



# **Willow Bank Infant School**

## **Family Care Policy**

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## Family Care

# Policy and Guidance for Schools

# Human Resources Policy and Procedure for Family Care

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# Human Resources Policy and Procedure for Family Care

## Policy Information

### Introduction

The school recognises the importance of a balanced approach to work and family life. We therefore welcome the opportunity to build upon this approach with the Family Care Policy, which gives support to employees with family responsibilities. This policy incorporates the following:

- ◆ Maternity Leave
- ◆ Paternity Leave
- ◆ Maternity Support Leave
- ◆ Ante-natal leave for fathers and partners
- ◆ Adoption Leave
- ◆ Parental Leave
- ◆ Time off for Dependants

Please also refer to the Guide to Requesting Flexible Working, the Schools Adoption Guide, the Shared Parental Leave Policy and the Childcare Vouchers procedure.

### Purpose

To ensure that all employees are given support to manage family responsibilities and balance this with the need to maintain service delivery and the impact on other colleagues. This Policy is an important part of the school's approach to Equal Opportunities.

### Scope

The policy applies to all employees of Willow Bank Infant school regardless of the number of hours worked per week with the exception of workers employed on a casual or temporary basis. This model policy may be adopted by school governing bodies.

### Equal Opportunities

The Family Care Policy will be applied fairly and consistently to all staff employed at the school regardless of gender, race, marital status, national or ethnic origin, nationality, disability, sexuality, age, religion, status or number of hours worked.

### Data Protection

The school processes any personal data collected during the family care process in accordance with its data protection policy. Further details can be found in the Privacy Notice on the school's website. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the family care procedure.

### Terms and Conditions during periods of leave

Whilst on leave, employee and employer will be bound by the duty of good faith and confidentiality. The following terms will apply:

- Notice to terminate the employment contract – by either party
- The School's Code of Conduct
- Disciplinary, grievance or capability procedures
- Political restrictions

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- Paid employment – employees must not engage in paid employment, without express consent of their Line manager (with advice from their Headteacher)
- On returning to work the employee has a right to the same or similar job
- Compensation for redundancy
- If a redundancy situation arises the employee will be fully consulted.

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### Maternity Leave

There are two levels of maternity leave – Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML).

#### Ordinary and Additional Maternity Leave

All employees are entitled to 26 weeks' ordinary maternity leave (OML), immediately followed by 26 weeks' additional maternity leave (AML). **Notification of pregnancy and the intention to take maternity leave must be given by the 15<sup>th</sup> week before the end of the expected week of childbirth (EWC).** An employee must inform her manager at least **28 days** before absence begins:

- That she is pregnant
- The date of the EWC
- The date she would like her OML to begin (In writing). The leave cannot be taken earlier than the 11<sup>th</sup> week before the EWC.

Once notified the manager must give the employee the Employees' Maternity Pack, which contains the Notification of Pregnancy Form, see the policies section of the Schools HR section of the Wokingham schools learning community website.

An employee must provide an original certificate of expected confinement from her doctor or midwife, (this is called a MATB1 form). This information should be sent to the school bursar or head teacher and is also needed for pay purposes. The school will send this to the payroll provider.

An employee may change the date her leave begins subject to giving her manager 28 days notice.

An employee may take OML for a period of 26 weeks. The only restrictions to the timing of this leave are that she must take at least two weeks' leave **after** the week of confinement and cannot begin maternity leave before the 11th week prior to the EWC. She will retain all employment rights during general maternity leave, apart from remuneration.

Any absence after the beginning of the 4th week before EWC, which is wholly or partly because of pregnancy or childbirth, will automatically trigger the start of maternity leave which will start on the following day. SMP will also start on the following day.

#### Statutory Maternity Pay

An employee will qualify for 39 weeks of Statutory Maternity Pay (SMP) if:

- She has been continuously employed for at least 26 weeks before her qualifying week – the 15<sup>th</sup> week before the EWC i.e. 41 weeks' continuous service
- Her average weekly earnings in the eight weeks up to and including the qualifying week have been equal to the lower earnings limit for National Insurance Contributions.

Statutory Maternity Pay (SMP) will be paid to **support staff** at 90% of average weekly earnings for the first six weeks and at the lesser of the lower SMP rate per week or 90% of her average weekly earnings, for the remaining 33 weeks of the maternity pay period.

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Statutory Maternity Pay (SMP) will be paid to **teaching staff** at full pay for the first four weeks followed by 90% of average weekly earnings for the next two weeks and at the lesser of the lower SMP rate per week or 90% of her average weekly earnings, for the remaining 33 weeks of the maternity pay period.

If an employee does not qualify for SMP she may be entitled to claim a maximum of 39 weeks Statutory Maternity Allowance (SMA) provided that she has 26 weeks' National Insurance Contributions during the 66 weeks before the qualifying week. A claim pack can be obtained from the Jobcentre Plus/social security Office.

Managers should talk to their employees to plan their return to work and think about the practicalities. Employees do not have to give notice if they intend to return to work at the end of ordinary/additional maternity leave, however it would be good practice for the employee and her manager to communicate any changes that may arise.

Where employees wish to return to work before the end of their OML, they must give their Manager 7 days' notice of the date they intend to return or 21 days' notice if the employee is teaching staff. If the employee fails to notify their Manager, the manager can postpone their return by 7 days or 21 days for teaching staff. Where employees wish to return to work before the end of their AML, they must give their Manager 21 days' notice of the date they intend to return. A manager can postpone their return until the required 21 days' notice has taken place.

If an employee changes her mind about her original return date from additional maternity leave she must give her manager 21 days' notice of the change. If she does not give the required notice and her manager needs more notice he or she can postpone her return until the required 21 days' notice has taken place. A manager cannot postpone it past the end of the 52-week period.

An employee may take parental leave at the end of maternity leave with the agreement of her Headteacher/line manager and the required notice period.

### Occupational Maternity Pay

An employee with at least one year's continuous service in local government at the beginning of the 11<sup>th</sup> week before the EWC (i.e. 63 weeks' continuous service by the EWC) will be entitled to receive a further 12 week's salary at half pay. This is on the condition that:

- **support staff** return for 3 months and
- **teaching staff** return for a period of at least 13 weeks. For **Teachers** this is an equivalent of 13 weeks full-time hours if you return to work on part-time hours having previously worked full-time or if a part-time teacher returns to work on a different part-time basis she must return for a period which equates to 13 weeks part-time service relating to her previous contract.

This can be paid as a lump sum on return to work, or in conjunction with SMP - but if paid in advance, it would have to be reclaimed if the employee does not return to work for the qualifying return period. Although it is not a statutory requirement, if an employee wishes to qualify for additional salary she must notify her manager of her intention to return to work after OML/AML. An employee must notify her manager of the date of her child's birth to enable her manager to plan for her return.



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### **Transfer of maternity leave**

Please see the Separate Shared Parental Leave Policy for further details on transferring maternity leave.

### **Statutory Sick Pay (SSP)**

All maternity leave counts as service for the purposes of the school's sick pay scheme.

### **Accrued Annual Leave**

There are no changes to the current arrangements regarding notification e.g. approval and 5 days carry over into the next leave year. However, because maternity leave both paid and unpaid can take up the whole leave year an employee may with approval take some of their leave prior to maternity leave and/or some after as long as it is in the same leave year. They may also use some of their unpaid maternity leave as annual leave, for example:

- 39 weeks paid ML + 8 weeks' unpaid AML + 5 weeks annual leave.
- 1 week annual leave + 39 weeks' paid ML + 10 weeks' unpaid AML + 2 weeks' annual leave.

An employee and her manager must be clear about the date she intends to end her maternity leave and the date she intends to begin annual leave so that her manager notifies payroll to ensure she is paid correctly.

### **Right to Return to Work**

As a general guideline, an employee has the right to return to the job in which she is currently employed and on terms and conditions not less favourable than those, which would have applied to her, if she had not been absent.

Where it is not possible, through redundancy or general reorganisation, to offer a return to work under the original contract, an employee is entitled to be offered a suitable alternative vacancy. (In the case of redundancy, this would be subject to there being such a post available). The terms and conditions of the alternative job must be substantially as favourable as those of her original job.

The School will be sympathetic to requests for a return to work under a more flexible arrangement such as part-time or job sharing. However any part time or job share arrangement will have to be agreed by the employee's manager and the operational needs of the school should be taken into account. If an employee works full time and returns from maternity leave on a part-time, reduced hours or job share basis, she will not have an automatic right to resume full time working at a later date, unless specifically agreed in writing with her at the point of return. Please also see the Guide to Requesting Flexible Working.

### **Reasonable contact during maternity leave**

The manager and the employee are entitled to make reasonable contact with each other while the employee is on maternity leave. For example, a manager may contact the employee to discuss whether or not her planned date of return has changed or is likely to do so, or to discuss any flexible working arrangements that would make her return to work easier.

### **Keeping in touch days**

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An employee may work during her maternity leave for up to 10 days (also known as 'keeping-in-touch' days) without bringing her maternity leave to an end. These days are not limited to the usual job but can be used for training days, other events or easing a return to work. Any arrangement should be agreed between the manager and employee. An employee cannot be required to take up keeping in touch days or penalised for refusing to take them up and managers are not obliged to offer them.

It is recommended that managers invite employees to participate in any training that will make it easier for them to carry out their job upon their return to work. These could be team away days, legal refresher courses, new software training etc. Employees must not be pressured into attending any of these activities.

No keeping in touch days are to be taken until at least two weeks after the birth of the child. Any KIT days worked do not extend the period of maternity leave. Once the KIT days have been used up, the employee will lose a week's SMP for any week in which she agrees to work for the school.

Employees returning for KIT days will be paid their regular pay calculated on the number of hours they attend. For example if an employee attends for 2 hours, they will be paid for 2 hours but it will be deemed as one KIT day taken.

### Other Conditions

The following conditions apply to all women taking maternity leave/parental leave, whether ordinary or additional maternity leave.

Dismissal or selection for redundancy, of an employee is automatically unfair if it is on maternity-related grounds - regardless of length of service or hours of work.

An employee is also protected from unfair treatment at work in connection with pregnancy, childbirth or taking maternity leave.

An employee who takes maternity or parental leave is entitled during the periods of leave to the benefit of the School's implied obligation to her trust and confidence and any terms and conditions of her employment relating to:

- Notice of the termination of the employment contract and for those with more than 2 years service, compensation in the event of redundancy.
- Disciplinary and grievance procedures.

An employee is also bound by her implied obligation to the School of good faith and any terms and conditions relating to:

- Her giving notice of the termination of her employment contract.
- The disclosure of confidential information.
- The acceptance of gifts or other benefits.
- Participation in any other business.

If an employee is unable to return to work after the period of maternity leave to which she is entitled because of illness, the normal rules of sick absence will apply.

Apart from the payment of salary and other remuneration, all employment rights are preserved. The general guideline is that an employee on maternity leave should not be treated less favourably than if she was on long term sick leave. The following should also be noted:

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- An employee may attend antenatal appointments, as advised by her GP, midwife or health visitor. If these appointments cannot be reasonably taken outside of school time, she must ensure that her absence has been approved by her manager. The manager may request to see a copy of her appointment card.
- Where an employee suffers a stillbirth after 24 weeks of pregnancy the maternity scheme will apply. Where a pregnancy ends before 24 weeks, special leave or sick leave may be granted according to the individual circumstances.
- Where a baby is born prematurely each case should be considered on its merits. For example an extension of the maternity leave period might be appropriate.
- Maternity leave and pay will commence on the actual date of birth if it is earlier than the notified leave date
- Bank Holidays will not be accrued during unpaid maternity leave.

When on maternity leave employees in receipt of essential car user allowance will only receive the allowance whilst they are being paid.

From 1 April 2014 if you are a new parent and a member of the LGPS and have a period of relevant child related leave the amount of pension you build up will be based on your Assumed Pensionable Pay. Relevant child related leave covers all periods of Ordinary Maternity Leave, Ordinary Adoption Leave and Ordinary Paternity Leave and any paid Additional Maternity Leave, Additional Adoption Leave and Additional Paternity Leave.

That means that if you have a period of reduced contractual pay or no pay during relevant child related leave your pension is worked out using your Assumed Pensionable Pay (before the reduction in pay took place). You will only pay your contributions on any pay that you receive.

You can elect to cover the period of pension 'lost' by taking out a Shared Cost Additional Pension Contribution (SCAPC) contract. Where a SCAPC contract is taken out to cover the pension 'lost' during a period of unpaid additional Maternity, Adoption or Paternity leave or periods of unpaid authorised leave of absence, the cost is shared 1/3rd to the employee and 2/3rds to the employer, provided that you make an election to buy the 'lost' pension within 30 days of returning to work. For further details please see the relevant information on the Berkshire Pension Fund website:

[http://www.rbwm.gov.uk/berks-pension/LGS33\\_Leave\\_of\\_Absence\\_April\\_2014\\_WEB.pdf](http://www.rbwm.gov.uk/berks-pension/LGS33_Leave_of_Absence_April_2014_WEB.pdf)

For teachers in the Teachers Pensions Scheme during any period of paid maternity leave your pensionable service will continue to increase and your contributions will be based on the pay you get while absent. Any unpaid leave of any kind cannot be treated as pensionable.

### Resignation and Maternity Pay

If an employee leaves voluntarily before the beginning of the 15<sup>th</sup> week before her EWC she cannot claim SMP. However she may be entitled to Maternity Allowance and should contact her local Jobcentre Plus/social security Office. If she leaves after the 15<sup>th</sup> week before her EWC she will still be entitled to receive SMP (subject to her satisfying the qualifying criteria for SMP).

### Health and Safety Implications

During an employee's pregnancy she has the right to special consideration under the Management of Health and Safety at Work (Amendment) Regulations with regard to health

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and safety and time off for antenatal care. **Once her line manager has been informed that she is expecting a baby, they have a duty to carry out a risk assessment**, additional to the assessment that has already been done for her section as a whole. If, through an individual risk assessment, an unacceptable risk has been identified with regard to her health and safety then one or more of the following steps may apply:

- elimination of the risk
- protection or prevention measures to control hazards/risks
- if it is reasonably practical to do so, an alternation to working conditions or hours of work. providing suitable alternative employment (on existing terms and conditions) within the School.
- if the perceived risks from the job that she does are serious and none of the above steps are possible, paid leave may be offered.

These Health and Safety implications will continue to apply until 6 months after the date of childbirth (or miscarriage where this occurs) or, if an employee is breast feeding, beyond this period, until she stops breast feeding. At all stages she must be involved in the risk assessment process. **For further information please see Guidance for New and Expectant Mothers at work which is contained in the Health and Safety Manual.**

It is unlawful to allow an employee to return to work within two weeks of childbirth. This is the compulsory maternity leave period in the *Employment Rights Act (ERA) 1996, s.72*. The word 'childbirth' means the birth of a child whether living or dead after 24 weeks of pregnancy.

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### Paternal Leave

The entitlement to leave is to take one or two weeks' paternity leave in a single block within eight weeks of the child's birth, or of the first day of the employee's partner's expected week of childbirth, if the baby is born prematurely. The first week will be on full pay and the second week will be paid at the current rate of Statutory Paternity Pay (SPP) or 90% of the average weekly earnings, whichever is lowest.

### Eligibility

The right to leave is available to the biological father of a child or to a person who is married to, the civil partner of, or the partner of, the child's mother. The definition of partner includes same-sex partners. To qualify for paternity leave, the employee must have, or expect to have, responsibility for the child's upbringing and be taking the leave to care for the child.

The entitlement is to only one period of leave regardless of how many children born as a result of a single pregnancy.

### Notification of paternity leave

Where employees wish to request paternity leave in respect of a birth child, they must make a request in writing to their manager and submit a copy of the mother's Certificate of Confinement (MATB1 Form), the SC3 form: <http://www.hmrc.gov.uk/forms/sc3.pdf> and provide:

- 15 weeks' notice of the date on which his/her partner's baby is due,
- the length of paternity leave he/she wishes to take and
- the date on which he/she wishes the leave to commence.

If an employee subsequently wishes to change the timing of the ordinary paternity leave, they must give 28 days' written notice of the new dates. The employee must also, if asked, complete and sign a self-certificate declaring that they are entitled to paternity leave and statutory paternity pay.

### Additional paternity leave

Please note that Additional Paternity Leave has been replaced by Shared Parental Leave. Please see the separate Shared Parental Leave Policy for further details.

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### Ante-natal leave for fathers and partners

Employees who have a qualifying relationship with a pregnant woman or an expected child are entitled to take unpaid time off work to accompany that pregnant woman at up to two antenatal appointments.

An employee has a qualifying relationship with a pregnant woman or her expected child if he or she:

- is the husband or civil partner of the pregnant woman;
- lives with the pregnant woman in an enduring family relationship, but is not a relative of the woman;
- is the father of the expectant child; or
- is an intended parent in a surrogacy situation who meets certain conditions.

Employees will have the right from day one of their employment. The right to time off is capped at a maximum of six-and-a-half hours on each occasion, which can include travelling time, waiting time and attendance.

The antenatal appointment must be made on the advice of a registered medical practitioner, midwife or nurse. The manager may ask for a signed declaration confirming: the individual's relationship to the mother or her expected child; the time and date of the appointment; the purpose of the time off; and that the appointment is made on the advice of a registered medical practitioner, nurse or midwife.

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### Maternity Support Leave

A nominated carer of the expectant mother may also request up to five days maternity support leave (at around the time of birth) on full pay. (A nominated carer is the person chosen by the mother to provide care and support to her and her new baby). Maternity support leave will not be granted to a nominated carer where the father or partner is an employee of the Council. Only one period of maternity support leave will be granted within any one leave year.

Employees must submit a copy of the Certificate of Confinement (MATB1 Form) along with the notification of intention to take maternity support/paternity leave form before the end of the 15th week before the due date or as soon as reasonably practicable.

They must notify their manager in writing of the following before the end of the 15th week before the due date or as soon as reasonably practicable:

- the due date
- the length of leave they wish to take
- the date on which they want leave to begin

If you change your mind about the date you wish to begin your leave, you must provide at least 28 days' notice in advance to your manager or as soon as reasonably practicable.

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## Adoption Leave

### Adoption Leave

For employees to qualify for adoption leave they must meet the following criteria:

- They have been newly matched with a child for adoption by an approved adoption agency

This applies to:

- Individuals who adopt
- One member of a couple where they adopt together (the couple may choose which partner takes the paid adoption leave). The other partner may be entitled to adoption paternity leave and pay.
- Employees who adopt a child from overseas.

Where the child is not newly matched for adoption, for example adopting a partner's children, employees will not be eligible for paid adoption leave.

Employees will be entitled to 26 weeks' ordinary adoption leave immediately followed by 26 weeks' additional adoption leave.

### Notification

Employees must notify their Manager of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. Employees must give the following information:

- When the child is expected to be placed
- When they want their adoption leave to begin.

Once notified the manager must give the employee a copy of the Employees' Adoption Guide which contains the Notification of Intention to take Adoption Leave Form. See the Schools Hub.

An employee may change the date adoption leave begins subject to giving his/her manager 28 days' notice. The school will send written confirmation of the change.

Employees will be required to provide their Manager with a copy of the matching certificate to confirm entitlement to adoption leave and pay.

Employees adopting a child from overseas must give a copy of the official notification from the Secretary of State for Health to his/her manager. For further information contact the The Department for Education's Intercountry Adoption Casework Team on 0370 000 2288 and the Overseas Adoption Helpline contact on 0870 516 8742.

Employees can choose to begin their adoption leave:

- From a fixed date which can be up to 14 days before the expected date of placement, or



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- From the date of the child's placement (whether this is earlier or later than expected).

Adoption leave cannot begin before a child adopted from overseas has arrived in the UK.

Adoption leave can start on any day of the week.

The entitlement is to only one period of adoption leave irrespective of whether more than one child is placed for adoption as part of the same arrangement.

If a child's placement ends during the adoption leave period, leave can be continued for up to eight weeks after the end of the placement.

Statutory adoption leave is not meant to be used to cover the period employees spend travelling overseas to arrange the adoption.

All employees are protected from suffering detriment or unfair dismissal for a reason related to taking adoption leave.

Employees will be entitled to the benefit of their normal terms and conditions of employment, except for terms relating to normal pay throughout the 26-week ordinary adoption leave period. Employees may qualify for Statutory Adoption Pay, which is payable for 39 weeks.

### Statutory Adoption Pay

Statutory Adoption Pay (SAP) will be paid to support staff at 90% of average weekly earnings for the first six weeks and at the lesser of the lower SAP rate per week or 90% of her/his average weekly earnings, for the remaining 33 weeks of the adoption pay period.

Statutory Adoption Pay (SAP) will be paid to teaching staff at full pay for the first four weeks followed by 90% of average weekly earnings for the next two weeks and at the lesser of the lower SAP rate per week or 90% of her/his average weekly earnings, for the remaining 33 weeks of the adoption pay period.

Where an employee has average weekly earnings below the Lower Earnings Limit for National Insurance contributions he/she will not qualify for SAP. Further information can be obtained from the local Jobcentre Plus Office.

### Occupational Adoption Pay

An employee with at least one year's continuous service in local government at the time the child is placed will be entitled to receive a further 12 week's salary at half pay. This is on the condition that:

- **support** staff return for 3 months and
- **teaching** staff return for a period of at least 13 weeks.

For **teachers** this is an equivalent of 13 weeks full-time hours if they return to work on part-time hours having previously worked full-time or if a part-time teacher returns to work on a different part-time basis they must return for a period which equates to 13 weeks part-time service relating to their previous contract.

This can be paid as a lump sum on return to work, or in conjunction with SAP - but if paid in advance, it would have to be reclaimed if the employee does not return to work for the qualifying return period.

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Although it is not a statutory requirement employees must notify their Manager of their intention to return to work after AAL to qualify for additional salary.

### Returning from adoption leave

Managers should talk to their employees to plan their return to work and think about the practicalities. Employees do not have to give notice if they intend to return to work at the end of ordinary/additional adoption leave. Where employees wish to return to work before the end of their ordinary adoption leave, they must give their Manager 7 days' notice of the date they intend to return or 21 days' notice if the employee is teaching staff. If the employee fails to notify their Manager, the employer can postpone the return by 7 days or 21 days for teaching staff. Where employees wish to return to work before the end of their additional adoption leave, they must give their Manager 21 days' notice of the date they intend to return. A manager can postpone his/ her return until the required 21 days' notice has taken place.

If an employee changes their mind about their original return date from additional adoption leave they must give the manager 21 days' notice of the change. If they wish to return later than their original return date at least 21 days' notice must be given ending with the original return date. If they do not give the required notice and the manager needs more notice the manager can postpone their return until the required 21 days' notice has taken place. A manager cannot postpone it past the end of the 52-week period.

### Accrued Annual Leave

There are no changes to the current arrangements regarding notification e.g. approval and 5 days carry over into the next leave year. However, because adoption leave both paid and unpaid can take up the whole leave year employees may, with approval, take some of their leave prior to adoption leave and/or after as long as it is in the same leave year. Employees may also use some of their unpaid adoption leave as annual leave, for example:

- 39 weeks paid AL – 8 weeks' unpaid AAL – 5 weeks annual leave.

Employees must ensure that their manager is clear about the date they intend to end adoption leave and the date they intend to begin annual leave to make certain they are paid correctly.

Parental leave may also be taken at the end of the adoption leave period provided this has been agreed with the Manager.

### Right to Return to Work

As a general guideline, employees have the right to return to the job in which they are currently employed and on terms and conditions not less favourable than those, which would have applied to them, if they had not been absent.

Where it is not possible, through redundancy or general reorganisation, to offer a return to work under the original contract, employees are entitled to be offered a suitable alternative vacancy. (In the case of redundancy, this would be subject to there being such a post available). The terms and conditions of the alternative job must be substantially as favourable as those of the original job.

The School will be sympathetic to requests for a return to work under a more flexible arrangement such as part-time or job sharing. However any part time or job share arrangement will have to be agreed by an employee's manager and the operational needs of the school must be taken into account. If an employee works full time and returns from

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adoption leave on a part-time, reduced hours or job share basis, she/he will not have an automatic right to resume full time working at a later date, unless specifically agreed in writing with the employee at the point of return. Please also see the Guide to Requesting Flexible Working.

### Other Conditions

When taking adoption or parental leave employees are entitled during the periods of leave to the benefit of the School's implied obligation to their trust and confidence and any terms and conditions of their employment relating to:

- Notice of the termination of the employment contract and for those with more than 2 years service, compensation in the event of redundancy.
- Disciplinary and grievance procedures.

Employees are also bound by an implied obligation to the School of good faith and any terms and conditions relating to:

- Giving notice of the termination of their employment contract.
- The disclosure of confidential information.
- The acceptance of gifts or other benefits.
- Participation in any other business.

If an employee is unable to return to work after the period of adoption leave to which she/he is entitled because of illness, the normal rules of sick absence will apply.

Apart from the payment of salary and other remuneration, all employment rights are being preserved (e.g. annual leave accrual). Employees must also take notice of the following:

- Bank Holidays will not be accrued during unpaid adoption leave.
- When on adoption leave employees in receipt of essential car user allowance will only receive the allowance whilst they are being paid.
- If employees contribute to the pension fund, deductions will continue to be made whilst they receive salary during their adoption leave.

From 1 April 2014 if you are a new parent and a member of the LGPS and have a period of relevant child related leave the amount of pension you build up will be based on your Assumed Pensionable Pay. Relevant child related leave covers all periods of Ordinary Maternity Leave, Ordinary Adoption Leave and Ordinary Paternity Leave and any paid Additional Maternity Leave, Additional Adoption Leave and Additional Paternity Leave.

That means that if you have a period of reduced contractual pay or no pay during relevant child related leave your pension is worked out using your Assumed Pensionable Pay (before the reduction in pay took place). You will only pay your contributions on any pay that you receive.

You can elect to cover the period of pension 'lost' by taking out a Shared Cost Additional Pension Contribution (SCAPC) contract. Where a SCAPC contract is taken out to cover the pension 'lost' during a period of unpaid additional Maternity, Adoption or Paternity leave or periods of unpaid authorised leave of absence, the cost is shared 1/3rd to the employee and 2/3rds to the employer, provided that you make an election to buy the 'lost' pension within 30 days of returning to work. For further details please see the relevant information on the Berkshire Pension Fund website:

[http://www.rbwm.gov.uk/berks-pension/LGS33\\_Leave\\_of\\_Absence\\_April\\_2014\\_WEB.pdf](http://www.rbwm.gov.uk/berks-pension/LGS33_Leave_of_Absence_April_2014_WEB.pdf)

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For teachers in the Teachers Pensions Scheme during any period of paid maternity leave your pensionable service will continue to increase and your contributions will be based on the pay you get while absent. Any unpaid leave of any kind cannot be treated as pensionable.

### **Reasonable contact during adoption leave**

A manager and employee is entitled to make reasonable contact with each other while the employee is on adoption leave. For example, a manager may contact the employee to discuss whether or not his or her planned date of return has changed or is likely to do so, or to discuss any flexible working arrangements that would make their return to work easier.

### **Keeping in touch days**

An employee may work for their manager during their adoption leave for up to 10 days (also known as 'keeping-in-touch' days) without bringing their adoption leave to an end. These days are not limited to the usual job but can be used for training days or other events or easing his or her return to work. Any arrangement should be agreed between the manager and employee. An employee cannot be required to take up keeping in touch days or penalised for refusing to take them up and managers are not obliged to offer them.

It is recommended that managers invite employees to participate in any training that will make it easier for them to carry out their job role upon their return to work. These could be team away days, legal refresher courses, new software training etc. However, employees must not be pressured into attending any of these activities.

Keeping in touch days can be taken at any time following the placement of the child. Employees returning for keeping in touch days will be paid their regular pay entitlement for the time worked. For example if an employee attends for 2 hours, they will be paid for 2 hours, but it will be deemed as one KIT day.

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

An adoption appointment is an appointment arranged by the adoption agency for a prospective adopter to have contact with the child or for any other purpose connected with the adoption. For a single or primary adopter, the entitlement is to paid time off during working hours for up to 5 appointments. For a secondary adopter, the entitlement is to unpaid time off during working hours for up to 2 appointments. If these appointments cannot be reasonably taken outside of school time, the employee must ensure that their absence has been approved by their manager. The manager may request to see a copy of their appointment card.

### **Paternity Leave (Adoption)**

The entitlement to leave is to take one or two weeks' paternity leave in a single block following the adoption. The first week will be on full pay and the second week will be paid at the current rate of Statutory Paternity Pay (SPP) or 90% of the average weekly earnings, whichever is lowest.

### **Eligibility**

The right to paternity leave is available to the individual who does not take adoption leave and to the spouse, civil partner or partner of a child's adopter. The definition of "partner" includes

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same-sex partners. To qualify for paternity leave, the employee must have, or expect to have, responsibility for the child's upbringing and be taking the leave to care for the child.

The entitlement is to only one period of leave regardless of how many children are placed.

In order to be eligible for paternity leave an employee must satisfy the following criteria:

- The employee married to, the civil partner of, or the partner of the child's adopter, or one of a couple jointly adopting a child, and expect to have responsibility for the upbringing of the child and be taking the leave to care for the child or support the child's primary adopter.
- The employee must have a minimum of 26 weeks' service, as at the end of the 15<sup>th</sup> week before the week in which the employee was notified of having been matched with the child.
- The employee must give notice of his or her intention to take ordinary paternity leave no later than seven days after the date on which notification of the match with the child was given by the adoption agency. Notice, which must be in writing and must specify the date on which the child is expected to be adopted, the intended start date and the length of the intended leave, the notice should also specify the date on which the employee was notified of having been matched with the child.
- The employee must, if asked by the employer to do so, produce evidence of entitlement to paternity leave by signing a self-certification form declaring that he or she meets the statutory eligibility criteria.

If an employee subsequently wishes to change the timing of the paternity leave, they must give 28 days' written notice of the new dates.

### **Additional paternity leave**

Please note that Additional Paternity Leave has been replaced by Shared Parental Leave. Please see the Separate Shared Parental Leave Policy for further details.

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## Parental Leave

### Entitlements

All employees with one year's local government continuous service, and parental/guardian responsibilities, will be entitled to eighteen weeks' unpaid leave, (pro-rata for part-time employees) for the purpose of caring for a child up to the age of 18 years.

The eighteen week's entitlement relates to each child.

### Application for Parental Leave

Employees must make a request to their line Manager/Headteacher. Employees are required to give their line manager/head teacher the correct period of notice e.g:

- 21 days notice for up to 4 weeks rising to
- 60 days notice for 13 weeks

specifying when the leave is to begin and end. Where the employee is the father and is taking parental leave around the time of the birth of a child, the expected week of childbirth will also be required. Where a child is being placed for adoption the date this is expected to occur should be included.

### Postponement of leave

A Manager may need to postpone a period of parental leave where there will be a significant disruption to service delivery. The Manager must agree an alternative date with the individual for the same period of leave to be taken within 3 months of the postponement. The manager and employee may also wish to agree the following:

- A different pattern of leave – e.g. part-time rather than full-time
- A shorter or longer period of leave
- Alternative dates within the 3 month period

Managers should give the employee notice in writing of the postponement stating:

- The reason for the postponement
- The dates on which the agreed period of leave will begin and end. The employee should be notified no later than seven days after the original request.

Parental leave may not be postponed in the following circumstances:

- **Following Paternity leave/maternity support leave** – Employees wishing to take parental leave following the above leave should discuss this prior to the expected week of childbirth. Due to the unpredictability of the timing of childbirth the notice period may have to be changed.
- **Following maternity** – Where parental leave is taken as a full time block of leave following maternity leave, an employee should not be required to refund her occupational maternity pay unless she does not return to local authority employment for a period of at least 3 months after the end of the parental leave period.
- **At the time of adoption** – at times prior to adoption where the parent is required to be at home by the adoption process, or following adoption leave.

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### Supporting evidence

Supporting evidence will be requested by the line manager/ headteacher in the form of a copy of a MAT B1, a birth certificate or confirmation (a matching certificate) from an adoption agency.

### Other Conditions

Employees on parental leave have the same right to return to their job as those returning from maternity leave.

Parental leave will be treated as continuous service.

Employees who fall sick during a period of parental leave and who supply a doctor's certificate for that period will be entitled to pay under the sickness scheme and the period will not count towards their parental leave entitlement.

Parental leave is unpaid therefore there will be implications for National Insurance contributions.

For members of the Local Government Pension Scheme, from 1 April 2014 if you are a new parent and have a period of relevant child related leave the amount of pension you build up will be based on your Assumed Pensionable Pay. Relevant child related leave covers all periods of Ordinary Maternity Leave, Ordinary Adoption Leave and Ordinary Paternity Leave and any paid Additional Maternity Leave, Additional Adoption Leave and Additional Paternity Leave.

That means that if you have a period of reduced contractual pay or no pay during relevant child related leave your pension is worked out using your Assumed Pensionable Pay (before the reduction in pay took place). You will only pay your contributions on any pay that you receive.

You can elect to cover the period of pension 'lost' by taking out a Shared Cost Additional Pension Contribution (SCAPC) contract. Where a SCAPC contract is taken out to cover the pension 'lost' during a period of unpaid additional Maternity, Adoption, Paternity or Parental leave or periods of unpaid authorised leave of absence, the cost is shared 1/3rd to the employee and 2/3rds to the employer, provided that you make an election to buy the 'lost' pension within 30 days of returning to work. For further details please see the relevant information on the Berkshire Pension Fund website:

[http://www.rbwm.gov.uk/berks-pension/LGS33\\_Leave\\_of\\_Absence\\_April\\_2014\\_WEB.pdf](http://www.rbwm.gov.uk/berks-pension/LGS33_Leave_of_Absence_April_2014_WEB.pdf)

For teachers in the Teachers Pensions Scheme any unpaid leave of any kind cannot be treated as pensionable.

### Key Elements of leave provision

Employees may take up to 18 weeks' parental leave for each child beginning on the date the employee becomes eligible for the entitlement i.e. either one year qualifying period or the date of a child's birth/adoption subject to the following:

- The leave must be taken in single blocks of up to a maximum of **4 weeks** in any one year
- As a number of shorter periods of a minimum of a half day if the child receives a disability allowance

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- In patterns which provide a part-time or reduced hours working arrangement for a period of time equivalent to taking 18 weeks leave in a single block
- Parental leave is for each child, if twins are born each parent will get 18 weeks leave for each child.

A week's leave is defined as follows:

- Where an employee's work pattern does not vary, a week is the period that he or she normally works
- Where the working pattern normally varies from week to week or over a longer period, or if the employee is normally required to work in some weeks and not in others, a week is the total of all the periods in which he or she works, divided by 52.



# Human Resources Policy and Procedure for Family Care

## Time off for Dependants

### Right to time off

Occasionally emergencies arise that require immediate attention. The right to time off for dependants allows employees reasonable time off to deal with issues that requires their presence. The right to time off applies as follows:

- Where a dependant falls ill, or has been injured or assaulted - the illness or injury need not be life threatening and includes both mental and physical illness. The right also applies in cases where a dependant has not been injured through assault but is suffering from distress.
- When a dependant is having a baby - although not the primary carer an employee may be required to be available at short notice.
- To make longer term care arrangements - where a dependant needs to be cared for because of illness or injury, an employee can take time off work to arrange alternative longer care arrangements.
- To deal with an unexpected disruption or breakdown of care arrangements for a dependant - time off can be taken for example, when the unexpected absence of the normal carer of the dependant such as a childminder or nurse failing to turn up as arranged.
- To deal with an unexpected incident involving the employee's child during school hours - an employee can take time off to deal with a serious incident involving his or her child during school hours. For example, if the child has been involved in a fight, is distressed, has been injured on a school trip or is being suspended from school.

There may be times when both parents may want to take time off and a sensible approach is required, e.g. if their child has had a serious accident. However, it would not be necessary for both parents to be absent from work if their childminder failed to turn up.

### Dependants

A dependant is a husband, wife, partner, child or parent of the employee. It may also include someone who lives in the same house as a member of the family. A dependant may also be someone who relies on the employee for assistance as the primary carer, for example, an elderly relation or neighbour who lives nearby. It does not include tenants or boarders or an employee such as a live-in housekeeper.

### Length of Absence.

In most cases an employee will only require 1 or 2 days to deal with a problem or sudden emergency. However, in circumstances where, for example, a child falls ill with a typical childhood ailment, the leave should be long enough to help the employee deal with the immediate care and to make longer term care arrangements. The right does not extend to remaining absent during the whole period of illness. Managers should consider what is reasonable.

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### Notice

Employees must notify their managers as soon as practicable using the current process, with the reason for their absence and how long they expect to be absent from work. This does not have to be in writing. However, there may be exceptional circumstances where an employee returns to work having failed to contact their manager. When this occurs the employee will be required to explain the reason for their absence.

### Pay

There is a statutory entitlement to **unpaid** time off under the Time off for Dependants Regulations. However, this does not preclude employees choosing to take paid time off such as annual leave, with their Manager's agreement.

### Compassionate Leave

Employees are entitled to up to 5 days paid compassionate leave for very serious illness or death of a partner, close relatives (including parents, children, siblings or grandparent), or dependants. This must first be agreed by the Manager where practicable. It is at the Manager's discretion to grant further unpaid compassionate leave.

### Abusing the Right to Time Off

There is no statutory requirement for an employee to produce evidence of the actual reason for time off or of their relationship with the dependant. Managers who consider that an employee is abusing the right to time off should deal with the situation according to the disciplinary procedure. The matter should first be discussed with Human Resources. Managers need to be aware that if time off is unreasonably refused or an employee is subjected to detriment for taking time off, a complaint may be made under the School's grievance procedure or to an employment tribunal. Managers may wish to keep a record of the amount of time off for dependants an employee takes.