

# Schools Family Leave Policy

This document applies to Community and Voluntary Controlled Schools and is advisory for Foundation and Voluntary Aided Schools.

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## Purpose

Lincolnshire County Council (LCC) recognises and values its diverse workforce. In seeking to recruit, motivate and retain employees, LCC actively supports policies which support maternity, adoption, paternity and parental leave. This policy sets out employees' rights in relation to pay, time off and rights to return to work in these circumstances.

This policy is also applicable to employees adopting through a 'foster to adopt' programme, and employees having a child through a surrogacy arrangement.

## Maternity Leave and Pay

This section sets out the statutory rights and responsibilities of pregnant employees and gives details of the arrangements for maternity leave and pay, and in ensuring the transition back to work is managed effectively.

### **Eligibility:**

These arrangements apply to all permanent, fixed term and temporary contract employees. All pregnant employees, regardless of length of service, have the right to Statutory Maternity Leave (SML) and to resume work afterwards. Statutory maternity leave is a minimum level of entitlement of up to 52 weeks leave and is broken into:

- Ordinary Maternity Leave (OML): The first 26 week period of maternity leave entitlement;
- Additional Maternity Leave (AML): The remaining 26 week period of maternity leave entitlement.

### **Notification:**

In order to exercise their right to maternity leave, the employee should inform their manager in writing, by completing the Maternity Leave Application Form [Off System Forms - Maternity, Paternity, Adoption and Shared Parental Leave : Service Desk](#).

They must do this:

- no later than the end of the 15th week (14th week – Teaching Staff) before the expected week of childbirth (EWC), or
- as soon as reasonably practicable of:
  - The pregnancy
  - the expected week of childbirth
  - the date the employee intends to start maternity leave

Employees can start maternity leave at any time from the 11th week before the EWC. Employees can change their mind about when they want to start the maternity leave, providing they give at least 28 days in advance in writing (21 days – Teaching Staff) unless this is not reasonably practicable..

Maternity leave will start on the date that the employee tells us. However, it can also start if the employee:

- if absent from work due to pregnancy related illness any time after the beginning of the 4th week before their EWC, their maternity leave may be triggered automatically on the second day of this absence;
- gives birth to their child before maternity leave has started. In this case, it will begin on the day after the date of the birth.

Employees must take a minimum of two weeks' leave following childbirth.

### **Maternity Pay Entitlement**

**Statutory Maternity Pay (SMP):** SMP is a standard rate determined by the Government on an annual basis, payable over 39 weeks.

To qualify for SMP, employees must:

- have been employed by LCC for a continuous period of 26 weeks by the end of the 15<sup>th</sup> week before the Expected Week of Childbirth (EWC);
- have average weekly earnings of over the lower limit for National Insurance Contributions. We calculate this over the eight weeks before and including the 15th week before the EWC
- have started maternity leave.

Maternity pay can start any week after the beginning of the 11<sup>th</sup> week before the EWC. It may start on other days of the week:

- if triggered by the birth of the child
- Due to absence from work due to a pregnancy related reason in the four weeks before the EWC.

For the first 6 weeks, SMP is paid at the higher rate, which is equivalent to 90% of the employee's average weekly earnings calculated over a specified period (average over an 8 week period). For the remaining 33 weeks, SMP is at the standard rate, or less if the employee returns to work sooner. It is paid:

- at the rate set by the Government for the relevant tax year
- or, 90 per cent of the employee's average weekly earnings if this is lower than the Government's fixed weekly rate

SMP is treated as earnings and is, therefore, subject to PAYE and National Insurance deductions. Employees who are not entitled to SMP may be entitled to receive Maternity Allowance, payable by the Government.

### **Maternity Allowance (MA)**

Employees who do not qualify for SMP may be able to claim Maternity Allowance (MA). They must:

- have been employed for at least 26 weeks in the 66 weeks before their child is due

- be earning a gross weekly pay set by the Government for 13 weeks

MA is an allowance paid for up to 39 weeks and claimed from the Jobcentre Plus office on form SMP1 which will be sent to the employee by Payroll on behalf of LCC following receipt of the relevant Maternity Leave Application Form. Employees should contact their local Jobcentre Plus office for further details.

The earliest MA can be paid is the start of the 11th week before the expected date of birth and will commence at the start of maternity leave.

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

Occupational Maternity Pay is an additional payment, over and above SMP, paid by LCC to employees who:

- have at least 1 years' continuous service by the 11<sup>th</sup> week before the expected week of childbirth (EWC)
- comply with the notification requirements

Continuous service for OMP purposes means working without a break with either LCC or with another Local Authority or with certain other bodies e.g. Probation or Magistrates Courts Committees. If an employee has worked with another organisation which they think might count, they should bring this to the attention of their manager. For the purposes of entitlements regarding the Occupational Maternity Scheme, continuous service will include continuous previous service with any public authority to which the Redundancy Payments (Continuity of Employment in Local Government etc.) (Modification) Order 1999 applies.

For Teachers, continuous service for OMP purposes means one years' continuous service with one or more local authorities at the 11<sup>th</sup> week before the EWC. Service with an Academy will not be counted.

Where an employee returns to LCC following a break for maternity reasons, or reasons concerned with caring for children or other dependants they will be entitled to have previous service taken into account in respect of the sickness and maternity schemes provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened.

### OMP Payments

#### **Teachers**

If entitled to OMP, teachers will receive:

- for the first 4 weeks of absence, full pay offset against SMP or MA payments;
- for the next 2 weeks of absence, 9/10ths or 90% of a week's pay offset against SMP or MA payments;
- for the subsequent 12 weeks, they will also be entitled to half pay. This is not offset against SMP except where the combined pay and benefits (e.g. SMP or MA) exceed full pay. In this instance, a weeks full pay will be offset against the SMP/ MA payments;

- for the subsequent 21 weeks – the lesser of the standard rate of SMP or 90% of their average weekly earnings.

### **Support Staff**

If entitled to OMP, support staff will receive:

- for the first six weeks, maternity pay will be paid at the rate of 9/10ths or 90% of the individual's average weekly earnings (SMP);
- for the subsequent 12 weeks, they will also be entitled to half pay. The combination of SMP and half-pay will be capped at the equivalent of a full weeks pay;
- for the subsequent 21 weeks – the lesser of the standard rate of SMP or 90% of their average weekly earnings.

Both SMP and OMP are subject to normal deductions, i.e. tax and national insurance.

Employees have a choice with regard to payment arrangements for OMP, for instance payments may be made during maternity leave or in a lump sum when they return to work. Employees should inform LCC via completion of the Maternity Leave Application Form, before they start maternity leave, about their intentions in order that suitable payment arrangements for OMP can be made.

Teaching and support staff are required to return to work in order to retain their entitlement to OMP. If employees do not return to work for the stated period, they will be required to refund such sum of OMP as the Governing Body or LCC may decide. They will however, retain the first 6 weeks' of OMP.

Teachers are required to return to work for a minimum period which equates to 13 weeks service, under the contract they were on prior to maternity leave. This means if their contract was full time prior to leave and they return on a part time basis, they will be required to return for a period which equates to 13 weeks of full time service. This requirement may be reduced at the discretion of the Governing Body.

Support staff are required to return for a period of at least 3 months or for a period of time that equates to 3 months for part time employees.

### **Time off for Antenatal Care**

Employees are entitled to reasonable time off for antenatal care, irrespective of length of service or hours worked. They must tell their manager in advance of all appointments. Managers are permitted to ask to see appointment cards, except for the first appointment).

Pregnant employees are entitled to necessary time off with full pay for other hospital and clinic appointments resulting from their pregnancy. This includes relaxation, exercise and parent-craft classes where the appointment has been made on the advice of a registered GP, midwife or health visitor.

## **Notification of birth**

Employees should confirm the date of birth with their manager and payroll as soon as possible to ensure maternity pay is correctly calculated and paid.

## **Neonatal Care Leave**

Applies to parents of babies who are admitted into neonatal care up to 28 days old and who have a continuous stay in hospital of 7 full days or longer. Neonatal Care Leave allows eligible parents to take up to 12 weeks of leave on top of any other leave they may be entitled to, including maternity and paternity leave. To qualify for Neonatal Care Leave (NCL) - of up to 12 weeks - the following conditions must be met:

- You must be an employee.
- The child must be born on or after 6th April 2025.
- At the birth of the child, you must be the child's parents, intended parents (in relation to surrogacy) or partner\* (see below) to the child's mother and you must have or expect to have responsibility for raising the child.
- The child must be admitted into hospital neonatal care (medical or palliative) within the first 28 days of birth and must remain in neonatal care for at least 7 continuous days\*\* (see below).
- NCL must be taken to provide care for the child.
- NCL must be taken in blocks of a week.

\*Partner is a person who lives with the child's mother or adopter and is in an enduring family relationship with them but is not a relative, i.e. parent, grandparent, grandchild, sibling, aunt, uncle, niece or nephew.

\*\* Parents can take one week's NCL in respect of each uninterrupted week (7 days) that their child receives neonatal care. The first qualifying period of 7 days begins with the day after the day the child first receives neonatal care ('Days 2-8' of neonatal care). NCL can be taken from the day after the first qualifying period. This means that you are not able to start NCL until 'Day 9'.

NCL is additional to all other maternity and paternity leave entitlements and entitlement to NCL ends 68 weeks after the child's birth. NCL must be taken within the first 68 weeks of the child's birth (or placement in the case of adoption). As many individuals will already be on some form of family leave while their child is in neonatal care, NCL may be taken after neonatal care has ended and at the end of maternity/shared parental or adoption leave.

However, there will be instances where individuals will take NCL while their child is still receiving neonatal care, e.g. partners whose paternity leave entitlement has run out while their child is still receiving care.

## Neonatal Care Pay

To qualify for Neonatal Care Pay (NCP) the following additional conditions must be met:

- You must have been employed by LCC for a continuous period of at least 26 weeks ending with the 'relevant week', i.e. the 15th week before the week in which the child is due.
- Your average gross weekly earnings must be at least equal to the lower earnings limit for National Insurance (NI) purposes.
- As a general rule, your earnings will be averaged over a period of at least 8 weeks up to and including the last pay day before the end of the 'relevant week'. This period is called the 'relevant period'.

These conditions are the same as the conditions for SMP and Shared Parental Pay. NCP is paid at a flat rate per week or 90% of average weekly earnings, if this is less. NCP may be paid for a maximum of 12 weeks and is payable within the first 68 weeks of the child's birth.

## Taking Neonatal Care Leave

There are two categories of NCL depending on when the leave is taken. These are referred to as Tier 1 and Tier 2 periods:

Tier 1 period leave - applies to NCL taken while the child is still receiving care and up to a week post discharge from hospital. Tier 1 NCL can be taken in non-continuous blocks of a minimum of one week at a time. Tier 1 period NCL ends on the 7th day after the day the child stops receiving neonatal care.

Tier 2 period leave - applies to all other NCL and must be taken in one continuous block. There is no option to take more than one period of NCL in the Tier 2 period.

The required length of notice to take NCL differs depending on when the leave is taken:

### Tier 1 period NCL

- For each week of NCL to be taken in Tier 1 (while the child is still receiving neonatal care) notice must be given before you are due to start work on your first day of absence in that week unless it is not reasonably practicable in which case you must give as much notice as soon as it is reasonably practicable.
- Notice during a Tier 1 period does not need to be in writing.
- Tier 1 period NCL is only likely to be taken by a father or the mother's partner, as the mother will more than likely already be on maternity leave during the Tier 1 period. If you are already on paternity leave when you wish to take Tier 1 period NCL, you would have to notify your manager before the time you are due to start work after paternity leave, that you wish to take NCL.

## Tier 2 period NCL

- For a single week of Tier 2 period NCL, notice must be given no later than 15 days before the first day of the NCL to which the notice relates unless it is not possible to give this much notice, in which case notice must be given as soon as reasonably practicable.
- For two or more consecutive weeks of Tier 2 NCL, notice must be given no later than 28 days before the first day of the NCL to which the notice relates. The leave can only be taken in a single block.

However, it can be agreed with your manager to waive any notice requirements. The above NCP qualifying conditions are the same as those for SMP and Shared Parental Pay. NCP is treated as earnings and is, therefore, subject to PAYE and National Insurance deductions.

## Neonatal Care Leave notice requirements

To take NCL you must provide the head teacher with notice stating:

- Your name
- Your child's date of birth (or date of placement/entry to Great Britain if adopting)
- The start date or dates of neonatal care
- The date neonatal care ended (if applicable)
- The date on which you would like to take NCL/NCP
- The number of weeks of NCL/NCP the notice is being given for
- Confirmation that NCL is being taken to care for the child
- Confirmation that you are eligible to take NCL due to your relationship with the child

If you have given notice before the child has stopped receiving neonatal care, you must inform your manager of the date that neonatal care ends, as soon as is reasonably practicable after that date.

## Returning To Work

Employees will have been advised in writing of the date on which they are expected to return to work. The employee is expected to return on this date, unless they notify their manager otherwise. If, for health reasons, an employee cannot return to work after maternity leave, or at an earlier notified date, they will be deemed as having returned to work and the usual sickness reporting procedures and policies will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

Employees who intend to return to work at the end of the full maternity leave entitlement, are not required to give any further notification. However, it assists LCC if the employee confirms as soon as is convenient during the maternity leave, that they will be returning to work as expected.

On return from maternity leave, a member of term time only staff must be allowed to take any outstanding annual leave during term time throughout that leave year following approval from the Head Teacher.

All teachers have a statutory right to 28 days' annual leave under the Working Time Regulations. As a result, a teacher will be able to take her annual leave at a separate time to her maternity leave. Very often 28 days entitlement will have been met during the school closure periods either before or after her period of maternity leave.

If an employee wishes to return to work early, they are required to provide 8 weeks' notice (21 days – Teaching Staff) of their intended return to work date.

### **Premature Births**

If the baby is born prematurely before the start of the maternity pay period, employees must inform their manager as soon as reasonably practicable of the actual date of the birth. This is so the maternity pay can be correctly calculated and paid. Where the birth is before or during the qualifying week, "average earnings" for SMP purposes will be calculated on the 8 weeks immediately before the week during which the birth occurred. The start of the maternity leave and maternity pay period will be calculated following the birth. Neonatal Care Leave may also be applied if the baby is receiving medical treatment, see criteria above.

### **Stillbirths or Miscarriage**

If a child dies prior to birth after 24 weeks of pregnancy, this is a stillbirth and the employee will be entitled to the same rights to maternity leave and pay. In addition, employees will be entitled to parental bereavement leave, as detailed in the Leave and Time Off Policy.

If the death of an unborn child occurs before reaching the 24th week of pregnancy, this is a miscarriage and the employee is not eligible for maternity entitlements. However, they may be eligible for sick pay in these circumstances, and a period of compassionate leave.

The same criteria and rights apply to entitlements to statutory paternity pay and leave if their partner/ person that gave birth of their child suffers' a miscarriage or stillbirth.

Employees should approach their manager to discuss their individual needs together with advice from their doctor. The manager may discuss with the employee a referral to Occupational Health, who can discuss counselling and provide advice with regards workplace adjustments and/or return to work arrangements.

### **Health and Safety**

Schools to provide a healthy working environment for all of their employees and provides support to employees that are pregnant, recently returned from maternity, and to those breast-feeding. LCC provides comprehensive guidance in the LCC [Health and Safety Manual, New and Expectant Mothers](#) to enable managers and colleagues to fulfil this commitment.

Managers will carry out a risk assessment when notified that an employee is pregnant, to ensure appropriate support and adjustments are made where necessary. Updates to these will

be carried out through the pregnancy and employees are encouraged to notify their manager of any additional support or adjustments that are required.

### **Adoption, including Surrogacy and Fostering to Adopt**

This section sets out the statutory rights and responsibilities of employees who are planning to adopt a child and gives details of the arrangements for adoption leave and pay. Throughout this section, there are timescales for which employees must notify the school of their plans. In exceptional circumstances, if the timescales are not possible to adhere to, employees must notify the school as soon as they can.

Adoption leave and pay is available, subject to eligibility criteria, to employees who have a child through a surrogacy arrangement and are eligible for a Parental Order or who foster a child through the “foster to adopt” programme in accordance with section 22C of the Children Act 1989.

#### **Eligibility:**

- Adopter - the person with whom an adoption agency has placed, or will place, a child. They will be the 'primary' adopter who is eligible for statutory provisions.
- Beginning of the week - refers to a Sunday.
- Placement date - the date which the child is placed for adoption.
- Qualifying week - the week during which the agency tells the adopter that they are matched with a child for adoption. This starts on a Sunday.
- Adoption from overseas - the adoption of a child from abroad that does not involve placing the child up for adoption under UK law.
- Surrogacy - when another woman carries and gives birth to a baby for the intended parents. An Adoption or Parental Order can transfer parental responsibility. At least one parent must be genetically related to the child to apply for a Parental Order.

Adoption Leave is available to:

- individual employees who adopt;
- one member of a couple where a couple jointly adopts;
- an individual employee who is a local authority foster parent, who is also approved as a prospective adopter and a child is placed with the employee in a “foster to adopt” situation;
- one member of a couple who are the legal parents of a child born through surrogacy.

Where a couple are adopting jointly, or have become the legal parents of a child born via surrogacy, only one may take statutory adoption leave and receive statutory adoption pay. The other, subject to meeting certain eligibility criteria may be entitled to take one or two weeks paid Paternity Leave (see section 4).

Adoption leave and pay is not available in circumstances where a child is not newly matched for adoption, for example when a step-parent is adopting a partner's children.

## **Adoption Notification**

Employees must notify the school in writing within 7 days of the date in which they were matched with the child (unless this is not reasonably practicable). In the case of surrogacy, employees must tell their employers at least 15 weeks (14 weeks – Teaching Staff) before the baby is due that they intend to take adoption leave.

Employees will need to tell the school:

- the date on which they intend to start their adoption leave;
- the expected week of the placement of the child (or, in the case of surrogacy, the expected week of childbirth);
- provide a matching certificate completed by the adoption agency (or provide a Parental Order in cases of surrogacy as soon as possible and within 6 months of commencement of adoption leave);

Employees can choose to start their leave from:

- the date of the child's placement (whether this is earlier or later than expected); or
- from a fixed date which can be up to 14 days before the expected date of placement;
- in the case of surrogacy, adoption leave can start the day of the birth or the day after.

Should employees change their mind about the date on which they intend to start their adoption leave, they must advise their manager of the revised start date at least 28 days in advance, unless it is not reasonably practical to do so.

The school will formally respond in writing to the employee's notification of their leave plans within 28 days, confirming the date on which they are expected to return to work.

If the date of the adoption placement (or, in the case of surrogacy, the expected week of childbirth) changes, the employee must discuss the situation with school and give appropriate notice for the change in date.

If an employee plans to start adoption leave at any time before the actual date of placement, they must be sure that the placement will be going ahead on the date agreed before they start their leave. If the placement is delayed for whatever reason and adoption leave has already commenced, they cannot stop and start it again at a later date.

## **Adoption from overseas:**

Eligible employees adopting a child from overseas must notify the school of:

- the date on which the special notification was received;
- the date on which the child is expected to enter the UK

The notification must be provided within 28 days of receipt of the official notification. Employees must provide at least 28 days' notice of when they wish their adoption leave to start; and within 28 days of the child's entry into Great Britain must inform the school of the

date of entry. Employees may be asked to provide a copy of the official notification and evidence of the child's date of entry into Great Britain.

## **Adoption Leave Arrangements**

### **Ordinary Adoption Leave (OAL)**

All qualifying employees are entitled to 26 weeks Ordinary Adoption Leave (OAL) and up to 26 weeks Additional Adoption Leave (AAL), making a total of 52 weeks. This is regardless of the number of hours they work or their length of service. Additional Adoption Leave (AAL) begins on the day after ordinary adoption leave ends.

To qualify for OAL leave employees must:

- be matched with a child for adoption by an approved adoption agency, or be one of a couple who have been jointly matched with a child for adoption; and
- have notified the agency that he or she agrees that the child should be placed with him or her for adoption and on the date of placement;
- or, be the legal parent of a child born via surrogacy.

The right to adoption leave is available to one member only of a couple who have had a child placed with them for adoption, or who are the legal parents of a child born via surrogacy. It is up to the adoptive / legal parents to decide which of them takes the adoption leave. The other partner may, however, be entitled to a period of paid paternity leave.

During adoption leave, employees retain the right to their contractual benefits as detailed in their statement of terms and conditions of employment. However, employees are not entitled to remuneration unless they meet the qualifying conditions for receiving adoption payments. Employees returning to work after OAL are entitled to return to the same job they had prior to commencing OAL.

### **Additional Adoption Leave (AAL)**

Employees who qualify for OAL are also entitled to Additional Adoption Leave (AAL). AAL starts immediately after OAL and continues for a further period of up to 26 weeks, bringing the total period of absence allowed up to 52 weeks. Employees returning to work after AAL are entitled to return to the same job or if not reasonably practicable for a reason other than redundancy, they are entitled to return to a suitable job on terms and conditions no less favourable than those they were employed on prior to AAL.

Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement, or, in the case of surrogacy, whether more than one child is being born.

If the child's adoption placement ends during the adoption leave period, employees are able to continue adoption leave for up to 8 weeks after the end of the placement.

Where an expected adoption placement does not happen, but employees have already started the leave or pay period, then adoption leave and pay will be available for 8 weeks following

notification from the adoption agency or other body, that the child will not be placed with the adoptive parent.

## **Adoption Pay Entitlement**

### **Statutory Adoption Pay (SAP)**

Statutory Adoption Pay (SAP) is payable for up to 39 weeks during adoption leave. An employee is entitled to SAP if they:

- have been continuously employed by LCC for at least 26 weeks at the end of the week in which they are notified of having been matched with a child or, in the case of surrogacy, the end of the week in which they are notified of the pregnancy;
- have national weekly earnings of over the lower limit of National Insurance contributions;
- have been matched with a child to be placed with them by a UK adoption agency;
- have notified the agency that they agree that the child should be placed with them and the date of the placement;
- notify their manager within 7 days of the date in which they were matched with the child;
- provide a matching certificate completed by the adoption agency; (or, in the case of surrogacy, a copy of the 'Parental Order' as soon as possible after the baby's birth and no later than six months after the commencement of adoption leave).

SAP is payable for a maximum period of 39 weeks. This period is called the 'adoption pay period' and can begin from 14 days before the child is placed with the adoptive parent but no earlier. SAP is an amount set by the Government each year.

For the first 6 weeks, SAP is paid at the higher rate, which is equivalent to 90% of the employee's average weekly earnings calculated over a specified period. For the purpose of calculating average weekly earnings, shift allowances and overtime payments, are all included.

The standard rate of SAP is paid for the remaining 33 weeks (or less if the employee returns to work sooner). This is paid at the rate set by the Government for the relevant tax year, or 90% of the employee's average weekly earnings if this is lower than the Government's set weekly rate.

Statutory adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions. Employees who are not entitled to SAP may be entitled to receive an allowance, payable by the Government.

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

Occupational Adoption Pay (OAP) is an optional payment the school can make and is more generous than SAP. An employee is entitled to OAP if:

- they have at least 12 months continuous service with LCC by the week in which they are notified by the adoption agency that they have been matched with a child;

- they give proper notification of the adoption in accordance with the rules set out above;
- provide a Matching Certificate from the adoption agency (or, in the case of surrogacy, a Parental Order);
- give at least 8 weeks written notice if they wish to change their agreed return date.

#### OAP – Teachers

If entitled to OAP, teachers will receive:

- for the first 4 weeks of absence, full pay offset against SAP or MA payments;
- for the next 2 weeks of absence, 9/10ths or 90% of a week's pay offset against SAP or MA payments;
- for the subsequent 12 weeks, they will also be entitled to half pay. This is not offset against SAP except where the combined pay and benefits (e.g. SAP or MA) exceed full pay. In this instance, a weeks full pay will be offset against the SAP/ MA payments;
- for the subsequent 21 weeks – the lesser of the standard rate of SAP or 90% of their average weekly earnings.

#### OAP – Support Staff

- for the first 6 weeks, 90% of the employees average weekly earnings offset against any entitlement to SAP.
- for the subsequent 12 weeks, they will also be entitled to half pay. The combination of SMP and half-pay will be capped at the equivalent of a full weeks pay.

Both SAP and OAP are subject to normal deductions of PAYE tax and National Insurance.

Employees have a choice with regard to payment arrangements. Payment may be made during this period or in a lump sum when they return to work. No further pay is due until the employee resumes work. Employees will be asked to inform LCC before they start their Adoption Leave about their intentions, in order that suitable payment arrangements can be made.

Teaching and support staff are required to return to work in order to retain their entitlement to OAP. If employees do not return to work for the stated period, they will be required to refund such sum of OAP as the Governing Body or LCC may decide. They will however, retain the first 6 weeks' of OAP.

Teachers are required to return to work for a minimum period which equates to 13 weeks service, under the contract they were on prior to adoption leave. This means if their contract was full time prior to leave and they return on a part time basis, they will be required to return for a period which equates to 13 weeks of full time service. This requirement may be reduced at the discretion of the Governing Body.

Support staff are required to return for a period of at least 3 months or for a period of time that equates to 3 months for part time employees.

### **Time off for Adoption Appointments**

Employees who are adopting a child are legally entitled to take paid time off to attend up to five adoption appointments after being matched with a child. Where an employee is part of a couple jointly adopting a child, the couple can elect for one of them to take paid time off for up to five appointments and the other can elect to take unpaid time off to attend up to two adoption appointments. The time off must be taken before the date of the child's placement for adoption with the employee.

Employees who intend to apply for a parental order as part of a surrogacy arrangement, are entitled to take unpaid time off to accompany the surrogate to two antenatal appointments.

### **Returning to Work**

The employee will have been formally advised in writing of the date on which they are expected to return to work. The employee is expected to return on this date, unless they notify their manager otherwise. If they are unable to attend work at the end of their adoption leave due to sickness or injury, LCC's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

While the employee is under no obligation to do so, it would be most helpful if they confirmed as soon as convenient during adoption leave that they will be returning to work as expected.

If the employee wishes to return to work earlier than the expected return date, they must give their manager at least 8 weeks' notice of their date of early return. If they fail to do so their manager may postpone their return to such a date as will give eight weeks' notice, provided that this is not later than the expected return date.

Alternatively, if employees wish to return to work later, for example by taking annual leave immediately after the notified end of adoption leave period, they must give their manager at least 8 weeks' notice prior to their original agreed return date. The notice requirement applies during both ordinary and additional adoption leave. The adoption leave period cannot be extended beyond the maximum 52 weeks entitlement.

## **Maternity and Adoption Leave**

### **Annual Leave and Bank Holidays**

Employees on maternity and adoption leave continue to accrue annual leave entitlement during their period of leave. This also applies to any bank holidays that fall during Maternity / Adoption Leave. A compensatory day will be given for each bank holiday that occurs (or for part time employees, the number of bank holidays that they would have received had they not been on maternity leave). These can be taken on return to work or arranged to be taken before they commence maternity leave.

### **Staff who are contracted to work all year round**

Employees may take leave prior to commencing a period of maternity or adoption leave or may add annual leave on to the end of their maternity/adoption leave period prior to returning to work, in agreement with their manager.

Accrued annual leave can be carried forward from one leave year to another if it has not been possible to take this within the leave year in question due to maternity or adoption leave. The Working Time Regulations prohibits payment in lieu being made for annual leave that has not been taken. The only instance when payment in lieu may be necessary is if an employee does not return to work following maternity/adoption leave.

#### Term Time Only Staff

On return from maternity/adoption leave, an employee must be allowed to take any outstanding leave during term time during that leave year.

#### Teacher Bank Holiday Entitlement

Teachers do not have a contractual entitlement to paid leave on public or bank holidays. The May Day bank holiday is the only bank holiday that falls during term time. For the purposes of annual leave, the May Day bank holiday will be classed as a school closure which counts against the statutory annual leave entitlement.

#### **Rights on and after return to work**

Employees are essentially entitled to return to the same job / or a role with equivalent pay and terms and conditions, following maternity or adoption leave as if they had not been absent. An employee who worked full-time prior to her maternity leave has no automatic right to work on a part-time basis or to make other changes to her working pattern. However, all requests for part-time work or other flexible working arrangements will be considered in line with the [Schools Working Flexibly Policy](#)

If an individual is at risk of redundancy whilst on maternity / adoption leave, they are entitled to be offered a suitable alternative vacancy where one exists. There is no requirement for an individual to compete for a role, although an exploratory meeting can be undertaken if they agree to it.

This right is subject to the employee complying with the appropriate provisions on notifying their manager of their intention to return.

No individual on maternity or adoption leave will suffer a detriment or be unfairly treated for exercising their right to take leave.

#### **Employees resigning during adoption or maternity leave**

If an employee has advised that they intend to return to work and decide while on maternity or adoption leave that they do not want to come back, they should write to their manager to formally resign in accordance with the terms of their contract. If the notice period will expire after the maternity leave has ended, the employee is expected to return to work for the remainder of the notice period.

### **Contact during maternity leave or adoption leave**

Shortly before an employee's maternity or adoption leave starts, the Head Teacher will discuss and agree the arrangements for them to keep in touch during this period.

Whilst contact should be minimal and respect privacy during adoption or maternity leave, it can also be helpful to maintain contact with the employee from time to time, so they continue to feel part of the team. This may be to discuss changes within the organisation, such as a restructure, the employee's plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work, or simply to update them on developments at work during their absence.

### **Keeping in Touch (KIT) Days**

Keeping in Touch (KIT) days are optional and a matter for agreement between the employee and their manager, and these do not extend the period of maternity or adoption leave. Where KIT days are worked, the school will ensure completion of the necessary notification to Payroll via [Keeping In Touch KIT Days Form](#) to ensure payment is made.

KIT days enable employees to agree with their manager to undertake work for up to 10 days during their statutory maternity or adoption leave period without:

- i) bringing the period of maternity or adoption leave to an end; and
- ii) without the loss of a week's statutory maternity or adoption pay as a result of carrying out that work.

An individual may choose to work only a few hours on each occasion, however the hours worked will count as 'days' under the scheme. The timing, type of work to be undertaken in addition to the amount of working time will be mutually agreed by the employee and Headteacher. Employees will be paid their normal standard rate of pay for the actual hours that they work on a KIT day and when combined with entitlement to maternity pay, if this exceeds the standard daily rate of pay this will be offset against the pay the employee would otherwise be entitled to. As an alternative to pay for the hours worked on a KIT day, an employee may opt for Time Off In Lieu (TOIL) instead, which must be taken within 12 months of returning from maternity or adoption leave.

For these purposes, 'work' may include training or any other agreed activity undertaken to support the employee's return to work. This could include attending conferences, appraisals or team meetings.

The opportunity to work 'keeping in touch' days will apply to the entire period of ordinary and additional maternity or adoption leave, except during the initial 2 weeks after childbirth which is a period of compulsory maternity leave during which employees are prohibited from working.

The employee will be responsible for any childcare costs arising from working on keeping in touch days.

## **Pension**

If an employee is a member of relevant pension schemes, contributions are automatically deducted from their maternity/adoption pay based on what they actually receive. LCC will continue to pay pension contributions whether or not they receive any pay during the ordinary maternity pay period and these will be based on what they would have been earning had the employee been working normally.

No contributions will be payable by either the employer or employee during any period of no pay in the additional maternity leave period.

If the employee would like to make contributions to cover periods of maternity or adoption leave when they are not receiving Occupational/Statutory Pay they may do so by confirming this in writing not later than 30 days after their return to work or the date confirming their wish to bring their employment to an end. The rate of contributions will be the rate applying immediately before their pay ceased.

## **Childcare voucher scheme**

Employees who were members of the Council's Childcare Voucher scheme provided by Sodexo prior to 5th October 2018 may remain in the scheme or rejoin the scheme as long as there has not been a break of more than 12 months. Otherwise, employees may choose to join the government's Tax Free Childcare Scheme <https://www.gov.uk/tax-free-childcare>

## **Paternity Leave**

This section sets out the statutory rights and responsibilities of those seeking one week or two consecutive weeks' paternity leave and pay, pro rata for part time employees. Paternity leave cannot be taken in odd days, but they can split two weeks paternity leave into two separate blocks of one week each.

**Eligibility:** An employee can take paternity leave to care for the child or support their partner who gave birth. They must take it within 52 weeks of the birth of the child.

To qualify, an employee must:

- be the child's biological father and has, or expects to have, responsibility for the child's upbringing
- be the person that gave birth's husband, civil partner or partner (but is not the biological father). They must expect to have primary responsibility, apart from that of the person that gave birth, for the child's upbringing
- have formally provided 28 days notice to the employer of the date(s) on which they intend to take paternity leave
- where applicable, have produced evidence supporting the claim for paternity leave

This also applies if the child:

- was stillborn after 24 weeks of pregnancy
- has died

For these purposes, 'partner' in relation to the person that gave birth, means a person who lives with the person that gave birth and the child in an enduring family relationship, but is not a relative.

### **Paternity Leave - Adoption within the UK**

In an adoption situation, an employee is entitled to paternity leave for the purpose of caring for the adopted child or supporting the child's adopter if he or she:

- have received notification that they have been matched with a child for adoption
- be the spouse, civil partner or partner of the child's adopter. They must expect to have the primary responsibility, apart from any responsibility of the adopter, for the child's upbringing
- have formally notified their employer of the date on which they intend to take paternity leave
- where applicable, have produced evidence supporting the claim for paternity leave

For these purposes, "partner" in relation to a child's adopter means a person who lives with the adopter and the child in an enduring family relationship but is not a relative of the adopter. "Relative" for these purposes means the adopter's parents, grandparents, siblings, aunt or uncle.

### **Paternity Leave - Adoption from overseas**

An employee is entitled to paternity leave for the purpose of caring for a child adopted from overseas or supporting the child's adopter if he or she:

- be the spouse, civil partner or partner of the child's adopter. They must expect to have the primary responsibility, apart from any responsibility of the adopter, for the child's upbringing
- have formally notified their employer of the date on which they intend to take paternity leave
- where applicable, have produced evidence supporting the claim for paternity leave

For these purposes, "partner" in relation to a child's adopter means a person who lives with the adopter and the child in an enduring family relationship, but is not a relative of the adopter. "Relative" for these purposes means the adopter's parents, grandparents, siblings, aunt or uncle.

"Official notification" means written notification, issued by or on behalf of the relevant domestic authority, that it is prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a certificate and sent it to that authority, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

An employee is entitled to take paternity leave in respect of a child if he or she has already taken any shared parental leave in respect of him or her.

### **Paternity Leave - Surrogacy**

An employee who is having a child through a surrogacy arrangement will be entitled to paternity leave if they:

- qualify as the 'legal parent' of the child and eligible for a parental order
- have formally notified their employer of the date on which they intend to take paternity leave
- where applicable, have produced evidence supporting the claim for paternity leave

This also applies if the child:

- was stillborn after 24 weeks of pregnancy
- has died

### **Paternity Leave Notification requirements:**

#### **Birth (including surrogacy births)**

An employee intending to exercise their right to paternity leave must complete the [Paternity Leave and Maternity Adoption Support Leave application Form](#):

- by providing 28 days' notice of the date(s) on which they intend to take paternity leave, or as soon as is reasonably practicable.

In doing so, the employee must specify:

- the EWC or, if birth has already occurred, the date of the child's birth
- whether the employee wishes to take one or two weeks' leave; and
- when the period of leave is to start.

#### **Adoption from within UK**

In the case of adoption from within the UK, the employee must give written notice of their intention to take ordinary paternity leave no later than 7 days after the date on which notification of the match with the child was given by the adoption agency. The notice must specify:

- the date the child is expected to be placed for adoption;
- the date the employee intends to start paternity leave;
- the length of the intended paternity leave period, and;
- the date on which the adopter was notified of having been matched with the child.

#### **Adoption from overseas**

In adoption from overseas, eligible employees intending to exercise their right to paternity leave must notify their manager of:

- the date on which the child's adopter received the official notification
- the date on which the child is expected to enter Great Britain.

Employees must then (or subsequently) give their employer at least 28 days' advance notice of:

- when they want their paternity leave to start; and
- the length of the intended paternity leave period.

No later than 28 days after the date the child entered Great Britain, the employee must inform LCC of this date. In all cases, an employee may change their paternity leave dates providing 28 days' notice is given (unless this is not reasonably practicable).

If an employee intends to take **Shared Parental Leave** immediately after paternity leave, they should give LCC notice of this at the same time they give notice for paternity leave, or at least 8 weeks before they intend their Shared Parental Leave to start. If they wish to take both paternity leave and shared parental leave in relation to the same child they will take their paternity leave first.

### **Commencing Paternity Leave**

In a birth situation, an employee can choose to start their paternity leave on any day of the week from:

- the date of the baby's birth;
- an agreed number of days or weeks after the date of the baby's birth; or
- an agreed number of days after the expected week of childbirth

Leave must be taken within the first year of the birth of the child.

An employee will only be entitled to one period of leave irrespective of the number of babies born as the result of the same pregnancy. This leave is up to two weeks and can be taken in separate blocks of one week each. An employee may change their leave dates providing 28 days' notice is given (unless this is not reasonably practicable).

### **Adoption, Fostering and Surrogacy**

In situations of adoption, fostering to adopt and surrogacy, an employee can choose to start their paternity leave on any day of the week from:

- the date of placement;
- an agreed number of days after the date of placement;
- on the date the child arrives in the UK or an agreed number of days after (for overseas adoption);
- the day the child is born or the day after for surrogate parents.

In all adoptions, an employee will need to have taken their Paternity Leave within the first year of the birth of the child.

### **Paternity Pay Entitlement:**

#### **Statutory Paternity Pay (SPP)**

Statutory Paternity Pay will be at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

An employee may be entitled to receive Statutory Paternity Pay (SPP). An employee will be eligible to if:

- they have been continuously employed by LCC for at least 26 weeks-by the end of the 15th week before the baby is due ( or in the case of adoption, for at least 26 weeks by the 'relevant/matching' week)
- they have average weekly earnings of over the lower limit for National Insurance contributions
- are still employed at the time of taking paternity leave

SSP is treated as earnings and is therefore subject to PAYE and national insurance deductions. SSP can start from any day of the week in accordance with the date the employee starts their paternity leave.

### **Bereaved Partners' Paternity Leave (BPPL)**

Employees that suffer the death of the mother or the primary adopter within the first year of the child's life are entitlement to 52 weeks of unpaid bereaved partners' paternity leave.

To qualify for BPPL, an employee must meet the following criteria:

- The child's primary carer has died
- The child is within the first year of birth or adoption
- The employee must be the bereaved partner (see above for eligibility of partner)

### **Maternity or Adoption Support Leave**

Under NJC conditions that apply to support staff, Maternity Support Leave/Adoption Support Leave of 5 days with pay shall be granted to the partner or nominated carer of the primary adopter/person that gave birth at or around the time of placement/birth. A nominated carer is the person nominated by the primary adopter/ person that gave birth to assist in the care of the child and to provide support to the primary adopter/ person that gave birth at or around the time of the placement/birth. These provisions do not apply to teaching staff.

The entitlement to Maternity/Adoption Support Leave is for a period of 5 days/1 week in any 12 month period. All arrangements for Maternity/Adoption Support Leave will need to be agreed between the employee and their line manager, via completion of the [paternity-leave-and-maternity-adoption-support-leave-application-form](#). The form will need to be countersigned by the person that gave birth /adoptive parent nominating the employee requesting leave as the prime provider of care. Managers may request evidence of the birth or adoption, for example, a copy of the MATB1 (Maternity Certificate) be provided.

Employees taking Maternity/Adoption Support Leave who also qualify for Paternity Leave will be entitled to:

- one week's Maternity/Adoption Support Leave at full pay; and
- one week's Ordinary Paternity Leave at SPP rates.

Maternity/Adoption Support leave is separate from parental leave; and is pro rata for part timers.

### **Time off for antenatal appointments**

Partners who have a qualifying relationship with a pregnant woman or an expected child are entitled to take unpaid time off to accompany that pregnant woman at up to two antenatal appointments. The right to time off is capped at six-and-a-half hours on each occasion.

An employee has a qualifying relationship with a pregnant woman or their expected child if they:

- is the husband or civil partner of the pregnant woman;
- lives with the pregnant woman in an enduring family relationship, although is not her parent, grandparent, sibling, aunt or uncle;
- is the father of the expected child;
- is an intended parent in a surrogacy situation who meets certain conditions (for example, is a potential applicant for a parental order in respect of the expected child).

The employee must notify their manager if they require leave to accompany their partner to an appointment, giving as much notice as possible.

### **Time off to attend adoption appointments**

Employees who are adopting a child are entitled to take time off to attend adoption appointments.

Where an employee is part of a couple jointly adopting a child, the couple can elect for one of them to take paid time off to attend up to five adoption appointments (under s.57ZJ of the Employment Rights Act 1996). The other can elect to take unpaid time off to attend up to two adoption appointments (under s.57ZL of the Employment Rights Act 1996).

The appointment must have been arranged by or at the request of the adoption agency. The time off must be taken before the date of the child's placement for adoption with the employee.

LCC will ask the individual for proof of the date and time of the appointment and that the appointment has been arranged by or at the request of the adoption agency (for example, a letter or email from the adoption agency).

### **Shared Parental Leave**

Shared Parental Leave (SPL) enables eligible parents to choose how to share the care of their child during the first year after the child's birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for their child. SPL allows the person who gave birth to share a portion of maternity leave and pay with their partner to care for the child until their first birthday. SPL can also be used by the person who gave birth alone to allow her to return to work for periods in between taking periods of SPL, this flexibility does not exist with Maternity Leave. SPL can also be used by parents who are adopting or having a baby through surrogacy.

If eligible for SPL, the employee may be entitled to share up to a maximum of 50 weeks' SPL during the child's first year in the family. The maximum entitlement of SPL of 50 weeks' is achieved by the person who gave birth/adopter ending/cutting short their maternity

leave or adoption leave after the 2 week's compulsory leave creating up to 50 weeks' SPL.

Shared Parental Leave enables the person who gave birth and "primary" adopters (in a surrogacy scenario, primary adopter refers to the legal parent who has elected to take adoption leave) to choose to end their maternity or adoption leave and pay early so that their partner can take leave equivalent to the balance of maternity or adoption leave (and pay) or share the leave with the person who gave birth or primary adopter.

The person who gave birth or primary adopter can choose to continue with the maternity leave (and pay) and the partner can take off time at the same time using the balance of the maternity leave as Shared Parental Leave. The person that gave birth /primary adopter and their partner may also choose to take the leave (and pay) at different times and at a later date. The person that gave birth can be on maternity leave, and the partner can be on SPL, at the same time. It is also possible for just one person to take SPL. There is no requirement for both the person that gave birth and partner to take SPL.

Both parents should ensure that they are each liaising with their own respective employers as early as possible to ensure that requests for SPL are handled as smoothly as possible.

#### **Eligibility:**

- SPL can only be shared by the person that gave birth/primary adopter and the partner of the child;
- both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption;
- To check whether an employee is eligible for SPL, they can use the following online tool: <https://www.gov.uk/pay-leave-for-parents>

#### **The Primary Caregiver's Eligibility**

The person that gave birth /adopter is eligible for shared parental leave if they:

- have been continuously employed by LCC for at least 26 weeks by the end of the 15th week before the expected week of childbirth/placement and remains in continuous employment with LCC until the week before any period of shared parental leave that they take;
- have, at the date of the child's birth/placement, the main responsibility, apart from the partner, for the care of the child;
- is entitled to statutory maternity leave/adoption leave in respect of the child; and
- complies with the relevant maternity/adoption leave requirements (or has returned to work before the end of statutory maternity/adoption leave), and shared parental leave notice and evidence requirements.

In addition, for the person that gave birth /primary adopter to be eligible for shared parental leave, the partner must:

- have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth/placement;

- have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks; and
- have, at the date of the child's birth/placement, the main responsibility, apart from the person that gave birth , for the care of the child.

### **Partner's eligibility for shared parental leave**

The partner is eligible for shared parental leave if they:

- have been continuously employed by LCC for at least 26 weeks by the end of the 15th week before the expected week of childbirth/placement and remains in continuous employment with LCC until the week before any period of shared parental leave that they take;
- has, at the date of the child's birth/placement, the main responsibility, apart from the person that gave birth, for the care of the child; and
- complies with the relevant shared parental leave notice and evidence requirements.

In addition, for the partner to be eligible for shared parental leave, the person that gave birth /adopter must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth/placement;
- have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks;
- have, at the date of the child's birth/placement, the main responsibility, apart from the partner, for the care of the child;
- be entitled to statutory maternity/adoption leave, statutory maternity/adoption pay or maternity allowance in respect of the child; and
- complies with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave).

### **Notification requirements**

If an employee wishes to take SPL in respect of a child, there are three notifications that must be made:

1. A notice from the person that gave birth /adopter ending/shortening their maternity leave or adoption leave to create SPL; (curtailment notice)
2. An SPL "opt in" notice confirming an employee's entitlement to SPL and an intention to take SPL;
3. A booking notice confirming that an employee wishes to book a period of SPL.

### **Step 1 – Ending or shortening maternity or adoption leave: curtailment notice**

If an employee is the person that gave birth or taking or intending to take adoption leave and they want to opt into the SPL scheme, they must give us at least 8 weeks' written notice to end the maternity leave or adoption leave before the employee or partner can take SPL. [Shared-parental-leave-form-1 Curtailment Notice](#)

This “Curtailment Notice” must state the date the maternity/adoption leave will end. The individual can give the notice before or after they give birth/the placement date, but they cannot end the maternity/adoption leave until at least 2 weeks after birth or following the placement date.

At the same time of submitting the curtailment notice, the employee should also provide notice to opt into the SPL scheme or a written declaration that the other parent has given their employer an opt-in notice and that the necessary declarations are in that notice.

The curtailment notice is binding and cannot usually be revoked, save in very limited circumstances. It can generally only be revoked if notice of maternity/adoption leave has not yet ended and one of the following applies:

- if the employee or partner become aware that they are not eligible for SPL or statutory shared parental pay, in which case the curtailment notice can be revoked in writing up to eight weeks after it was given
- (in birth cases only) if the employee gave the curtailment notice before the birth of your child, it can be revoked in writing up to six weeks after birth or
- if the other parent has deceased

Once an employee has revoked a curtailment notice, they will be unable to opt back into the SPL scheme, unless the second circumstance above applies.

### **Step 2 – Notification of entitlement to SPL: “opt in” notice**

If an employee intends to take SPL they must notify their manager at least 8 weeks before the date they wish to start leave. [Shared-parental-leave-form-2 Notice of entitlement](#)

The employee is required to provide information about both their own, and their partner’s plans for SPL as well as declarations by the employee and their partner that they both meet the statutory conditions to enable them to take SPL and ShPP.

LCC reserves the right to request further evidence of eligibility (such as contact details for the partner’s employer (if they have one) or a copy of the birth/matching certificate). If such a request is made, the employee must provide this information within 14 days. Failing to do so means LCC is under no obligation to grant the leave requested nor will the employee be entitled to take the requested leave.

### **Step 3 - Booking SPL: booking notice -**

In addition to notifying LCC of the employee's entitlement to SPL and that they wish to “opt-in” to the SPL scheme, they must also give notice to book and take the leave requested. [Shared-parental-leave-form-3 Notice of entitlement Partner](#) In many cases, notice to book and take leave will be given at the same time as the notice of entitlement to SPL (Step 2 above). However, the employee must submit each request at least 8 weeks before the date on which they wish to start the leave period and (if applicable) receive ShPP.

The employee may submit up to three booking notices. This may enable them to take up to three separate periods of SPL although if they give a notice to vary or cancel a period of leave this will in most cases count as a further period of leave notice.

If the SPL booking notice contains a request for a single continuous period of SPL they will be entitled to take the leave set out in the notice.

If the SPL booking notice contains a request for split periods of SPL, with periods of work in between, LCC will consider the request as follows:

- Approve the request for discontinuous leave and confirm this in writing.
- Within a two week period of receiving the request, the manager may request to meet with the employee to discuss the request with a view to agreeing an arrangement that meets both the employee's needs and the needs of LCC. The manager will confirm arrangements in writing.
- LCC has the right to refuse requests for discontinuous periods of leave where there are business reasons to do so.

If the leave pattern the employee requests' is refused, or if LCC has not reached agreement during the two-week discussion timeframe, the employee can:

- withdraw the leave booking request within 2 days of the end of the two-week discussion timeframe (in which case it will not be counted, and they may submit a new one); or
- take the total amount of leave requested in a single continuous period starting on the start date given in the notice; or
- choose a new start date (which must be at least 8 weeks after the original booking notice was given) and tell LCC within five days of the end of the 2-week discussion period.

#### **When Shared Parental Leave can start:**

[Shared-parental-leave-form-4 Booking Notice](#)

SPL can start as follows:

- In birth cases – the person that gave birth can take SPL after she has taken the compulsory two weeks of maternity leave immediately following the birth of the child;
- in adoption cases - the adopter can take SPL after taking at least two weeks of adoption leave;
- the partner can take SPL at any time following the birth/placement of the
- Where the person that gave birth gives notice to end their maternity/adoption leave at a specified future date the partner can take SPL while the primary caregiver is still using their maternity/adoption entitlements;
- SPL will generally commence on the chosen start date as specified on the employee's leave booking notice or in any subsequent variation notice, unless the employee has requested a discontinuous period of leave which cannot be accommodated.

#### **How SPL can be taken:**

- an employee must take any SPL within 52 weeks of the birth/placement of the child;
- any SPL not taken before the first birthday or first anniversary of placement for adoption is lost;
- SPL can only be taken in complete weeks but may begin on any day of the week;
- an employee can request to take SPL as one continuous period or several discontinuous periods.

### **Continuous period of SPL**

A continuous period of leave means a number of weeks taken in a single unbroken period (for example, six weeks in a row). Where a continuous period of leave is requested, an employee has the right to take this leave as long as they meet the eligibility and notice requirements.

### **Discontinuous period of SPL**

A discontinuous period of leave means a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months). LCC will consider any request for discontinuous leave

### **Variations to arranged SPL**

Employees are permitted to vary or cancel an agreed and booked period of SPL, provided that they advise their manager in writing at least 8 weeks before the earlier of the original start date or the new start date. Any new start date cannot be sooner than 8 weeks from the date of the variation request.

Any variation or cancellation notification, including notice to return to work early, will usually count as one of the three booking notices, reducing the employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of LCC requesting it be changed, and the employee being agreeable to the change, will not count as a change to the employee's SPL booking notice. Any variation will be confirmed in writing by LCC.

### **Benefits and Contract of Employment during SPL**

An employee's terms and conditions of employment remain in force during SPL, except for the terms relating to pay. In particular:

- all the contractual benefits which the employee was receiving immediately before beginning SPL leave will continue except pay (i.e. the employee will receive ShPP instead of usual salary and contractual allowances);
- annual leave will continue to accrue;
- continuity of employment - any period of SPL counts as a period of continuous employment for statutory and contractual purposes.

### **Returning to work after SPL**

The employee's return to work date will be the first working day after the end of the period SPL specified in the booking notice. If the employee wishes to return to work before the expected end date, they will need to give their manager at least 8 weeks' advance written

notice. This will count as one of their three SPL booking notices. If they have already used their three booking notices then LCC is not required to accept the request to return to work early and LCC may postpone their return date until 8 weeks after the notice was given.

On returning to work after SPL, the employee is entitled to return to the same job if the employee's aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

If an employee is unable to return to work at the end of their SPL period due to sickness or injury, the Managing Attendance Policy ([Link](#)) and procedure will apply. Failure to return on the expected return date for any other reason will normally be treated as unauthorised absence.

#### **'Shared Parental Leave In Touch' days (SPLIT)**

To support occasional training, or help keep in touch without losing ShPP, employees are able to work for 20 SPLIT days during their SPL. Important points to note include the following:

- the decision to take a SPLIT day and when that SPLIT day will be taken, must be made by agreement between the employee and their manager;
- the employee can choose how long they work for on a SPLIT day. Whether they come into the office for one hour or a full working day it will be counted as one SPLIT day; the employee will be paid for the hours they work
- the SPLIT day will not bring SPL to an end, nor extend the period of leave;
- LCC has no right to demand that an employee undertakes any such SPLIT work and the employee cannot insist that they undertake such work;
- the employee will be paid at their normal daily rate for each SPLIT day worked, without losing any statutory pay;
- with the agreement of their manager, and taking business needs into account, an employee may use their your SPLIT days to enable a gradual return to work or trial a part-time working arrangement

#### **Ordinary Parental Leave**

Every employee who is the parent of a child (including birth, adoptive and surrogate) under the age of 18 has the right to take up to 18 weeks' unpaid Ordinary Parental Leave before, or on the date of, the child's 18th birthday. Ordinary parental leave is distinct from shared parental leave.

#### **Notification requirements:**

- 21 days' notice must be given of the intended dates to take leave. LCC can postpone the leave for up to six months where the business would be particularly disrupted if the leave were taken at the time requested, but leave cannot be postponed when the employee gives notice to take it immediately after the time the child is born or is placed with the family for adoption.
- Employees wishing to take ordinary parental leave should discuss this with their manager in the first instance.

### **Leave Entitlement:**

- Qualifying employees will be entitled to a maximum of 18 weeks' ordinary parental leave to be taken up until the child's 18th birthday.
- The right to a period of unpaid parental leave is available in respect of each child. If an employee has, for example, two children under the age of 18, he or she may take 18 weeks' unpaid parental leave in respect of each of those children.
- Leave must be taken in blocks or multiples of 1 week; the exception to this is that parents of disabled children can take leave in blocks or multiples of one day. In all cases a maximum of 4 weeks' ordinary parental leave in a year can be taken in respect of any individual child
- During ordinary parental leave, the employee will remain employed, although pay and most contractual benefits will be suspended. The right to accrue statutory holiday entitlement will, however, remain in place. During parental leave employees will be entitled to the implied obligation of trust and confidence, and any terms and conditions of employment relating to:
  - notice of termination;
  - disclosure of confidential information;
  - the acceptance of gifts or other benefits; and
  - participation in any other business.

### **Dependants Leave and Parental Bereavement**

Additional entitlements to time off such as dependants leave, and parental bereavement leave, apply to parents.

**Dependants Leave** is paid leave to allow employees time off in emergencies related to the care of any dependants. It may be the employee needs to make alternative arrangements for care, at short notice, to then return to work – therefore, this provision is intended for short term emergencies.

Employees that suffer the death of a child are entitled to **Parental Bereavement Leave** of up to 2 weeks either as a block or separate weeks to be taken within a 56 week window. This provision applies to employees who have suffered the loss of a child, i.e. under the age of 18, including those who have suffered a stillbirth after 24 weeks of pregnancy.

Further details of these entitlements can be found in the [Schools Leave and Time Off Policy](#)