



**South East Cornwall Multi Academy Regional Trust**

# **Maternity, Paternity, Adoption and Shared Parental Leave Guidance**

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## Introduction

Whether you or your partner are expecting a baby or you are planning to adopt a child, this guide will help you to understand the arrangements that we have in place to support you during this important time in your life. Although the language of this guide is mainly addressed at mothers to be, partners should also find helpful information in here about paternity or shared parental leave.

We are committed to providing a positive and supportive culture for pregnant women and their partners and anyone adopting a child. We aim to ensure that no one receives any less favourable treatment as a result of their pregnancy or family responsibilities in any aspect of their employment, but specifically with regard to recruitment, promotion, appraisal, training and development opportunities and pay and reward.

The guide is broken down into four key stages:

- Before you leave work
- Maternity/Paternity/Adoption/Shared Parental leave and pay
- Returning to work
- Extending leave

## Before you leave work

This section looks at all the issues that might arise as you prepare to start your leave. You will find that many elements of maternity/adoption leave and pay are dependent on when your baby is due or when your child is due to be adopted.

## Notifying us of your Expected Arrival

It is important that you let us know, as soon as you feel able to do so, of your anticipated new arrival. This will not only help us to provide you with support but will also enable us to plan for your leave, and, if you are pregnant, to ensure that your pregnancy is as safe as possible. It is not necessary for you to tell us formally in writing at this stage, although we may ask you to provide a medical certificate stating the expected week of childbirth (EWC).

The early weeks of pregnancy can sometimes leave you feeling tired and you may suffer from morning sickness. If you have difficulty attending work, you should discuss this with the Headteacher, or the Governing Body if you are the Headteacher or your line manager if you are in the Trust Shared Services team. It may be possible for you to agree to work more flexibly during this period, for example, by coming into work later than usual so that you can avoid the rush hour traffic.

## Pre-placement Support

If you are adopting a child, you may need to attend court hearings in relation to the adoption and you should try to give the Headteacher as much notice as possible in order to arrange time off work. Up to ten days paid leave will be given to prospective parents who are SMART employees to attend any relevant court hearings, meetings with social services etc. Please refer to SMART's Leave of Absence policy for the appropriate request form.

Pre-placement arrangements may require you to gradually take on the care of the child, and if this is the case, you should discuss with the Headteacher any need for flexible work arrangements during this time. Further details on temporary working arrangements are contained with SMART's Flexible Working.

## **Antenatal Care**

You are entitled to a reasonable amount of paid time off to attend antenatal appointments, and we encourage you to attend these. Antenatal care includes appointments with your doctor, midwife, health visitor, hospital or clinic and parentcraft/relaxation classes. You may be asked to provide an appointment card detailing such visits.

For the majority of routine appointments, there will be no need for your partner to accompany you to an antenatal appointment. However, where the appointment is for an ultrasound scan or for a hospital consultation when things aren't going according to plan, then you may feel that it is important for your partner to be there too. Employees of SMART who are partners of pregnant women may therefore take paid time off to attend a reasonable number of such appointments, as long as this is agreed in advance by the Headteacher. For further details see SMART's Leave of Absence policy.

## **A Safe and Healthy Pregnancy**

For pregnant women, we want you to remain safe and healthy at work throughout your pregnancy. The Headteacher, or school HR contact, will assess any risks at work that may affect you or your unborn baby and will carry out a risk assessment for pregnant, new and nursing mothers. Remember that health and safety risks can include pressure of work and other stressful situations. If you have any concerns relating to your health or aspects of your work that could put you or your unborn child at risk, you should talk to your line manager. Action will be taken immediately to eliminate or reduce this risk. If it is not possible to do this, then we may take the following action:

- Temporarily adjust your working conditions or hours;
- Offer you suitable alternative work; or
- Suspend you from work, on full pay, for as long as necessary to protect you and your unborn baby.

The risk assessment will be reviewed as your pregnancy progresses in order to take into account possible risks that may occur at different stages of your pregnancy.

## **Giving Notice to Commence Leave**

Please let the Headteacher know as early as possible, but in any event before the 15th week before your EWC, of the approximate date you intend to start your maternity leave. This will enable plans to be put in place if it will be necessary to cover your role during leave. In any case you must notify the Headteacher at least 28 days prior to the exact date on which you intend to commence leave.

If you are adopting a child, you should inform the Headteacher of your intention to take adoption leave within 7 days of being notified by your adoption agency that you have

been matched with a child for adoption (unless this is not reasonably practicable). You will need to advise the Headteacher:

- When the child is expected to be placed with you; and
- When you want your adoption leave to start.

NB: Adoption leave, and pay are only available where a child is newly placed. They are not available for stepfamily adoptions or adoptions by a child's existing foster carers. Only one period of leave is available, irrespective of whether more than one child is placed for adoption as part of the same arrangement.

You will be able to change your mind about the day on which you want your maternity or adoption leave to start, provided you give at least 28 days' notice of any changes (again, assuming this is reasonably practicable). Once you have formally notified the Headteacher of your intention to take maternity or adoption leave, you will receive a letter within 28 days, setting out your entitlement to leave and pay and the date on which you are expected to return to work, if you take your full leave entitlement.

## **MAT B1 Certificate**

After the start of your 20th week of pregnancy your doctor or midwife will give you a MATB1 Certificate. Your maternity pay cannot be paid without this certificate. It formally confirms the week in which your baby is due and authorises SMART to pay your maternity pay.

## **Matching Certificate**

If you are adopting a child, your adoption agency will give you a 'Matching Certificate'. This should include basic information on matching and expected placement dates. Your adoption pay cannot be paid without this certificate.

## **Absence due to a Pregnancy Related Illness**

You should notify the Headteacher, following the normal procedure, if you are absent from work during your pregnancy due to ill health. SMART's Staff Attendance policy applies during the period prior to starting maternity leave.

Many women now choose to continue working until just a few weeks before their baby is due. However, you should be aware that if you are absent from work because of a pregnancy related illness at any time during the 4 weeks before your due date, you are legally required to begin your maternity leave immediately.

## **Premature Birth**

If your baby is born prematurely before you have started maternity leave this will automatically trigger the start of your leave, even if this is more than 11 weeks before your baby was due. You should let us know the date of your baby's birth as soon as you are able to do so. If you have not already supplied one, you will need to get a MATB1 Certificate from your midwife.

## **Failure of Adoption Plans**

If, for whatever reason, your planned adoption of the child does not proceed as expected and the placement comes to an end, your adoption leave may continue for up to 8 weeks after the end of the placement.

## **Miscarriage, Termination or Still Birth**

If you suffer a miscarriage or are advised to have a termination before 24 weeks of pregnancy you will not be entitled to maternity leave or maternity pay, although you will be entitled to paid sick leave in line with SMART's Staff Attendance policy.

If you have to terminate your pregnancy or your baby is stillborn or does not survive after being born, then provided this is after the 24th week of pregnancy, you will still be eligible for maternity leave and maternity pay. We will still need your MATB1 Certificate or a Certificate of Confinement from your midwife. Your return to work be sensitively managed and your date will be notified, based your maternity leave.

## **Maternity, Paternity and Adoption Leave and Pay**

This section looks at your eligibility for maternity, adoption, paternity and parental leave and pay, and how your benefits may be impacted. The rules relating to adoption leave apply to both men and women, although you must be the primary carer, i.e. you must be the one who is going to be mainly responsible for looking after the child.

### **Entitlement to Leave**

Regardless of your length of service, you are entitled to up to 52 weeks of maternity/adoption leave from the date you leave work. The first 26 weeks is called Ordinary Maternity Leave (OML)/ Ordinary Adoption Leave (OAL). The second 26-week period of leave is called Additional Maternity Leave (AML)/ Additional Adoption Leave (AAL).

Maternity leave may begin at any time once you have reached the 11th week before your baby is due, and under UK law you must take at least two weeks leave immediately following the birth of your baby. This is known as Compulsory Leave, and it is a criminal offence for you to work during this period.

Adoption leave may begin either on 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. Adoption leave and pay are only available up to the child's 18th birthday, so if you are adopting a 16 or 17 year old you should be aware that both adoption leave and pay will end at the end of the week in which the child becomes 18.

## **Maternity and Adoption Pay**

### **Teachers**

Different arrangements apply for teachers to whom national arrangements as set out in the Burgundy Book apply.

As a teacher, if you have one year's continuous service at the 11th week before the EWC you will be entitled to 18 weeks Occupational Maternity Pay (OMP) or Adoption Pay, as follows:

- 4 weeks at full pay
- 2 weeks at 90% of a week's pay
- 12 weeks at half pay including SMP.

This will be followed by 21 weeks Statutory Maternity Pay (SMP). The remaining 13 weeks leave are unpaid.

If you do not have one year's continuous service (including with another local authority or Trust) at the 11th week before the EWC, your entitlement is the same as for other staff.

Please note that OMP is only payable if you return to work for at least 13 weeks after your pregnancy (see section 5 of the Burgundy Book). If you return on reduced hours, this 13 week period will need to be increased in proportion; so that if, for example, you are returning on a 0.5 contract having previously been full time, you will need to work for 26 weeks to protect your contractual maternity payment, otherwise you will have to repay the 12 weeks of half occupational maternity pay. If you know that you intend to leave, you can choose not to receive this extra payment.

### **NJC Staff**

Different arrangements apply to staff employed under the National Joint Council for Local Government Services National Agreement on Pay and Conditions of Service (known as the 'Green Book').

As an NJC member, if you have one year's continuous service in the Trust, local government or education sector at the 11th week before the EWC, you will be entitled to:

- 6 weeks at 90% of a week's pay
- If you declare in writing that you intend to return to work, 12 weeks at 50% pay followed by 21 weeks at the normal SMP rate
- If you do not intend to return to work, 33 weeks at the normal SMP rate.

### **Other staff**

Statutory maternity pay is payable for up to 39 weeks if you have been continuously employed for at least 26 weeks at the end of the EWC. (As a general rule, this means that if you became pregnant before you joined SMART, you will be entitled to SMP). Otherwise you can claim Maternity Allowance, which is paid at the same rate as SMP after the first four weeks. The rate is usually adjusted by the government each year and you can download the Maternity Allowance claim form from the government website at: <https://www.gov.uk/government/publications/maternity-allowance-claim-form>

If you qualify for SMP, you will receive:

- 90% of full pay for the first 6 weeks (if more than SMP) and
- 33 weeks at the normal SMP rate.

The remaining 13 weeks leave are unpaid.

## **Shared Parental Leave (SPL)**

In some cases, you and your spouse or partner may be eligible to opt into the Shared Parental Leave scheme which gives you more flexibility to share the leave and pay available in the first year after birth.

Shared parental leave enables you to choose how to share the care of your child during the first year following birth or adoption. Its purpose is to give you more flexibility in considering how to best care for, and bond with, your child.

Shared parental leave is a type of leave that is available to parents and also applies to adoption, those confirmed as fostering for adoption and intended parents under a surrogacy arrangement.

It enables you to commit to ending your maternity or adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with your partner, or to return to work early from maternity or adoption leave and opt in to shared parental leave and pay at a later date.

You would need to give us at least eight weeks' written notice to end your maternity or adoption leave and opt into SPL. You can give this notice before or after the birth, but you must remain on maternity leave until at least two weeks after birth. You would then be able to share any remaining leave with your partner.

The normal situation is that both parents are employees and each takes time off work to look after their child, but it can also apply where the other parent is "economically active", i.e. they have worked in an employed or self-employed capacity in at least 26 of the 66 weeks immediately before the EWC (or the week they were notified of the match), earned on average at least £30 a week based on any 13 of those weeks. If so, the mother will be able to take part of her maternity leave, go back to work, and then take a further period or periods of SPL at a later date, up to 52 weeks after birth.

Shared parental leave should not be confused with ordinary parental leave, which is unaffected by shared parental leave. Ordinary parental leave is the entitlement to up to 18 weeks' unpaid leave.

We recognise that, from time to time, you may have questions or concerns relating to your shared parental leave rights. As the shared parental leave provisions are complex, if you wish to take shared parental leave, you should clarify the relevant procedures with the Headteacher or SMART's HR Officer to ensure that they are followed correctly.

## **Definitions**

Please find below definitions of the terms used throughout this document to provide clarity:

- Mother; the mother or expectant mother of the child
- Partner; the father of the child, or the person who, at the date of the child's birth, is married to, the civil partner of, or the partner of the mother. This includes someone, of either sex, who lives with the mother and the child in an enduring family relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew
- Parent; either of the above definitions
- Expected week of childbirth; the week, starting on a Sunday, during which the mother's doctor or midwife expects her to give birth
- Expected Placement Date; the expected date on which an adoption agency expects that it will place a child into the care of an employee.

### **Amount of shared parental leave**

The amount of shared parental leave to which you are entitled will depend on when the maternity or adoption leave period is brought to an end and the amount of leave to be taken in respect of the child. Shared parental leave must be taken in blocks of at least one week. You can request to take shared parental leave in one continuous block, or as a number of discontinuous blocks of leave. A maximum of three requests for leave per pregnancy or adoption can normally be made by each parent.

The first two weeks following birth are the compulsory maternity leave period and are reserved for the mother. This means that she cannot curtail her maternity leave to take shared parental leave until two weeks after the birth and, the maximum period that parents could take as shared parental leave is 50 weeks between them (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).

However, you can begin a period of shared parental leave at any time from the date of the child's birth (the partner is entitled to take up to two weeks' paid ordinary paternity leave following the birth of the child, which will be lost if shared parental leave is taken first). Shared parental leave must be taken within 52 weeks of birth or date of adoption.

### **Eligibility for shared parental leave**

To be eligible to take shared parental leave, both parents must meet certain eligibility requirements.

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

You are eligible for shared parental leave if you:

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth or placement date and remain in continuous

employment until the week before any period of shared parental leave that you take;

- have, at the date of the child's birth or placement date, the main responsibility, apart from your partner, for the care of the child;
- are entitled to statutory maternity/adoption leave in respect of the child; and
- comply with the relevant maternity/adoption leave curtailment requirements (or have returned to work before the end of statutory maternity/adoption leave), and shared parental leave notice and evidence requirements.

In addition, for you to be eligible for shared parental leave, your 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 or placement date;
- have average weekly earnings of at least the maternity/adoption allowance threshold for any 13 of those 66 weeks; and
- have, at the date of the child's birth or placement date, the main responsibility, apart from the mother, for the care of the child.

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

You are eligible for shared parental leave if you:

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth or placement date and remain in continuous employment until the week before any period of shared parental leave that you take;
- have, at the date of the child's birth or placement date, the main responsibility, apart from the mother, for the care of the child; and
- comply with the relevant shared parental leave notice and evidence requirements.

In addition, for you to be eligible for shared parental leave, the mother 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 or placement date;
- have average weekly earnings of at least the maternity/adoption allowance threshold for any 13 of those 66 weeks;
- have, at the date of the child's birth or placement date, the main responsibility, apart from you, for the care of the child;
- be entitled to statutory maternity/adoption leave, statutory maternity/adoption pay or maternity/adoption allowance in respect of the child; and
- comply with the relevant maternity/adoption leave or pay curtailment requirements (or have returned to work before the end of statutory maternity/adoption leave).

### **Notice Requirements**

The notices that you must give us to be able to take shared parental leave are made up of three elements. They are:

- a "maternity leave curtailment notice" from the mother setting out when the maternity/adoption leave is proposed to end (unless it has already done so);
- a "notice of entitlement and intention" from you, whether the mother or partner, giving an initial, non-binding indication of each period of shared parental leave that you are requesting; and
- a "booking notice" from you setting out the start and end dates of each period of shared parental leave that you are requesting.

The notice periods set out below are the minimum required by law. However, the earlier you inform us of your intentions, the more likely it is that we will be able to accommodate your wishes.

You are advised that, if you have already decided the pattern of shared parental leave that you would like to take, you can provide more than one type of notice at the same time. For example, you could provide a maternity leave curtailment notice, notice of entitlement and intention and booking notice at the same time.

### ***Mother's notice curtailing maternity leave***

Before you can take shared parental leave, the mother must either return to work before the end of her maternity/adoption leave (by giving the required eight weeks' notice of her planned return) or provide a maternity leave curtailment notice. The maternity leave curtailment notice must be in writing and state the date on which maternity/adoption leave is to end. That date must be:

- after the compulsory maternity leave period, which is the two weeks after birth;
- at least eight weeks after the date on which the mother provided the maternity leave curtailment notice; and
- at least one week before what would be the end of the additional maternity leave period.

The mother must provide the maternity leave curtailment notice at the same time that she provides either the notice of entitlement and intention or a declaration of consent and entitlement confirming that her partner has given your employer a notice of entitlement and intention.

The mother can withdraw her notice curtailing her maternity leave in limited circumstances. The withdrawal of a maternity leave curtailment notice must be in writing and can be given only if she has not returned to work. She can withdraw her maternity leave curtailment notice if:

- it is discovered that neither parent is entitled to shared parental leave or statutory shared parental pay and the mother withdraws her maternity leave curtailment notice within eight weeks of the date on which the notice was given;
- the maternity leave curtailment notice was given before the birth of the child and withdrawn within six weeks of the child's birth; or
- the partner has died.

### ***Employee's notice of entitlement and intention***

You must provide a non-binding notice of entitlement and intention. Your notice of entitlement and intention, which must be in writing and provided at least eight weeks before the start date of the first period of shared parental leave to be taken by you, must set out the information below.

Your notice of entitlement and intention must set out:

- your name;
- your partner's name;
- the start and end dates of any statutory maternity/adoption leave taken or to be taken by you;
- the total amount of shared parental leave available;
- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the mother) or expected placement date;
- how much shared parental leave you and your partner each intend to take; and
- a non-binding indication as to when you intend to take shared parental leave (including the start and end dates for each period of leave).

Your notice of entitlement and intention must include a declaration signed by you that:

- you satisfy, or will satisfy, the eligibility requirements to take shared parental leave;
- the information you give in the notice of entitlement and intention is accurate; and
- you will immediately inform us if you cease to care for the child.

In addition, your notice of entitlement and intention must include a declaration signed by your partner:

- specifying your partner's name, address, and national insurance number (or declaring that your partner does not have a national insurance number);
- specifying your partner's employer name, address and consent to contact them for the purposes of the application for shared parental leave;
- declaring that your partner satisfies, or will satisfy, the conditions set out above;
- declaring that your partner is the father of the child, or is married to, the civil partner of, or the partner of, the mother;
- declaring that your partner consents to the amount of leave that you intend to take;
- declaring that your partner consents to your employer processing the information in the partner's declaration.

The partner's notice of entitlement and intention must set out:

- their name;
- the mother's name;
- the start and end dates of any periods of statutory maternity/adoption leave, statutory maternity/adoption pay, or maternity/adoption allowance taken or to be taken by the mother;
- the total amount of shared parental leave available;

- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the partner) or expected placement date;
- how much shared parental leave the partner and mother each intend to take; and
- a non-binding indication as to when the partner intends to take shared parental leave (including the start and end dates for each period of leave).

Their notice of entitlement and intention must include a declaration signed by you stating that:

- you satisfy the eligibility requirements to take shared parental leave;
- the information given by you in the notice of entitlement and intention is accurate; and
- you will immediately inform us if you cease to care for the child or if the mother informs you that she no longer meets the requirement to have curtailed her maternity leave or pay period.

In addition, their notice of entitlement and intention must include a declaration signed by you:

- specifying your name, address, and national insurance number (or declaring that you do not have a national insurance number);
- specifying your employer's name, address and consent to contact them for the purposes of the application for shared parental leave;
- declaring that you satisfy, or will satisfy, the conditions set out and she will notify you if she no longer qualifies for maternity leave, statutory maternity pay or maternity allowance;
- declaring that the mother consents to the amount of leave that you intend to take;
- declaring that she will immediately inform the employer if she no longer meets the requirement to have curtailed her maternity leave or pay period; and
- declaring that the mother consents to us processing the information in her declaration.

### **Requesting further evidence of eligibility**

Within 14 days of receiving a notice of entitlement and intention from you, whether the mother or partner, we can request from you:

- a copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth - if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice);
- the name and address of the other parent's employer (or a declaration that the other parent has no employer);
- in the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption.

You have 14 days from the date of the request to provide the required information.

### ***Fraudulent claims***

We can, where there is a suspicion that fraudulent information may have been provided or where we have been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with SMART's Disciplinary Policy. In doing so, this action will be taken without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

### ***Employee's booking notice***

To take a period of shared parental leave, you must provide a written notice setting out the start and end dates of each period of shared parental leave requested in that notice.

A booking notice must be provided not less than eight weeks before the start date of the first period of shared parental leave requested in the notice of intention. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave.

You can vary or cancel your proposed shared parental leave dates following the submission of a booking notice, providing that you provide a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The written notice can:

- vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

You can provide a combined total of up to three period of leave notices or variations of booking notices.

### ***Variation/cancellation of shared parental leave***

You can vary or cancel your proposed shared parental leave dates following the submission of a notice of entitlement and intention, providing that you provide us with a written notice at least eight weeks before the start date in the period of leave notice. The written notice must contain:

- an indication as to when you intend to take shared parental leave (including the start and end dates for each period of leave);
- details of any periods of shared parental leave that have been notified through a period of leave notice;
- details of any periods of statutory shared parental pay that have been notified in relation to periods where shared parental leave was not to be taken; and
- a declaration signed by both parents that they agree to the variation.

Any indication of leave intended to be taken that you provide in a variation of notice of entitlement and intention is non-binding until you provide a booking notice in relation to

that period of leave. There is no limit on the number of variations of notice of entitlement and intention that you can make.

A notice to change or cancel a period of leave will count as one of your three period of leave notices, unless:

- it is a result of your child being born earlier or later than the EWC;
- you are cancelling a request for discontinuous leave within two days of the end of the two-week discussion period;
- it is at our request; or
- we agree otherwise.

### ***Continuous period of shared parental leave***

If you submit a booking notice requesting one continuous period of leave, you will be entitled to take that period of leave as long as you have provided the booking notice not less than eight weeks before the start date of the leave.

### ***Discontinuous periods of shared parental leave***

You may submit a booking notice requesting discontinuous periods of leave. For example, both parents could request a pattern of leave from their respective employers that allows them to alternate childcare responsibilities.

If you submit a booking notice requesting discontinuous periods of leave, we can, in the 14 days beginning with the date the booking notice was given:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested.

If agreement is reached within those 14 days, you are entitled to take the leave on the dates agreed.

If no agreement has been reached within that 14-day discussion period, you are entitled to take the leave as one continuous period of leave. In that event, you must choose a start date for the leave that is at least eight weeks from the date on which the booking notice was originally given. You must notify us of that date within five days of the end of the 14-day discussion period. If you do not choose a start date within five days of the end of the 14-day discussion period, the period of continuous leave will start on the date of the first period of leave requested in the booking notice.

Alternatively, if we have refused the request or no agreement has been reached during the 14-day discussion period, you may withdraw a booking notice requesting discontinuous periods of leave. You can withdraw a booking notice at any time on or before the 15th day after the notice was given. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that you can make.

## **Shared Parental Pay**

For you to be eligible for statutory shared parental pay, both parents must meet certain eligibility requirements.

### *Mother's eligibility for shared parental pay*

You are eligible for statutory shared parental pay if you:

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth or placement date and remain in continuous employment with us until the week before any period of shared parental pay that you get;
- have normal weekly earnings for a period of eight weeks ending with the 15th week before the expected week of childbirth or placement date of at least the lower earnings limit for national insurance contribution purposes;
- have, at the date of your child's birth or placement date, the main responsibility, apart from your partner, for the care of the child;
- are absent from work and intend to care for the child during each week in which you receive statutory shared parental pay; and
- are entitled to statutory maternity/adoption pay in respect of the child, but the maternity/adoption pay period has been reduced.

In addition, for you to be eligible for statutory shared parental pay, your partner 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 or placement date;
- have, at the date of the child's birth or placement date, the main responsibility, apart from the mother, for the care of the child; and
- have average weekly earnings of at least the maternity/adoption allowance threshold for any 13 of those 66 weeks.

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

You are eligible for statutory shared parental pay if you:

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth or placement date and remain in continuous employment with us until the week before any period of shared parental pay that you get;
- have normal weekly earnings for eight weeks ending with the 15th week before the expected week of childbirth or placement date of at least the lower earnings limit for national insurance contribution purposes;
- have, at the date of the child's birth or placement date, the main responsibility, apart from the mother, for the care of the child; and
- are absent from work and intend to care for the child during each week in which you receive statutory shared parental pay.

In addition, for the partner to be eligible, the mother 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 or placement date;
- have average weekly earnings of at least the maternity/adoption allowance threshold for any 13 of those 66 weeks;
- have, at the date of the child's birth or placement date, the main responsibility, apart from the partner, for the care of the child; and
- be entitled to statutory maternity/adoption pay or maternity/adoption allowance in respect of the child, but the maternity/adoption pay period or maternity/adoption allowance period has been reduced.

### **Amount of shared parental pay**

The amount of shared parental pay you will receive will depend on the specific circumstances and amount of shared parental leave requested and taken.

Pay for shared parental leave will be subject to eligibility as outlined elsewhere in this policy and the relevant maternity/adoption pay entitlement in place in the contract or area of the business you work in. The actual amounts payable to you will be confirmed by Payroll.

### **Rights during shared parental leave**

All the terms and conditions of employment remain in force during shared parental leave except for the terms relating to pay. In particular:

- annual leave entitlement shall continue to accrue;
- pension benefits shall continue.

### **Contact during shared parental leave**

We reserve the right to maintain reasonable contact with you during shared parental leave. This may be to discuss your plans for your return to work, to discuss any special arrangements to be made or training to be given to ease your return to work or to update you on developments at work during your absence.

You may attend work or training for up to 20 days during shared parental leave without that work bringing the period of your shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days.

If you choose to use any SPLIT days, your pay for these days will be 'topped up' to your full normal rate.

### **Returning to work following shared parental leave**

You have the right to resume working in the same job when returning to work from shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory maternity leave or statutory paternity leave taken by you in relation to the same child, is 26 weeks or less.

If you are returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory maternity or paternity leave taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental

leave of more than four weeks, or a period of additional maternity leave, you have the right to return to the same job unless this is not reasonably practicable. In these circumstances, if it is not reasonably practicable for us to permit a return to the same job, you have the right to return to another job that is suitable and appropriate for you.

## **Support and Guidance**

These regulations are complex. If you are considering taking shared parental leave, we encourage you to contact the Headteacher or SMART's HR Officer to arrange an informal discussion as early as possible regarding your potential entitlement, to talk about your plans and to enable us to support you. Upon receiving a notification of entitlement to take shared parental leave the Headteacher may seek to arrange an informal discussion with you to talk about your intentions and how you expect to use your entitlement.

## **Roles and Responsibilities**

### **Employees**

You are responsible for:

- complying with this policy and making genuine claims for shared parental leave and pay;
- providing the necessary documentation when requesting shared parental leave.
- discussing your intentions communicating shared parental leave dates with the Headteacher.

### **Headteacher**

The Headteacher is responsible for:

- implementing this policy and related processes and for monitoring its implementation in the day-to-day activities of the school;
- clarifying policy and requirements with you and ensuring you provide all necessary documentation, when requesting shared parental leave.

## **Paternity Leave**

### **Qualifying for Ordinary Paternity Leave**

To qualify for ordinary paternity leave, you must be taking the leave to care for the child or supporting the child's mother, adopter or co-adopter in caring for the child.

You must also have, or expect to have, main responsibility (with the child's mother, co-adopter or adopter) for the child's upbringing or are the child's biological father and expect to have some responsibility for the child's upbringing.

In addition, you must also be:

In the case of the birth of a child:

- The biological father of the child; or
- The spouse, civil partner or partner of the child's mother; or

In the case of adoption:

- Have been matched with a child by an adoption agency (and who will not be the primary carer and therefore not elected to take adoption leave under the Maternity and Adoption Leave CSOP);
- The spouse, civil partner or Partner of someone who has been matched with a child by an adoption agency.

### **Timing of Ordinary Paternity Leave**

You have the choice of either taking:

- One weeks leave; or
- Two weeks leave, which can be taken consecutively or separately; or
- Working reduced hours or a reduced number of days for each or either of the two weeks.

The leave may start on any day of the week, but it must be taken within 52 weeks of the child's birth and cannot begin before the child is born or placed for adoption. However, where a baby is born prematurely, leave may be taken at any point between the actual date of birth and 52 weeks following the expected week of childbirth.

It is not possible to spread the period of the paternity leave over more than two weeks, except where a Bank Holiday falls during the two-week period, in which case the leave will be extended into a third week.

A week is the same amount of days that would normally be worked in a week, for example if the employee only works Mondays and Tuesdays, a week is 2 days.

Your leave must be taken within 52 weeks of the child's birth date and cannot begin before the child is born or placed for adoption.

### **Paternity Leave Pay**

SMART pays Paternity Leave at your usual salary rate which includes Statutory Paternity Pay. Statutory Paternity Pay is either £184.03 per week (from 6 April 2024) or 90% of average weekly earnings.

Any money is paid in the same way as wages, for example monthly or weekly. Tax and National Insurance will be deducted.

### **Maternity Support Leave** *(in conjunction with Paternity Leave)*

5 school days' paid leave. There is no qualifying period for Maternity Support Leave but you must be a person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth. There is no right to both Paternity Leave and Maternity Support Leave. This leave is intended for those who are either single parents or where the partner has a clear reason for not being able to support and a SMART employee assumes the supportive role despite not being a partner.

### **Time Off to Attend Antenatal Appointments**

If you have a qualifying relationship with a pregnant woman or an expected child, you can take unpaid time off work to accompany them at up to two antenatal appointments. You have this right from day one of your employment and the 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.

You have a qualifying relationship with a pregnant woman or her expected child if you:

- are the spouse or civil partner of the pregnant woman;
- live with the pregnant woman in an enduring family relationship, but are not her parent, grandparent, sister, brother, aunt or uncle;
- are the father of the expectant child; or
- are an intended parent in a surrogacy situation who meets certain conditions.

The antenatal appointment must be made on the advice of a registered medical practitioner, midwife or nurse. We may ask you to provide appointment cards detailing such visits.

### **Applying for Ordinary Paternity Leave**

You should apply for Paternity Leave by completing a Paternity Leave Form and a HMRC Paternity Leave Form (previously known as a SC3 form) and hand both to the Headteacher at least 28 days before you want your leave to begin (or, if this is not possible, as soon as you can), or within seven days after you and/or your spouse, civil partner or Partner being told by the adoption agency that they have been matched with a child (or, if this is not possible, as soon as you can).

The Application Form and the HMRC Paternity Leave Form are available from the Headteacher, the HR contact at your school or SMART's HR Officer.

If circumstances change and you subsequently need to change the dates of your leave, you should try to give at least 28 days' notice (unless this is not possible e.g. because your baby is born prematurely) to the Headteacher.

The request for leave will not be declined as long as you meet the appropriate eligibility criteria.

### **Returning to work**

You are normally entitled to return to work in the same position as you held before commencing leave. Your terms of employment shall be the same as they would have been had you not been absent.

However, if you have also taken shared parental leave and the period of leave taken is more than 4 weeks, and it is not reasonably practicable for us to allow you to return into the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable.

If you are returning on the date specified on the application for ordinary paternity leave form, you do not have to give advance notice of your intention to return. You will be expected back at work on the first working day following this period.

## **Keeping in Touch**

Whilst you are on leave, we would like to keep you up to date with what is going on at work, and the Headteacher or line manager will contact you regularly to keep you informed about what's going on at work. You should discuss any practical arrangements for this with the Headteacher before you start your leave.

In addition to regular contact, you may agree with the Headteacher to attend work for up to ten 'keeping in touch' (KIT) days during your maternity/adoption leave period. The days may be taken as individual days or as a single block. The way in which you use these days is for you to agree with the Headteacher – you do not have to use them at all if you do not wish to do so. These days can be most useful in helping you to adjust back to work and to catch up on changes that may have taken place during your leave. KIT days must be mutually agreed in advance and planned so they are a meaningful experience for both you and the school.

If you choose to use any of your keeping in touch days, your pay for these days will be 'topped up' to your full normal rate. This means that you will get the most financial benefit by using these days towards the end of your maternity/adoption leave when you are receiving either flat rate SMP or no pay at all. You will receive no additional financial benefit by using the days in the first 13 weeks of your maternity/adoption leave since you will already be receiving full pay, hence there will be nothing to 'top up'.

## **Maternity/Adoption Leave and your Terms & Conditions of Employment**

Your service with us continues to accrue throughout the whole period of your leave.

### **Salary Reviews**

Your salary will be reviewed on your return and if you have been away during an appraisal, which would have resulted in a pay rise, that pay rise will take effect on your return. Annual pay reviews will need to take account of those on maternity/adoption leave and we will let you know your new salary before you return.

### **Holiday**

Your normal holiday arrangements will be unaffected by maternity/adoption leave or any other family related absence. Your statutory annual leave entitlement will continue to be taken during school holidays, and you cannot claim any additional leave outside those dates.

## **Pension**

### **Teachers**

If you are a member of the TPS, and you receive pay during the first 26 weeks, then both you and SMART will pay the required pension contributions on the pay you are receiving. Benefits will continue to accrue as if you were working and receiving normal pay. If you do not receive any pay during the first 26 weeks, then the service will not count for pension purposes.

After the first 26 weeks, service will only count if you receive at least half of your normal pay, with the required employee and employer pension contributions deducted from the pay. If you do not receive any pay, or less than half pay, then the service will not count for pension purposes.

### **Other staff**

If you are a member of the LGPS, the first 26 weeks (ordinary Maternity Leave) will count in full for pension purposes, irrespective of whether you receive any pay. If you do receive pay then deductions will be made at the normal percentage rate, as will any of our required contributions.

After the first 26 weeks, you will continue to pay your normal percentage rate on any pay you receive and this will also count in full, however, no contributions will be paid, by either SMART or you, during any period of unpaid maternity leave. If you return to work, you can choose to pay LGPS contributions for the period of unpaid maternity leave. If you choose to pay the contributions, SMART will also pay our required contributions. If you choose not to pay the contributions, SMART will not pay our contributions and that period will not count towards any pension benefits.

For further information please ask SMART's HR Officer or contact your pension provider.

## **Redundancy Protection**

Pregnant employees and some new parents have special protection in a redundancy situation. The law applies to anyone who is legally classed as an employee and is:

- Pregnant
- Taking maternity leave
- Taking adoption leave
- Taking shared parental leave

For further information please contact the SMART HR Officer.

## Returning to work

### Planning your Return

Upon returning to work following ordinary maternity/adoption leave you are entitled to return to the same job you occupied before commencing leave, on the same terms and conditions as if you had not been absent. Upon returning to work following additional maternity/adoption leave, you are also entitled to return to the same job you occupied before commencing leave, on the same terms and conditions as if you had not been absent however, if it is not reasonably practical for you to return to the same job, you may be offered suitable alternative work on terms and conditions that are no less favourable than would have applied if you had not been absent.

If you are returning on the date you specified on your maternity/adoption leave application form, you do not have to give us advance notice of your intention to return. You will be expected back at work on the first working day following this period. If you intend to return either earlier or later than planned, you must give us eight weeks' notice in writing. If you fail to give this notice, we reserve the right to delay your return by up to eight weeks (but not beyond the end of your maternity/adoption leave period).

Once you have advised us of your baby's birth, we will not contact you again formally before your return to work, except in circumstances where a change in the school or the Trust may impact you. The Headteacher, or line manager, will keep in touch with you informally during your maternity/adoption leave to keep you up to date with what is going on at work. We would also encourage you to keep yourself up to date through 'keeping in touch' days.

We will assume that you are returning at the end of your leave, to the same role and work pattern as before your leave. If you wish to return on reduced hours or a different pattern of work, it is your responsibility to discuss and arrange this with the Headteacher well in advance of your return date, making reference to SMART's Flexible Working Policy.

### Working Flexibly

When you come back to work, you may wish to alter your work pattern in order to accommodate your childcare responsibilities. You will be entitled to request flexible working arrangements, and although we are not legally obliged to agree to your request, we will do our best to accommodate it wherever it is possible to do so. Please refer to SMART's Flexible Working Policy.

We will always try to balance your needs with the demands of your job and the Trust. If you are considering returning to work on a different working pattern, for example on part-time hours or even working from a different location, you should discuss this with the Headteacher at the earliest opportunity - before you start your leave is not too soon to start initial discussions. This will give us time to seek opportunities that might be available for you.

Wherever possible, we will seek to achieve the changed work pattern or hours in the job you held prior to maternity/adoption Leave. However, this may not always be possible and in such circumstances, we will support you in finding an alternative role. A flexible approach on both your own and the Headteacher's part is likely to lead to the best outcome for all parties.

## **Delaying your Return**

If you are ill and unable to return when you had expected, SMART's Staff Attendance policy will apply from the date you indicated you had intended to return.

## **Not Returning**

If you decide not to return to work, you may resign (giving the correct contractual notice). If you do not return to work at the end of your leave as expected and fail to advise us why, your absence will be managed according to our policy and procedure for unauthorised absence i.e. misconduct. For this reason, it's important for you to stay in touch with us during your leave, and to let us know as soon as you can if your plans for returning to work change.

## **Returning after Career Break**

If you are a teacher and you return to service in the Trust following a career break for maternity or childcare reasons, you will be entitled to have your previous service taken into account when calculating sickness and maternity entitlements, provided that the break did not exceed eight years and you had no permanent paid full time employment in the meantime.

If you have had a career break from local government, and are returning to take up employment with SMART, you will be asked to complete a form confirming your service and that you have had no full-time paid employment since you left.

Please contact SMART's HR Officer if you require further advice on continuity of service.

## **Change at the school or Trust**

If there have been changes whilst you have been away and the job you were due to return to has ceased to exist, you are entitled to be offered any alternative job that is suitable and appropriate for you. For these roles you have priority of placement over all other candidates - this is one instance where positive discrimination is allowed. This applies to you if you were displaced before going on maternity/adoption leave, as well as if your job fell away whilst you were on leave. If no alternative vacancy exists, you will receive the same consideration and treatment as any other colleagues affected in this way. You should not find yourself disadvantaged because of your maternity/adoption leave.

# Extending Leave

## Parental Leave

There are times, particularly in a child's early years, when you may need to spend more time with your child. You are eligible to take parental leave to care for a child under the age of 18 years provided you have at least 12 months continuous service with us and you are or expect to be:

- The parent named on the birth certificate;
- The adoptive parent;
- Holding formal responsibility for a child i.e. obtained through a court or with a parental responsibility agreement;
- The legal guardian of the child.

Parental leave must be taken before the child reaches the age of 18 years as any leave remaining beyond the child's 18th birthday will be lost.

For each child you may take up to 4 weeks leave in any calendar year and up to 13 weeks in total. Leave should be taken in blocks of one working week at a time. You may take less than a week, but your entitlement will be reduced by one whole week. All parental leave is unpaid. A week is defined as a normal working week, so if you normally work three days a week then three days will equal a week's leave for the purpose of calculating parental leave.

Parental leave is for each child. If any parental leave has been taken with a previous employer, this must be taken into account when calculating the number of weeks you are entitled to take. If twins are born each parent will get 13 weeks leave for each child.

If you are the mother or primary carer, parental leave may be added to the end of your maternity/adoption leave. If you intend to extend your maternity/adoption leave in this way you must request this before you commence your leave. If you are the mother's partner, and meet the eligibility criteria, you may choose to take leave during the four weeks following the birth/adoption.

### **How to apply**

You must request this leave through the Headteacher, or the Chair of Governors if you are the Headteacher, at least 21 days before you anticipate the leave will start.

We will ask you to support the application with a birth/adoption certificate or documents to confirm any parental responsibility; and where applicable confirmation of the child's disability living allowance.

In exceptional circumstances, the Headteacher may, because of a business need, postpone any leave for up to 6 months. If this is the case the Headteacher will write to you within 7 days of receiving the written application and give details of the circumstances that have led to the need to postpone the leave. In some cases, this may mean the leave is taken outside of the 1-year limit. You may appeal against a decision to postpone leave by raising a grievance.

No postponement will be made for leave immediately following maternity or adoption leave or if leave is requested by a partner to commence immediately after the birth or placement for adoption.

### **Returning to Work**

You will be entitled to return to your previous job on the same terms and conditions as if you had not been absent.

However, it might not be possible for us to allow you to return to the same job where your period of parental leave has been longer than four weeks or has been combined with a period of shared parental leave. In such circumstances, we will offer you a suitable and appropriate alternative position.

### **Responsibilities**

#### **Members of staff**

You are responsible for complying with this operating procedure.

It is your responsibility to provide the necessary documentation when requesting Paternity or Parental Leave.

You are accountable for communicating Paternity or Parental Leave dates to the Headteacher.

#### **Headteacher**

The Headteacher is responsible for implementing this procedure and for monitoring its implementation in the day-to-day activities of the school.

The Headteacher is responsible for advising of Paternity or Parental Leave requests or queries.

The Headteacher should ensure that you provide all necessary documentation, when requesting Paternity or Parental Leave.

#### **Governing Body**

The Governing Body is responsible for advising of Paternity or Parental Leave requests or queries where matters relate to the Headteacher.

The Governing Body should ensure that all necessary documentation is provided when the Headteacher requests Paternity or Parental Leave.

### **Dealing with Emergencies**

However well you've planned, there are bound to be times when your arrangements break down or traumatic incidents occur. You may have additional reasonable time off to deal with emergencies relating to dependants, but this leave will be unpaid. This is unlikely to be for longer than a day and is to allow you to make arrangements for care if, for example, a child is sick, rather than staying home and providing the care yourself. Please refer to SMART's Leave of Absence Policy for more details.



## Appendix 1: Glossary of Terms

Ordinary Maternity/Adoption Leave (OML) - The first 26-week period of leave that every pregnant woman or anyone adopting a child is entitled to regardless of length of service.

Additional Maternity/Adoption Leave (AML) - The second 26-week period of leave that every pregnant woman or anyone adopting a child is entitled to regardless of length of service. It starts at the end of the 26-week Ordinary Maternity/Adoption Leave period.

Compulsory Maternity Leave - The 2-week period immediately following the birth during which it is a criminal offence to work or allow a woman to work.

Childbirth - The live birth of a baby or stillbirth after a pregnancy lasting at least 24 weeks.

Continuous employment - The length of time you have been continuously employed by the Trust. Both temporary and permanent service counts. The date for calculating this period is service accrued up to the 15th week before your baby is due.

Expected Week of Childbirth (EWC) - The week beginning with midnight on Saturday that your baby is due.

MATB1 - The certificate issued by your midwife to confirm the date your baby is due.

Matching Certificate - The certificate issued by your adoption agency which includes information on matching and expected placement dates.

Maternity Allowance - An allowance (which is claimed from the benefits agency) for those women who do not qualify for Statutory Maternity Pay.

Paternity Leave - A 2-week period of leave that can be taken within 52 weeks of a child's birth date.

Qualifying Relationship – you have a qualifying relationship with a pregnant woman or her expected child if you:

- are the spouse or civil partner of the pregnant woman;
- live with the pregnant woman in an enduring family relationship, but are not her parent, grandparent, sister, brother, aunt or uncle;
- are the father of the expectant child; or
- are an intended parent in a surrogacy situation who meets certain conditions.

Statutory Adoption Pay (SAP) - The statutory weekly benefit paid by SMART on behalf of the DWP.

Statutory Maternity Pay (SMP) - The statutory weekly benefit paid by SMART on behalf of the DWP.

Statutory Paternity Pay (SPP) - The statutory weekly benefit paid by SMART on behalf of the DWP.

## Appendix 2: Statutory Maternity and Adoption Pay

Statutory Maternity (SMP) and Adoption Pay (SAP) are payments made by SMART on behalf of the Department for Works and Pensions (DWP). SMP and SAP are paid in arrears via our payroll system and deductions will be made for National Insurance and income tax.

To be eligible for Statutory Maternity and Adoption Pay:

- You must have 26 weeks continuous service with SMART by the 15th week before the date on which your baby is due, or due to be adopted;
- Your average weekly earnings must be more than the lower earnings limit for National Insurance (currently £123);

And if you are pregnant:

- You must still be pregnant by the 11th week before your due date or have had your baby by that time;
- You must have stopped work because of your pregnancy.
- If you resign or are dismissed after the 15th week before your baby is due/adopted, you will still be entitled to receive statutory maternity/adoption pay. If you are not eligible to receive this, we will give you an SMP1 form giving details as to why. You will need to give this form to your local Benefits Agency as you may be entitled to claim a Maternity Allowance (£184.03 per week from April 2024).

Please contact the HR contact at your school or SMART's HR Officer for more detailed guidance about Maternity, Adoption, Paternity Leave, Shared Parental Leave and Parental Leave.

## Appendix 3: Your Checklist

This is your personal checklist telling you about all the things you need to do and when. This will help to ensure that everything goes smoothly.

As soon as you feel able to do so, tell your Headteacher or line manager so you can attend antenatal appointments and an initial risk assessment can be carried out.

- If you are planning to adopt a child, tell the Headteacher so that we can arrange for you to attend any court hearings.
- After 12 weeks of pregnancy arrange a meeting with the Headteacher. You can fully discuss all your maternity rights, work out when your 15th and the 11th week before your expected week of childbirth will be, and establish your maternity pay and maternity leave entitlements.
- After the meeting, fill out the maternity leave application form so we have provisional written notice of when you intend to start your leave.
- At the 20th week before your EWC, get your MATB1 Certificate from your doctor or midwife, so you can claim SMP or maternity allowance.
- If you are planning to adopt a child, get your Matching Certificate from your adoption agency.
- Decide exactly when you want to start your maternity/adoption leave and let the Headteacher know. You must provide this notification no later than the 15th week before your EWC or anticipated placement date.
- Begin your leave and start to receive your maternity/adoption pay.
- When your baby is born please let your Headteacher, line manager or school HR contact know as soon as possible.
- If you want to return before the end of your maternity/adoption leave, contact the Headteacher and give them at least eight weeks written notice of the date you want to come back.
- Start thinking about your first week back at work and any additional flexibility or re-training you will need. You should discuss this with the Headteacher as soon as possible.
- If you are thinking about changing your hours or working pattern when you come back to work, you should discuss this with the Headteacher as soon as possible.