If the employee has completed 26 weeks of continuous employment with the School/Academy/Walsall Council by the 15th week before the expected week of childbirth and earns enough to qualify for SMP, the employee will still be entitled to statutory maternity pay if they voluntarily leave employment, as long as it is on or after the 15th week before the expected week of childbirth.

Minimum contact

Employees should expect to receive a reasonable level of contact with their Headteacher/Principal to keep them informed of any changes or information, including:

- Payslips
- Current vacancies specifically relating to the immediate department
- Details of any 'Team Days' or training courses
- Details of any restructures / organisational changes that affect the employee (including developments regarding a change of status or reorganisation)
- Any other documentation relating to a consultation process

The amount of contact will be dependent upon the wishes of the employee, however the school/academy reserves the right in any event to maintain reasonable contact from time to time with the employee during their maternity leave.

The Headteacher/Principal may make reasonable contact with the employee to discuss plans to return to work, or any other changes that the employee may wish to make, such as working hours or pattern. This should be at a time that is mutually convenient to both parties. This would not constitute 'work'; therefore such contact will not bring the maternity leave to an end.

Keeping in touch (KIT) days

Keeping in Touch (KIT) days, allow an employee to do some very limited work under the terms of their contract without losing SMP for the week in which the work is done. This is limited to a maximum of 10 days (with the legal exception of 2 weeks after the birth) and must be agreed between the employee and their Headteacher/Principal. Neither side is able to insist that KIT days are worked. Any days or sessions worked do not extend maternity leave – it remains at 52 weeks.

Examples of this include attendance at team 'away days' / training sessions or time with the team prior to returning from maternity leave. Specific project work may also be considered suitable for KIT days. The 10 days do not have to be taken as a whole day and can be worked on an hourly basis – working for any part of a day will count as a full day for KIT purposes however the employee will only be paid the hours that are worked.

Payment for these days is at an employee's normal contractual pay rate for the number of hours worked during that day and any SMP due is offset against this payment. Where the period of time worked generates a payment less than the SMP rate, no payment will be made. Where the payment for work undertaken is above the SMP rate for the day, employees (including teachers) are paid via an overtime claim form and it is normally paid in the next pay

cycle – subject to payroll requirements. KIT days should be claimed for via an overtime form within 28 days.

Health and Safety implications must be considered if undertaking any KIT days and a risk assessment should be completed prior to these days commencing.

Outside of KIT days, employees are welcome to visit the team whilst on maternity leave though they should check with the Headteacher/Principal that the visit is at a convenient time, especially if the employee is bringing their baby in to work.

Annual leave and bank holidays

i) Teachers

A teacher is entitled to 28 days statutory annual leave (pro-rata for part time employees working less than 5 days a week) and must be able to take this outside of her maternity leave period. It is not permissible for a school/academy to treat any part of the maternity leave period i.e. ordinary maternity leave (OML) or additional maternity leave (AML), as annual leave.

The annual leave year for a teacher runs in accordance with the academic year, from September to August. The annual leave entitlement can be offset by any period of school/academy closure (school/academy holidays) within the academic year and can include the period both before and after the maternity leave period, as appropriate.

A teacher should be advised prior to commencing her maternity leave that she has a statutory entitlement to 28 days annual leave and that this should be taken either before, or after the maternity leave period and during periods of school/academy closure. On her return from maternity leave, a teacher must be allowed to take any outstanding annual leave during term time during that leave year, if there are insufficient school/academy closures (holidays) to accommodate her leave in that leave year.

Where the return from maternity leave is so close to the end of the leave year that there is not enough time to take all her annual leave entitlement, a teacher must be allowed to carry over any balance of her leave to the following leave year. A teacher can be required to take this during the remaining periods of school/academy closure, after the 28 days annual leave for that leave year has been accommodated, see [Appendix 2](#) for an example of how this works in practice.

It is not possible for either the teacher, or the Headteacher/Principal to decide to carry over the annual leave into the next leave year. If there is sufficient time to take the leave in the current leave year i.e. in school/academy closures or in term time.

ii) School/Academy Support Staff (Term time only)

An employee who takes maternity leave must be able to take the minimum 28 days statutory annual leave (pro-rata for part time employees working less than 5 days per week) at a time outside of her maternity leave period. It is not permissible for a school/academy to treat any part of the maternity leave period i.e. ordinary maternity leave (OML) or additional maternity leave (AML), as annual leave.

The annual leave entitlement can be offset by any period of school/academy closure (school/academy holidays) within the academic year and can include the period both before and after the maternity leave period, as appropriate.

An employee should be advised prior to commencing her maternity leave that she has a statutory entitlement to the minimum 28 days annual leave and that this should be taken either before, or after the maternity leave period and during periods of school/academy closure. On her return from maternity leave, a teacher must be allowed to take any outstanding annual leave during term time during that leave year, if there are insufficient school/academy closures (holidays) to accommodate her leave in that year.

Where the return from maternity leave is so close to the end of the leave year that there is not enough time to take all her annual leave entitlement, an employee must be allowed to carry over any balance of her leave to the following leave year. An employee can be required to take this during the remaining periods of school/academy closure, after the 28 days minimum annual leave for that leave year has been accommodated.

It is not possible for either the employee or the Headteacher/Principal to decide to carry over the annual leave into the next leave year, if there is sufficient time to take the leave in the current leave year i.e. in school/academy closures or in term time.

iii) School/Academy Support Staff (52 week workers)

Employees accrue annual leave throughout ordinary and additional maternity leave. If an employee returns to work on a part-time basis, leave will be accrued pro rata from the date the contract is changed. The contract should not change until the employee returns to work.

It is normally advised that individuals take their annual leave entitlement for the year before maternity leave starts, but this should be agreed with the Headteacher/Principal. As far as possible, leave should be taken in the current leave year. However, where this isn't possible, outstanding leave can be carried over.

Any outstanding annual leave can be paid to an employee during the maternity leave period – whilst in a period of nil pay (after week 39 of AML). This payment should be requested direct from the Headteacher/Principal by the employee in writing during maternity leave.

Subject to approval with the Headteacher/Principal annual leave can sometimes be taken in the first weeks back at work, effectively extending the maternity leave period. However, any such period of annual leave will be subject to operational requirements.

Bank Holidays and other statutory days are accrued whilst the employee is on maternity leave, this leave can be taken at any time (subject to operational requirements) and is not subject to any carry over restrictions.

Redundancy

Maternity leave counts as continuous service for redundancy purposes and does not affect the right to a redundancy payment.

Strike action

Calculation of maternity pay entitlement is unaffected by Industrial Action. Pregnant employees and those on maternity leave are normally requested to be exempt from strike action. There are also rules regarding lone working for pregnant employees during a period of industrial action.

Returning to work

Employees may take as much of their 52 week entitlement as they wish. To simplify notice procedures, it is now assumed that all employees will take their 52 week entitlement.

If an employee wishes to return early, at any point before the end of the 52 week period, they should give the Headteacher/Principal at least 8 weeks' notice in writing of their intention to return. If an employee is intending to make any changes to their working pattern, this should have been raised with the Headteacher/Principal before this time. The Headteacher/Principal must contact the employee to confirm this date and to make arrangements for the employee's return.

If correct notice is not given, the Headteacher/Principal can delay the employee's return but not beyond the end of the 52 weeks.

A return to work form should be completed and returned to payroll, to put the returning employee back onto payroll on return from maternity leave if there are any changes or this is before the 52nd week.

If staff do not return on the specified date their absence may be considered unauthorised and the Headteacher/Principal may make contact.

Working arrangements

As part of a planned return to work, the employee should meet with the Headteacher/Principal to discuss their return, prior to the minimum notice periods required. This can be classed as a KIT day if there is still an outstanding allowance of KIT days. This discussion should cover any flexible working requests, using annual leave on return to work or other arrangements which can be put in place to support the employee returning.

Not returning from maternity leave

Not returning from maternity leave constitutes a resignation. There is no statutory right to return to work if the employee changes their mind. Employees are encouraged to think carefully about this decision and discuss all the options with the Headteacher/Principal.

If employees have received Occupational Maternity Pay they will need to repay the 12 weeks at half pay.

Employees will then receive a final payment which will also take into account any outstanding annual leave. This will be treated as a normal leaver from the school/academy and arrangements will be made for the collection of any personal possessions and the return of any school/academy property.

Should the employee be unable to return to work at the end of the period of maternity leave due to sickness then this absence should be reported as per the normal sickness reporting

process and the sick pay scheme will apply. This only applies after the agreed return to work date.

Flexible working

Once the employee has given notice of their intention to return to work, there are a number of things to consider.

In the normal course of employment, the employee has a right to return to the job in which they were employed under the original contract of employment. If changes have taken place the employee is entitled to be offered suitable alternative employment. Specific circumstances (e.g. redundancies) could, of course, affect this.

Employees will also have a statutory right to request flexible working such as changing/reducing contractual hours which the school/academy will consider. The employee does not have an absolute right to return to work on different terms, as the right to return after maternity leave relates to the position held before the leave began. However, if an employee thinks they may like to change their hours (or other conditions) they should discuss the matter with their Headteacher/Principal as soon as possible before the date of return. Please see the Flexible Working Policy. Any request for flexible working will depend on the needs of the business.

Returning part time does not affect an employee's entitlement to retain 12 weeks OMP, providing the employee returns to work for the minimum period applicable.

Breastfeeding

Should an employee wish to continue with breastfeeding and need to feed or express breast milk once they have returned to work, they will be supported with time away from work and a facility for this. Headteachers/Principals should discuss this with Human Resources in the first instance as the facilities available will depend upon work location.

Any required nursing breaks are paid at full pay and Headteachers/Principals should be advised of times in advance, where possible.

Following a return to work

Once the employee has returned to work, the Headteacher/Principal should complete another risk assessment for the employee as a returning mother. This will take into consideration any adaptations that now have to be made. This normally happens at the return to work meeting on the employee's first day back.

Other sections of this procedure may also become relevant such as unpaid parental leave.

Maternity rights

- **Unfair treatment and dismissal**

During pregnancy, during maternity leave and on return from maternity leave, employees have a right to be protected from unfair treatment or dismissal which is connected to pregnancy.

During maternity leave, employees must be consulted with over any restructures or redundancies.

- **Right to return to work**

Employees returning from maternity leave, have a right to return to work on terms and conditions no less favourable than those which would have applied, had the employee not been absent.

If, during a period of ordinary or additional maternity leave, the employee is unable to continue working under her contract of employment by reason of redundancy or other exceptional circumstances, for example a reorganization/restructure, the employee is entitled to be offered a suitable alternative vacancy, where one exists, on terms which are not substantially less favourable than the previous contract.

- **Unfair Treatment and Dismissal**

During pregnancy, whilst on maternity leave and on return from maternity leave, employees have a right to be protected from unfair treatment or dismissal which is connected to pregnancy. Special redundancy protection applies where an employee is at risk of redundancy during pregnancy, maternity / adoption / shared parental leave or the six months following their return to work from this leave. These employees have a legal entitlement to be offered any suitable alternative vacancy (if one is available). Whilst on maternity leave, employees must be consulted with over any restructures or redundancies.

- **Returning from Maternity Leave**

Employees returning from maternity leave, have a right to return to work on terms and conditions no less favourable than those which would have applied, had the employee not been absent. If a post is made redundant, or there are other exceptional circumstances, for example a reorganisation/ restructure during maternity leave, employees are entitled to be offered a suitable alternative vacancy, where this exists.

What if something goes wrong?

Whilst it is hoped that a pregnancy goes according to plan, the school/academy will support employees as much as possible if anything goes wrong.

The Employee Assistance Programme may be able to help with any concerns, though any non work related issues should be raised with the GP/Midwife. Counselling support is available, for employees and their family, through Vivup on 0808 023 9324.

If an employee suffers a miscarriage or the baby dies before 24 weeks of pregnancy the employee will be eligible for sick pay and/or possibly special leave according to the circumstances.

If the baby is stillborn or dies after 24 weeks of pregnancy an employee will still be entitled to maternity pay / leave.

If the baby is born before 30 weeks and survives, the school/academy will consider requests for extended leave on an individual basis, as there is no entitlement to any extra maternity leave of pay.

Other absences (Teachers)

In accordance with the Burgundy book for teachers, if in the early months of pregnancy, a teacher is advised by an approved medical practitioner to absent herself from school/academy because of the risk of rubella, she shall be granted leave with full pay, provided that she does not unreasonably refuse to serve in another school/academy where there is no such undue risk.

Absence on account of illness which is attributable to the pregnancy, including absence on account of miscarriage, and which occurs outside the period of absence for maternity shall be treated as ordinary absence on sick leave and shall be subject to the conditions governing sick leave, provided it is covered by a doctor's statement.

3. ANTENATAL PROVISION

3.1 Mothers

Pregnant employees have a right to paid time off for antenatal care appointments. These appointments should be made where ever possible at either the start or end of the working day or when less disruption is caused to the service. Paid time off for parent classes or similar is only granted when these courses are prescribed by a medical practitioner.

Apart from the first appointment employees may be asked to produce evidence of the appointments and a copy of the last page of the pregnancy notes will usually suffice. Employees should however try and give their Headteacher/Principal as much notice as possible of these appointments.

3.2 Fathers to be and partners

Fathers to be and partners (including same sex partners) of pregnant women are entitled to paid time off to attend up to two antenatal care appointments (not exceeding 6.5 hours each) that have been made on the advice of a medical practitioner. This excludes parental classes or similar appointments that have not been prescribed by a medical practitioner.

Both intended parents in a surrogacy case who meet certain criteria set out under the Human Embryology and Fertilization Act 2000 will have the right to unpaid leave to attend up to two antenatal appointments (not exceeding 6.5 hours each) that have been made on the advice of a medical practitioner. Where the intended parent is the biological father they are entitled to paid time off to attend up to 2 appointments (this is a maximum of 2 appointments, not 2 as the biological father and 2 as the parental order parent).

3.3 Time off for IVF treatment

Consideration for requests for time off for IVF treatment will be treated as time allowed for a medical condition and subject to the normal policy rules on time off for medical appointments

etc. As with other medical appointments, documentation showing the date / time of the appointment should be submitted at the time the request is made.

This applies to both male and female employees.

4. ADOPTION LEAVE

Adoption leave and pay will be available to employees who meet the eligibility criteria and are matched with a child for adoption or have a child through a surrogacy arrangement.

Adoption leave and pay will be available to one member of a couple who adopt jointly. This individual is classed as the “main adopter”. The partner of an individual who adopts, or the “secondary adopter”, may be entitled to paternity leave and pay or shared parental leave. This is regardless of gender.

4.1 STATUTORY ADOPTION LEAVE

Adoption leave is a ‘day 1 right’ meaning employees do not need to have a qualifying period of service to qualify for Statutory Adoption Leave (SAL), however they must meet certain eligibility criteria, which differs for UK and overseas adoptions;

UK Adoptions	Overseas Adoptions
Qualifying criteria	Qualifying criteria
An employee qualifies for SAL if they: 1) have been matched to a child to be placed with them by a UK adoption agency 2) have notified the agency that they agree the child should be placed with them and agree the date of the placement 3) have given the school/academy the correct notice (see below)	An employee qualifies for SAL if they: 1) have received official notification from the relevant UK authority (usually the Department of Health) of their eligibility to adopt a child from overseas. The notification confirms either: a) that the authority is prepared to issue a certificate to the overseas authority dealing with the adoption of the child, or; b) that the authority has issued a certificate and sent it to the overseas authority 2) have provided the correct notification of the overseas adoption 3) have given the school/academy the correct notice (see below)

UK Adoptions	Overseas Adoptions
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Notice	Notice
Within 7 days of being matched with a child, the employee must tell the Headteacher/Principal; • how much leave they want • the date on which they want their adoption leave to start (giving at least 28 days notice, unless the time between the child being matched and placed is less than that) • the date of placement (i.e. the expected date or actual date the child is placed with them)	Within 28 days of getting the notification, the employee must tell the Headteacher/Principal the date of their 'official notification' and the expected date the child arrives in the UK. Within 28 days of the child arriving in the UK, the employee must tell the school/academy the actual date of arrival. The employee must tell the Headteacher/Principal; • how much leave they want • the date on which they want their adoption leave to start (giving at least 28 days notice, where reasonable practicable)

Employees must notify the Headteacher/Principal, by completing the Adoption Application Form with proof of the adoption, at least 28 days before they want the adoption leave and statutory adoption pay to start, or as soon as is reasonably practicable.

The employee should request an Adoption Leave Form from the Payroll Provider. The employee should complete the form and return it to the Headteacher/Principal at least 28 days before they intend to start adoption leave (where possible).

The Headteacher/Principal should forward the completed Adoption Leave Form with proof of the adoption to the Payroll Provider, who will notify the employee of the expected date of return.

Employees will be able to change their mind about the date on which they want their leave to start providing they tell the school/academy at least 28 days in advance (unless this is not reasonably practicable).

Employees will not qualify for adoption leave (or adoption pay) if they:

- arrange a private adoption
- become a special guardian or kinship carer
- adopt a family member or stepchild
- have a child with the help of a surrogate mother, where the intended parents are not eligible for a Parental Order or where they meet the conditions but do not intend to apply for a Parental Order.

Duration

The statutory adoption leave (SAL) period is made up of 26 weeks' ordinary adoption leave (OAL) followed by 26 weeks' additional adoption leave (AAL), regardless of length of service.

Employees are entitled to all contractual benefits, except pay, for the full 52 weeks of adoption leave.

The main adopter can choose to share their adoption leave with their partner / secondary adopter by ending their period of adoption leave and instead taking shared parental leave. They must take at least 2 weeks of adoption leave before starting any shared parental leave.

Adoption leave will end if the placement does not take place or breaks down. The employee must inform their Headteacher/Principal if this occurs.

Start Date

Adoption leave can start:

- on the date the child starts living with the employee or up to 14 days before the expected placement date (for UK adoptions only)
- when an employee has been matched with a child to be placed with them by a UK adoption agency
- on the date the child starts living with the employee or up to 14 days before the expected placement date providing that the child has arrived in the UK (for overseas adoptions).
- the day the child is born or the day after (for parents in surrogacy arrangements)

Returning to work

Employees may take as much of their 52 week entitlement as they wish. To simplify notice procedures, it is now assumed that all employees will take their 52 week entitlement.

If an employee wishes to return early, at any point before the end of the 52 week period, they should give the Headteacher/Principal at least 8 weeks' notice in writing of their intention to return. If an employee is intending to make any changes to their working pattern, this should have been raised with the Headteacher/Principal before this time. The Headteacher/Principal must contact the employee to confirm this date and to make arrangements for the employees return.

If correct notice is not given, the Headteacher/Principal can delay the employees return but not beyond the end of the 52 weeks.

The appropriate Payroll form should be submitted at the end of the leave period. If staff do not return on the specified date their absence may be considered unauthorised and the Headteacher/Principal will make contact.

4.2 ADOPTION PAY

To qualify for adoption pay employees must:

- give the school/academy the correct notice (see above, the notice is same as that required for statutory adoption leave)
- give the school/academy proof of the adoption, and
- meet the employment qualifying criteria

The employee must declare that they are the main adopter and are therefore taking adoption leave and/or pay, not paternity leave and/or pay (see the Adoption Leave and Pay Application Form).

Proof of the adoption

UK Adoptions	Overseas Adoptions
The evidence must show: - the name and address of the adoption agency and employee - date the child was matched, e.g. the matching certificate - the expected or actual date of placement, e.g. a letter from the agency	The evidence must show: - the name and address of the adoption agency/authority and employee - the relevant UK authority's 'official notification' - the date the child arrived in the UK, e.g. plane ticket

Employees should ask their adoption agency for a matching certificate (or 'official notification' for overseas adoptions) which will include basic information on matching and expected placement dates.

Employment qualifying criteria

UK Adoptions	Overseas Adoptions
STATUTORY ADOPTION PAY (SAP)	
To qualify for SAP employees need to have completed a minimum of 26 weeks' continuous service by the week in which they were notified of having been matched with the child (i.e. the 'matching week'), and their average weekly earnings must not be less than the earnings limit for National Insurance contributions.	To qualify for SAP employees need to have completed a minimum of 26 weeks' continuous service by the week that they receive official notification of adoption, or by the time they want to start their SAP to begin, whichever is later, and their average weekly earnings must not be less than the earnings limit for National Insurance contributions.
OCCUPATIONAL ADOPTION PAY (OAP)	
To qualify for OAP employees need to have completed a minimum of 1 year's continuous service by the week in which they were notified of having been matched with the child (i.e. the 'matching week').	To qualify for OAP employees need to have completed a minimum of 1 year's continuous service by the week that they receive official notification of adoption, or by the time they want their SAP to begin, whichever is later.

The matching week starts on a Sunday and ends on a Saturday.	
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Employees who are not eligible for SAP may be eligible for other welfare benefits and should contact their adoption agency or local Job Centre Plus office.

Adoption pay entitlement

TEACHERS' ADOPTION PAY ENTITLEMENT

Adoption leave period	Teacher has completed a <u>minimum of 26 weeks continuous service</u> by the 'matching week' and has an average salary above the lower earnings limit.	Teacher has completed a <u>minimum of 1 years' continuous service</u> by the 'matching week' and has an average salary above the lower earnings limit.
Weeks 1-4	(SAP higher rate) 90% of employee's average weekly earnings	Full pay This is offset against payments made by the way of higher rate SAP
Weeks 5-6	(SAP higher rate) 90% of an employee's average weekly earnings	(OAP higher rate) 90% of an employee's basic pay
Weeks 7-18	SMP or 90% of an employee's average weekly earnings (whichever is lower)	Occupational Adoption Pay (OAP) 50% of an employee's basic pay This will be in addition to SAP standard rate (providing the total does not exceed normal pay)
Weeks 19-39	SMP or 90% of an employee's average weekly earnings (whichever is lower)	SMP or 90% of an employee's average weekly earnings (whichever is lower)
Weeks 40-52	Without pay	Without pay

OAP / SAP are based on an employee's current salary and will be adjusted to reflect any pay increases during the adoption leave period.

It is important to note that where a teacher chooses to leave an academy and return to local government employment service is only considered continuous for redundancy purposes (as per the Redundancy Modification Order). The teacher will have to start to build up local government continuous service for statutory and occupational adoption rights.

Teachers' 12 weeks half pay (OAP)

Teachers have an obligation to return to work for at least 13 weeks (including periods of school/academy closure) in order to qualify for the 12 weeks half pay occupational adoption pay. If employees do not return for the required time then any half pay OAP paid to them will be claimed back.

If employees are unsure of their intentions to return, they can elect to have their half pay OAP deferred and paid, usually in a lump sum, at a later date on return to work

Where the school/academy agrees that a full-time teacher may return to work on a part-time basis, the obligation to return to work is for a period which equates to 13 weeks of full-time service (i.e. a teacher going from fulltime to 0.5 FTE must return for 26 weeks). Similarly, where the school /academy agrees, a part-time teacher may return to work on a different part-time basis, the obligation to return to work is for a period which equates to 13 weeks part-time service relating to the teacher's previous contract.

The 13 week period (or part-time equivalent) starts from the date the teacher actually returns to work or the date during the school/academy holiday on which the teacher has notified the school/academy that they are available to work provided they actually returns to duty on the first day after the period of closure.

If a teacher has more than one contract of employment with the School/Walsall Council and only returns to one of these contracts, they will not be required to pay back any half pay OAP, provided they complete 13 weeks equivalent service in at least one of their contracts.

Employees are not required to pay back any SAP received, even if they do not return to work.

Teachers' Pension Scheme

If a teacher is a member of the Teachers' Pension Scheme, contributions will continue to be deducted while they are in receipt of maternity pay and the school/academy will continue to pay the employer's contribution. Contributions will be based on the pay which the employee is receiving.

Contributions cannot be made for any unpaid adoption leave period.

Teachers can seek advice from the Walsall Council's Pensions section on 01922 655660, or directly with the Teachers' Pension Scheme.

SCHOOL/ACADEMY SUPPORT STAFF ADOPTION PAY ENTITLEMENT

Adoption leave period	Employee has completed a <u>minimum of 26 weeks continuous local government service</u> by the 'matching week' and has an average salary above the lower earnings limit.	Where an employee has completed a <u>minimum of 1 year's continuous local government service</u> by the 'matching week' and has an average salary above the lower earnings limit.
Weeks 1-6	(SAP higher rate) 90% of employees average weekly earnings	(OAP higher rate) 90% of employees average weekly earnings

Weeks 7-18	SMP or 90% of an employee's average weekly earnings (whichever is lower)	Occupational Adoption Pay (OAP) 50% of employees basic pay This will be in addition to SAP standard rate (providing the total does not exceed normal pay)
Weeks 19-39	SMP or 90% of an employee's average weekly earnings (whichever is lower)	SMP or 90% of an employee's average weekly earnings (whichever is lower)
Weeks 40-52	Without pay	Without pay

OAP / SAP are based on an employee's current salary and will be adjusted to reflect any pay increases during the adoption leave period. When receiving adoption pay National Insurance, tax and pension will be deducted from the gross pay.

School/Academy Support Staff 12 weeks half pay (OAP)

Employees are required to return to work for a minimum of 12 weeks at the end of their adoption leave period to qualify for OAP. If employees do not return for the required time then any OAP paid to them will be claimed back.

If employees are unsure of their intentions to return, they can elect to have their half pay OAP deferred and paid usually in a lump sum at a later date on return to work.

If an employee has more than one contract of employment with the School/Walsall Council and only returns to one of these contracts, they will not be required to pay back any OAP, provided they complete 12 weeks service in at least one of their contracts.

Employees are not required to pay back any SAP received, even if they do not return to work.

Local Government Pension Scheme

If the employee is a member of the local government pension scheme, pension contributions will be deducted while they are in receipt of adoption pay and the school/academy will continue to pay the employer's contribution based on the employee's normal full pay.

During any unpaid adoption leave period, an employee can choose whether or not to continue making contributions. The school/academy will pay the employer's contribution if the employee elects to make additional pension contributions within 30 days of return to work. If the employee does not pay any contributions during this time, the period will not count as service for pension purposes.

Employees can seek expert advice on this matter from Walsall Council's Pensions section on 01922 655660, or directly with the West Midlands Pension Fund.

4.3 OTHER ENTITLEMENTS AND REQUIREMENTS RELATED TO ADOPTION LEAVE

Those taking adoption leave are also entitled to the same protections as those on maternity leave. Please see section 2.5 for other related entitlements and requirements. Where maternity is mentioned adoption should be substituted, likewise SMP/OMP with SAP/OAP.

4.4 PRE-ADOPTION PROVISION

Employees are entitled to take paid time off work to attend adoption meetings:

- Time off must be taken in the period between being notified of match with the child and the date the child joins the family.
- Single adopters are entitled to paid time off to attend up to 5 adoption meetings
- In the case of dual adopters, the main adopter (who plans to take the adoption leave) will be entitled to paid time off to attend up to 5 meetings, and the other adopter (who may take paternity leave) is entitled to paid time off to attend up to 2 meetings

Documentary evidence should be provided by the employee for approval of time off with pay.

Employees may also request time off as part of the introduction to the child (usually 1-2 weeks depending on the age of the child). Employees are expected to use annual leave or time off in lieu (where applicable) or request unpaid leave for this purpose, and Headteachers/Principals should ensure that where possible requests for this leave are granted as the timing is dependent upon the adoption agency.

There is no statutory right to time off to attend an adoption preparation course. The following paragraph is optional for schools/academies to adopt if they choose, in line with the occupational entitlement offer by Walsall Council.

To support the adoption process the school/academy will also allow employees up to 5 days paid leave to attend an adoption preparation course (usually 4 days plus 1 day follow up 3 months later) before being matched with a child. In the event of both adopters being employed by the school/academy/council, they will both be entitled to the above. This leave is available to all employees regardless of length of service.

Please delete the above paragraph if Governors choose not to adopt this additional paid leave.

4.5 SPECIFIC ADOPTION CASES

Foster carers who adopt

Ordinarily foster carers are not eligible for adoption leave and pay. However, the main prospective adopter who has a child placed with them under section 22C of the Children Act 1989 with a view to them adopting that child (sometimes referred to as “fostering for adoption”), are entitled to adoption pay and leave from the time when the child comes to live with them (initially for fostering). The partner or secondary adopter may be entitled to paternity leave and pay.

Adoption through surrogacy

The main intended parent in surrogacy arrangement, where they are eligible for and intend to apply for a Parental Order making them legal parents of the child, are entitled to adoption pay and leave.

To qualify for adoption leave:

- employees will have to give the school/academy a 'statutory declaration' (i.e. written declaration signed by the individual in the presence of a qualified person, such as a solicitor) confirming they intend to apply for a parental order in the 6 months after the baby's birth
- employees have to tell the school/academy at least 15 weeks before the due date, when the baby is due and when they want their adoption leave to start.

To qualify for adoption pay:

Statutory Adoption Pay	To qualify for SAP employees need to have completed a minimum of 26 weeks continuous service by the 15th week before the baby is due and their average weekly earnings must not be less than the lower earnings limit for National Insurance contributions.
Occupational Adoption Pay	To qualify for OAP employees need to have completed a minimum of 1 year's continuous service by the 15 th week before the baby is due.

The partner or second Parental Order parent may be entitled to paternity leave and pay or shared parental leave.

Where the Parental Order is refused by the court the adoption leave will end 8 weeks later or at the end of the 52 weeks, whichever is earlier.

Both intended Parental Order parents are entitled to take unpaid leave to accompany the surrogate mother to up to 2 for her antenatal appointments (up to 6.5 hours for each appointment) that have been made on the advice of a medical practitioner. Where the parental order parent is the biological father they are entitled to paid time off to attend up to 2 appointments (this is a maximum of 2 appointments, not 2 as the biological father and 2 as the parental order parent).

5. PATERNITY LEAVE

Employees may be entitled to Paternity Leave where their partner is having a baby, where they are adopting a child or having a baby through surrogacy arrangements. Whilst this will normally apply to fathers, same sex partners may be entitled providing they meet the eligibility criteria.

5.1 ENTITLEMENT TO PATERNITY LEAVE (PL)

Fathers to be / adoptive fathers (or same sex partners) are entitled to take two week's paternity leave at (or within 52 weeks of) the birth (or placement for adoption). Leave cannot start before the birth or in adoption cases the date of placement. Employees can choose to take leave as two separate one-week blocks or as two continuous weeks.

Only one period of leave is provided per pregnancy, regardless of whether the employee's partner gives birth to multiple babies.

To be eligible for Paternity Leave, employees must be:

- The biological father, or are married to the mother, or are a partner of the mother (or main adopter), or are the intended parent (if having a baby through a surrogacy arrangement), and;
- Will be taking leave to care for the child and / or support the mother, and;
- Have 26 weeks' continuous service by the end of the 15th week before the baby is due (or by the 'matching week' in adoption cases), and;
- Have been employed continuously from the 15th week before the baby is due until the actual date of birth (qualifying week).

5.2 ELIGIBILITY FOR STATUTORY PATERNITY PAY (SPP)

Employees who qualify for Statutory Paternity Leave will also qualify for Statutory Paternity Pay provided they are earning at least the Lower Earnings Limit for National Insurance at the end of the Qualifying Week.

Fathers to be / adoptive fathers (or same sex partners) are entitled to:

- one week at full pay ,and
- one week at Statutory Paternity Pay when taking Paternity Leave.

The rate of Statutory Paternity Pay will be the same as the standard rate of Statutory Maternity Pay.

5.3 NOTICE REQUIRED FOR PATERNITY LEAVE

To receive SPP and take paternity leave the employee must provide the following information in writing to the Headteacher/Principal giving 28 days notice of their intention to take Paternity leave (or within 7 days of being matched with a child in adoption cases);

- the date of EWC (or the date of adoption placement)
- the length of leave requested
- the date the leave is intended to start

Employees should complete the Paternity Leave/Maternity Support Leave Application Form.

6. MATERNITY SUPPORT LEAVE (SCHOOL/ACADEMY SUPPORT STAFF)

Maternity Support Leave (MSL) of 5 days with pay is provided under the NJC Conditions of Service for Local Government Services (the Green Book). It is special leave which may be granted to employees to support an expectant mother. Some employees may also be eligible to apply for Paternity Leave, and they should select the Scheme which is most suitable for them.

Employees should complete the Paternity Leave/Maternity Support Leave Application Form.

6.1 ELIGIBILITY

The Scheme applies to all employees irrespective of their length of service with the School/Academy/Walsall Council. In most cases this will be the child's father or co-parent. However, in certain circumstances the mother may need to nominate an alternative person to be the primary provider of care or support on or around the time of the birth, for example, if the father is in the forces abroad. This individual is called the "nominated person" and is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of birth. In all cases the employee applying for MSL will be expected to produce the original MATB1 which confirms the mother's expected date of childbirth.

6.2 PERIOD OF LEAVE

Employees applying for maternity support leave will be granted 5 days leave with pay at or around the time (within 56 days) of birth. Leave cannot start before the birth or in adoption cases the date of placement.

6.3 MATERNITY SUPPORT LEAVE & PATERNITY LEAVE

An employee may be eligible for both Maternity Support Leave and Paternity Leave. Those employees who qualify for both will be entitled to:

- 5 days MSL at full pay (MSL offset by SPP);
- the second week as paternity leave at the SPP rate

Employees do not need to take both weeks, but where they do this must be as one block of leave not as separate weeks.

7. SHARED PARENTAL LEAVE (SPL)

Shared Parental Leave (SPL) is designed to give parents more choice and flexibility in how they share the care of their child in the first year following birth or adoption.

SPL allows mothers, fathers, partners and adopters to choose how to share a period of leave between them after their child is born or matched / placed for adoption. This could include both parents being off work at the same time and/or taking it in turns to have periods of leave to look after the child.

7.1 MATERNITY LEAVE & SHARED PARENTAL LEAVE

Mothers will continue to be entitled to 52 weeks maternity leave, however SPL allows them flexibility as to whether to take all 52 weeks as maternity leave or share some of their maternity leave with their partner.

Mothers must take two weeks compulsory maternity leave then following this the remaining leave can be taken either as maternity leave or as SPL, provided the mother (or main adopter) has opted out of her maternity leave and both parents meet the required eligibility criteria for SPL.

Fathers / partners will continue to be entitled to two weeks paternity leave immediately after a child's birth, following which they will be able to apply for SPL, provided the mother (or main adopter) has opted out of her maternity leave and both parents meet the required eligibility criteria for SPL.

Parents can choose to opt into SPL at any point providing that there is some untaken maternity leave left to share.

The combined leave taken by both parents in total must not exceed 52 weeks (including any maternity leave or adoption leave).

7.2 ELIGIBILITY FOR SHARED PARENTAL LEAVE (SPL)

To qualify for SPL;

- 1) the mother must have ended her period of maternity leave or returned to work;
- 2) and both parents (birth / adoptive parents) must be working and individually meet the following criteria:
 - a) both parents must have / expect to have main caring responsibilities for the child
 - b) 26 weeks continuous service by the end of the 15th week before the expected week of childbirth (EWC) or the notified week of adoption;
 - c) still be employed in the week before SPL is due to start;
 - d) have given the required notice (see notice requirements - SPL section 8.5);
 - e) have provided any evidence requested;
 - f) the employee's partner must also satisfy the economic activity test (which at the time of writing) requires the partner to;
 - i) have worked for any 26 weeks out of the 66 weeks before the EWC (or the 'matching week' in adoption cases), and;
 - ii) earned at least £390 in total in 13 of the 66 weeks (please check the current level on www.gov.uk)

Each parent must qualify for SPL in their own right.

For the mother to qualify for SPL she must be entitled to statutory maternity leave (SML) and have curtailed that leave.

For the father/partner to qualify for SPL, the mother must be entitled to SMP/maternity allowance/ SML, and have curtailed that pay/allowance/leave.

7.3 ELIGIBILITY FOR STATUTORY SHARED PARENT PAY (SSPP)

To qualify for SSPP;

- The employee's average salary for 8 weeks before the 15th week before the EWC must be at least the lower earnings limit (please check the current limit on www.gov.uk);
- The employee must have 26 weeks continuous service by the end of the 15th week before the EWC.
- Have given the required notice (see notice requirements - SSPP section 8.5).

Each parent must qualify for SSPP in their own right.

7.4 SSPP ENTITLEMENT

SSPP entitlement is equivalent to SMP entitlement and is paid at the same rate.

Shared Parental Leave period	Statutory Shared Parental Pay (SSPP)
Weeks 3 - 6	90% of employee's average weekly earnings This will be the average weekly earnings of the employee who is on leave during that particular week
Weeks 7 - 39	SSPP standard rate Where the employee's normal earnings are lower than SSPP, they will receive 90% of normal earnings instead of SSPP rate

Weeks 1-2 will be compulsory maternity leave for which the mother will receive SMP. Total statutory pay will not exceed 39 weeks combined. Adopters must take at least two weeks adoption leave to be able to access shared parental leave.

7.5 NOTICE REQUIREMENTS – SPL AND SSPP

Mothers/Adopters are required to provide written notice in order to end their maternity/adoption leave before being eligible for SPL.

Employees are required to provide at least 8 weeks' written notice of their intention to take SPL prior to SPL commencing (unless the child is born early and this has not been possible). This first notification should include an indication of the expected pattern of leave they will be taking. However the pattern of leave is not binding at this stage. Form SPL1 details the information which must be provided when informing the school/academy of the intention to take SPL.

Both parents have to notify their employers.

Employees are required to provide at least 8 weeks' written notice of each period of shared parental leave they will be taking. Any notice given to take SPL is binding once submitted, unless notice was given before the birth, in which case employees can change their mind up to 6 weeks after the birth. If a mother revokes her notice following the birth she will be able to opt into SPL at a later date.

Employees are able to notify the school/academy up to a maximum of three times to request periods of leave and/or any changes to the leave periods they have requested (the original notification and up to two further notifications or changes). Any change requests to previously notified arrangements which are mutually agreed as changes between the school/academy and the employee can be made as long as both parties agree and these will not count towards the maximum of three notifications allowed.

7.6 REQUESTING SPL – THE PROCESS

Once employees have provided written notice of their entitlement and intention to take SPL, they must book each period of leave, providing at least 8 weeks written notice before the start of each period of leave using Form SPL2. Employees can submit up to three separate notices (including any change requests for previously booked periods of leave – where change requests are mutually agreeable they do not count towards the maximum of 3 requests that can be submitted).

Each notice can be for a block of continuous leave, or the notice may request a pattern of discontinuous leave involving different periods of leave.

Requests for a continuous block of leave will be granted. The school/academy may attempt to discuss and seek agreement to modify a continuous leave requests, however employees are under no obligation to accept any modifications to a continuous leave request.

Requests for a discontinuous block of leave will be considered in line with the needs of the service. The outcome which, will be provided within 14 calendar days of the request being received, may be anyone of the following;

1. That the request for a discontinuous block of leave is granted
2. That an alternative pattern of either discontinuous or continuous leave (as appropriate to the service) is proposed by the school/academy and agreement sought with the employee
3. That the discontinuous leave request be refused

Where the outcome is either option 2 or 3 the employee can withdraw their request on or before the 15th day after the request was originally made and it will not count as one of their three requests. If the employee does not withdraw their request, they must take the total amount of leave they had requested in one continuous block. The employee can choose when this leave period will begin within 19 days (i.e. 5 days after the 14th day) of the date the request was given to the employer but it cannot start sooner than the initially requested start date. If the employee does not request an alternative start date within the 19 day period, the leave will begin on the starting date stated in the original request.

7.7 RIGHT TO RETAIN A JOB

If the period of leave does not exceed 26 weeks, the employee has the right to return to the same job. This will apply whether or not the leave is taken continuously. If the period of leave exceeds 26 weeks, the employee has a right to return to the same job or, if not reasonably practicable, a similar job.

7.8 SHARED PARENTAL LEAVE IN TOUCH (SPLIT) DAYS

Each employee may take up to 20 in-touch (SPLIT) days during a period of shared parental leave without it bringing the leave to an end. These 20 days are in addition to the 10 'Keeping In Touch' (KIT) days that are available to those on maternity or adoption leave.

SPLIT days follow the same principles as KIT days (see section 2.5).

7.9 SHARED PARENTAL LEAVE IN ADOPTION AND SURROGACY

Shared parental leave will also be available to adoptive parents and intended parents through surrogacy. The following points apply:

- Adopters will have the same rights as other parents to maternity leave and pay and if eligible, will be entitled to share parental leave.
- Surrogate parents who meet the criteria to apply for a Parental Order will be eligible for statutory adoption leave and pay and shared parental leave and pay again if they meet the qualifying criteria.

8. UNPAID PARENTAL LEAVE

- Unpaid parental leave is separate to shared parental leave (SPL) and entitles eligible employees the right to take 18 weeks unpaid time off work to look after a child or make arrangements for the welfare of a child.
- Unpaid parental leave is available to both male and female employees, irrespective of any current working arrangements or previous applications. Parental leave is granted per child born or adopted and not per employee, so in the case of twins or multiple adoptions (i.e. twins or siblings adopted at the same time) parents' entitlement is per child.
- Employees remain employed during any period of unpaid parental leave and are not permitted to use their parental leave to take up any other employment.

8.1 WHAT IS UNPAID PARENTAL LEAVE FOR?

- Employees can use their parental leave for a variety of reasons, such as;
- To spend more time with a child
- To support a child whilst in hospital
- To investigate nurseries or schools or to make other caring arrangements

8.2 ELIGIBILITY FOR UNPAID PARENTAL LEAVE

- To qualify for unpaid parental leave the employee:
- Must have at least 1 year's continuous service;
- Must be named on the child's birth or adoption certificate, or have/expected to have parental responsibility for a child, and;

- The child is under 18 years of age
- Foster parents are not eligible for unpaid parental leave unless they have secured parental responsibility through the courts.

8.3 ORDINARY PARENTAL LEAVE ENTITLEMENT

- Eligible employees are entitled to take up to 18 weeks unpaid parental leave in total for each child. Leave can be taken at any point once the child is born or matched / placed for adoption, up to the child's 18th birthday. The limit on how much parental leave each employee can take in a year is 4 weeks per child.
- Parental leave may be taken as:
 - A single block of up to 4 weeks in any one year, or;
 - A number of shorter blocks of leave that must be taken in multiples of a week, unless the child is disabled, in which case the leave can be taken in individual days.
- Employees who work part time will have their unpaid parental leave allowance on a pro-rata basis. Therefore a weeks' leave will be equal to the length of time that employee normally works during a week, i.e. 5 days for an employee who works Monday through to Friday or 2 days for an employee who works Tuesday and Wednesday only.

8.4 APPLYING FOR A PERIOD OF UNPAID PARENTAL LEAVE – THE PROCESS

- Form OPL1 is required to be submitted giving a minimum of 21 days notice of a request to take unpaid Parental Leave.

The provisions in place in respect of fathers who wish to take a period of parental leave beginning when their child is born are slightly different. In this case, the notice must be given at least 21 days before the expected week of childbirth, and must specify the expected week of childbirth and the duration of the period of parental leave requested.

Similarly, where parental leave is requested to begin on an adopted child's placement, the employee's notice must be given at least 21 days before the beginning of the week in which the child is to be placed for adoption, or as soon as is reasonably practicable thereafter. The notice must specify the week in which the adoption placement is expected to occur and the duration of the period of parental leave requested.

8.5 POSTPONEMENT OF PARENTAL LEAVE

In most cases, a period of parental leave requested by an employee may be postponed if the employee's absence at the time requested would cause undue disruption to the business. If this is the case, the Headteacher/Principal must:

- give the employee written notice of the postponement;
- state the reason why the postponement is necessary; and
- suggest alternative dates for the employee to take an equivalent period of parental leave within the next six months.

The notice of postponement must be given to the employee no more than seven days after receipt of the employee's notice requesting parental leave. Once alternative dates have been given they cannot be changed.

The Headteacher/Principal may not, however, postpone parental leave where the period of leave has been requested to coincide with the birth of the child or the child's adoptive placement. This is the case irrespective of whether the dates requested are likely to cause inconvenience or disruption to the business.

8.6 RIGHTS ON RETURN TO WORK AFTER PARENTAL LEAVE

Employees are not required to give any specific notice of their return from parental leave, as the return date will have been agreed at the outset. The employee should simply turn up for work in the usual way on the appropriate date.

8.7 PAY AND BENEFITS

Terms and Conditions remain the same for employees on unpaid parental leave except the period of leave is unpaid. Time taken is treated as continuous service and employees continue to accrue annual leave and other holiday entitlements regardless of how the leave is taken.

Employees who are sick during unpaid parental leave are entitled to sick pay (on provision of GP fit note) and they will be entitled to claim back the unpaid parental leave entitlement.

8.8 PENSION

If the employee is member of the local government pension scheme, the employee will be offered the opportunity to pay for the missing service at the end of their break, and should discuss how to do this with Payroll Services. If the employee does not pay any contributions during this time, the period will not count as service for pension purposes.

For teachers in the Teachers' Pension Scheme contributions cannot be made for any unpaid leave periods.

8.9 RECORD KEEPING

Any parental leave will be recorded on the employee's personal file and may be transferred to a new employer if required.

There is no statutory right to time off as a foster carer. This section is optional for schools/academies to adopt if they choose, in line with the occupational entitlement offer by Walsall Council.

Please delete this section if Governors choose not to adopt this leave.

9. FOSTER CARE LEAVE

9.1 ENTITLEMENT TO FOSTER LEAVE

There is no statutory right to time off work to care for foster children. However, the school/academy will allow employees paid leave if they meet the following eligibility criteria;

- they have completed a minimum of 26 weeks' continuous service by the time they want to take foster care leave;
- they are registered as a foster carer, or are applying to become a carer, with a local authority or registered foster care agency, and have proof of fostering (confirmed by a local authority as the corporate parent);
- they have, or expect to have, responsibility for a 'looked after child' (where a local authority is the child's corporate parent), and the leave is for the purpose of attending training and meetings related to a fostering placement. The placement can range from weekend respite through short term to long term and permanent arrangements.

It does not apply to the care of children who are family members, unless the employee is caring for a child under a Child Arrangement Order or a Special Guardianship Order, where the child would otherwise have to be fostered or go into local authority care for a period of time not normally less than 6 months.

9.2 FOSTER CARE LEAVE

The school/academy recognises that employees interested in fostering must go through a robust assessment process and intensive training before they can be approved. Therefore, an employee applying to become a registered foster carer may take up to 5 days paid leave to attend pre-approval training, assessment and panel process to becoming a foster carer.

An employee who is a registered foster carer may take up to a maximum of 5 days paid leave per year whilst a child or children are placed with them. This maximum is regardless of the number of children or placements that the employee has.

The paid leave may be used at the commencement of a placement to help settle the child or to ensure child care arrangements can be put in place or to attend meetings, home visits or mandatory training related to the fostering placement.

Foster care leave is applied on a pro rata basis for part time employees.

Where a couple are applying to become foster carers and both are employees of the school/academy each employee will be entitled to the above leave.

Leave may be taken in half or whole days, subject to the needs of the school/academy. Documentary evidence that a placement is due to start or that the employee is required to attend meetings or training must be provided for approval of time off.

There is no legal entitlement to leave for fostering purposes; therefore under this procedure any leave not taken in a year cannot be carried forward to the following year.

Where additional leave is required beyond the 5 days employees may request to take annual leave or time off in lieu (where applicable) or unpaid leave. The manager will consider these requests in line with the needs of the school/academy.

FOSTER TO ADOPT

A foster carer who is approved as a prospective adopter, and the child is placed with them in a “foster to adopt” situation will be entitled to adoption leave and pay rather than foster care leave.

OTHER LEAVE OR WORKING PROVISION

Foster carers are entitled to the usual unpaid leave provisions, with the exception of Unpaid Parental Leave. There is no statutory right to Unpaid Parental Leave for foster carers.

Employees may take a reasonable amount of time off to deal with emergencies concerning a foster child, such as when a child falls ill or is injured, or to deal with an incident which involves a child which occurs unexpectedly at an educational establishment. Time off in this instance is unpaid.

Employees may wish to consider making a change to their working arrangement; this can be considered in accordance with the Flexible Working Policy.

9.3 EXPECTATIONS OF THE HEADTEACHER OR PRINCIPAL, LINE MANAGERS AND EMPLOYEES

The school/academy recognises that foster carers will often need additional time off work as part of successful fostering. The Headteacher/Principal and Line Managers should be sympathetic to requests for time off work and flexible working arrangements, and seek to accommodate these where there is no major detrimental effect on the school/academy.

Employees are expected to minimise their requests for leave by seeking to arrange meetings, home visits and training sessions etc in their own time. However, it is recognised that this is not always possible. In this case the employee should make requests for leave as far in advance as possible in order for them to be properly considered and to enable cover arrangements to be made where required.

9.4 REQUESTING FOSTER CARE LEAVE

An employee who wishes to take foster care leave should give reasonable notice (preferably at least 2 weeks' where possible) of the intention to take leave and set out the dates on which leave is to begin and end.

Documentary evidence must be provided by the employee for approval of time off with pay. If there are any confidentiality issues regarding supplying letters already held by the employee as supporting evidence, then the employee may request verification from their Family Support Worker or relevant local authority.

Leave will be authorised by the Headteacher/Principal, who will take into account the nature of the request and the needs of the school/academy. There may be occasions when, due to the needs of the school or insufficient notice, the Headteacher/Principal may not be able to accommodate a request for leave.

Appendix 1

Maternity Key stages/responsibilities

Significant Event Timeline requirements	Headteacher/Principal Responsibilities	Employee Responsibilities
Notification of pregnancy: As soon as applicable BUT prior to week 25 of pregnancy	Complete a Risk Assessment once informed of the employee's pregnancy and review regularly.	Notify your Headteacher/Principals of your pregnancy. Maternity information can be viewed at www.tommys.org
Submission of MATB1 As soon as supplied by Midwife / GP / Hospital	Send the MATB1 and application form to Payroll provider	Provide MATB1 form to Headteacher/Principal with a completed Maternity Leave and Pay Provisions Application Form.
11 weeks before Expected week of confinement		This is the EARLIEST you can start your maternity leave
Period of sickness within 4 weeks of EWC	If an employee reports in sick during this time with a pregnancy related absence, HR Payroll Services should be instructed to commence an employee's maternity leave. The employee should be notified that this is the case.	
Week 39 of pregnancy or before (as appropriate)	Discuss the handover of any work. Consider the most appropriate way to deal with any outstanding annual leave.	
Week 40 of pregnancy	Confirm the start of the Maternity Leave	

Significant Event Timeline requirements	Headteacher /Principal Responsibilities	Employee's Responsibilities
During Maternity Leave	Send any required documents Complete the Return to Work notification form. Arrange Keeping In Touch (KIT) days Discuss working arrangements post return to work Agree how annual leave will be taken following return to work (where applicable)	Provide your Headteacher/Principal with a copy of the child's birth certificate. Advise your Headteacher/Principal if you wish to return from maternity leave early – 8 weeks' notice is required.
Upon return to work	Complete 'New Mother's Risk Assessment' – particularly important if the employee is breastfeeding Advise employee of facilities available for breastfeeding etc Signpost the employee to availability of Child Care vouchers.	Advise Headteacher/Principal if you are breastfeeding.

Appendix 2 – Teachers Annual Leave

Example of annual leave taken during a maternity absence

Teacher starting maternity leave 20 July (Year A) and returning to work 19 July (Year B)

During the academic year this teacher would have already been off work during the following school /academy closure periods:

Non teaching days at the start of the Autumn Term	2
Autumn half term	5
Christmas holiday	10
Spring half term	5
Easter holiday	10
May Bank Holiday	1
Summer half term	5
Total Days Taken	38

However, the Summer closure period of 30 days is not counted as this constitutes part of the approved maternity leave

If this teacher chose to return to work after one full year's maternity leave, she will have missed the following school/academy closure periods in that academic year.

Non teaching days at the start of the Autumn Term	2
Autumn half term	5
Christmas holiday	10
Spring half term	5
Easter holiday	10
May Bank Holiday	1
Summer half term	5
Total Days Closure days missed during maternity leave	38

However, the teacher will be paid from 19 July and will be back in school/academy before the start of the summer closure period. These 30 days of school/academy closure will count towards (and in fact will exceed) the 28 day leave entitlement following the maternity leave. Therefore, no annual leave will be outstanding on her return to work.

School/Academy Closure Dates (inc. Bank Hol)	No. Days	Academic Year A (maternity leave starts)	Academic Year B (returns from maternity leave)
Autumn non teaching days	2	Time off taken	Maternity Leave
Autumn Half Term	5	Time off taken	Maternity Leave
Christmas	10	Time off taken	Maternity Leave
Spring Half Term	5	Time off taken	Maternity Leave
Easter	10	Time off taken	Maternity Leave
May Bank Holiday	1	Time off taken	Maternity Leave
Summer half Term	5	Time off taken	Maternity Leave
Summer Closure	30	Maternity Leave	Time off taken

Appendix 3 – School/Academy staff accrued holiday during maternity leave FAQs**Q Do employees accrue holiday while on maternity leave?**

A. Yes, all employees continue to accrue annual leave and bank/statutory holiday days during maternity leave.

Q How much leave am I entitled to?

A Leave will be as set out in the contract of employment and/or as used in the pay calculation for term time only staff. As a minimum employees are entitled to 28 days leave, including bank holidays, per leave year (pro rata for part time staff) in accordance with the statutory entitlement.

Q What is the annual leave year?

A Unless agreed otherwise, the leave year for employees working in schools/academies is 1 April to 31 March.

Q When can accrued leave be taken?

A All accrued leave should be taken before the end of the leave year where possible and must be taken outside of the period of maternity leave.

Q What if the timing of my maternity leave means that I cannot fit all of my accrued leave in during the leave year e.g. my leave year runs from 1 April to 31 March and I am on maternity leave for the whole of this period?

A In exceptional circumstances where it is not possible to take accrued leave during the appropriate leave year, leave may be carried over to the following leave year but must then be taken at the earliest opportunity.

Q How does this affect me if I work term time only?

A Term time only employees also accrue leave during maternity leave but the entitlement is offset by any period of school/academy closure that occurs during that leave year, either before or after the maternity leave period. This means that in most cases, the employee will not be owed any leave.

Q What if there are insufficient school/academy closures to accommodate leave during the leave year?

A This is likely to occur very rarely, however in such circumstances the employee is allowed to take any remaining leave during term time, only within that leave year. Where there is not enough time before the end of the leave year to take the remaining leave, the employee is allowed to carry the leave over to the following leave year and is required to take this leave during the remaining periods of school/academy closure after leave entitlement for that year has been accommodated.

Q How does this apply to teachers?

A For the purposes of accruing and taking leave entitlement, teachers are treated in the same way as term time only staff and the amount of leave is based on the statutory leave entitlement which is currently 28 days, including bank holidays. The leave year for teachers is regarded as being from 1 September to 31 August.