

## The STAR Multi Academy Trust

# Maternity, Adoption, Paternity, Parental and Shared Parental Leave Policy

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## 1. Introduction

### 1.1 What is the policy about?

This policy provides guidance on the Trust's Maternity, Adoption, Paternity, Parental and Shared Parental Leave and Parental Bereavement Leave. This includes leave and pay arrangements and provisions for return to work.

### 1.2 Who does the policy apply to?

This policy covers all Trust based employees.

### 1.3 Equality

In applying this policy, the Trust will not unlawfully discriminate in respect of any of the protected characteristics as defined under the Equality Act and specified below:

- Age
- Disability
- Gender reassignment
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation
- Marriage and civil partnership

## 2. Maternity / Adoption

### 2.1 Maternity/ adoption frequently used terms/abbreviations

AML/AAL	Additional maternity/adoption leave - the last 26 weeks of a maximum of 52 weeks' maternity/adoption leave
EWC	Expected week of childbirth - the week beginning on a Sunday, in which the doctor or midwife expects your child to be born
KIT days	Up to a maximum of 10 days during maternity leave where an employee, by mutual agreement with their CEO/Headteacher , carries out work or attends work related events, without bringing their maternity leave to an end (see section 2.8)

LEL	Lower Earnings Limit (LEL). To be entitled to statutory payments (SMP or SAP) the employee must have earnings of not less than the LEL. This is calculated based on the last normal pay day prior to the 15th week before the baby's birth date, then goes back 8 weeks from there to establish the averaging period.
MATB1	A form given to a woman by their doctor or midwife after the 20 <sup>th</sup> week of pregnancy that provides medical evidence of pregnancy and shows the expected date of childbirth
MA	Maternity Allowance - an allowance usually paid to mothers who don't qualify for statutory maternity pay (SMP). A claim form is available at the UK Government website <a href="https://www.gov.uk/government/publications/maternity-allowance-claim-form">https://www.gov.uk/government/publications/maternity-allowance-claim-form</a> or JobCentre Plus.
OML/OAL	Ordinary maternity/adoption leave - the first 26 weeks of a maximum of 52 weeks maternity/adoption leave
OMP/OAP	Occupational Maternity/Adoption Pay – enhanced employer payments paid during maternity/adoption leave to employees who meet the qualifying conditions and who intend to return to work after maternity leave. These enhanced payments are in addition to SMP/SAP payments and are half pay during weeks 7 to 18 of maternity/adoption leave (see section 2.3)
Partner	Your spouse, civil partner or someone living with you in an enduring family relationship but who is not a relative of the mother/primary adopter (sibling, child, parent, grandparent, aunt, uncle, niece or nephew)
Primary Adopter	A person who has been matched with a child for adoption and who has elected to be the main carer for the child
Primary Parental Order parent	A person in a legal surrogacy arrangement who is entitled to and intends to apply for a Parental Order under the Human Embryology and Fertilisation Act 2008, and who has elected to be the main carer for the child
SMP/SAP	Statutory Maternity/Adoption Pay – a legal entitlement to a certain amount of statutory pay to qualifying employees which lasts for up to 39 weeks.
Qualifying week	The 15 <sup>th</sup> week before the EWC

## **2.2 Leave entitlement**

All pregnant employees and primary adopters (the parent who has elected to be the main carer of the child, usually the child's adoptive mother) have the right to 52 weeks leave, regardless of the number of hours they work or their length of service. This period of leave is made up of 26 weeks Ordinary Maternity/Adoption Leave (OML/OAL) and 26 weeks Additional Maternity/Adoption Leave (AML/AAL). Where a couple are adopting, only one parent, the primary adopter (main carer), can request adoption leave.

Adoption leave is also available to the primary carer in a legal surrogacy arrangement (primary Parental Order parent) who has applied for, or intends to apply for, a Parental Order in respect of the child under the Human Embryology and Fertilisation Act 2008.

Employees starting maternity or adoption leave may also wish to consider the more flexible leave arrangements that may be available to them, which include Shared Parental Leave

Further details regarding the above can be found in section 4 of this policy.

### **2.2.1 Maternity**

It is up to each employee to choose when to start maternity leave and how long to stay off work, subject to the following restrictions:

- Maternity leave can start no earlier than 11 weeks before the Expected Week of Childbirth (EWC), as confirmed by the employee's MATB1 certificate;
- An employee cannot return to work during the 2 weeks after giving birth, this is compulsory maternity leave;
- If an employee has not started their maternity leave, it will be automatically triggered by either childbirth or pregnancy related absence during the 4 weeks before the EWC.

### **2.2.2 Adoption and Surrogacy**

Only one person in an adopting couple, or the primary parental order parent in a surrogacy situation, is entitled to take adoption leave. The other partner may be entitled to take paternity leave and/or maternity support leave if they meet the qualifying criteria (see section 3).

Adoption leave can be taken by the primary adopter for any child placed for adoption up to the age of 18 via an official adoption agency, however, only one period of adoption leave can be taken at any time, regardless of the number of children being adopted. Adoption leave is not available in circumstances where the child is not newly placed for adoption i.e. a step-parent adopting a partner's child. Leave can also be taken by the primary parent in a legal surrogacy arrangement.

It is up to each employee to choose when to start adoption leave and how long to stay off work, subject to the following restrictions:

- For UK adoptions, adoption leave can start no earlier than 14 days before the date the child is expected to be placed and up to the date the child is placed with the family;
- For Overseas adoptions, adoption leave can start when the child arrives in the UK or within 28 days of this date;

- For surrogacy arrangements it can start no earlier than 14 days before the expected date of birth of the surrogate child and up to the date the child is born;
- An employee cannot return to work during the first 2 weeks of adoption leave.

Dual approved prospective adopters (sometimes referred to as fostering to adopt) may be eligible for adoption leave and pay where they have agreed to have a child placed with them in accordance with section 22C of the Children Act 1989 with a view to them adopting that child.

## **2.3 Pay entitlement**

### **2.3.1 Statutory maternity/adoption pay (SMP/SAP) – All Employees**

The Trust pays SMP/SAP to employees on behalf of the Government, where certain qualifying conditions are met. SMP is paid for up to 39 weeks during an employee's maternity or adoption leave as follows:

- 90% of average weekly earnings for the first 6 weeks;
- SMP/SAP minimum rate or 90% of average weekly earnings, whichever is the lower for the following 33 weeks.

Details of the current SMP/SAP rate can be found by visiting [www.gov.uk/maternity-pay-leave](http://www.gov.uk/maternity-pay-leave) or [www.gov.uk/adoption-pay-leave](http://www.gov.uk/adoption-pay-leave).

To qualify for SMP/SAP the employee must have:

- average weekly earnings (before tax and NI) at least equal to the Lower Earnings Limit
- given the appropriate notice (see section 2.4).

In addition the following qualifying conditions apply depending on the particular situation:

#### **Maternity**

- 26 weeks' continuous service by the 15<sup>th</sup> week before the EWC;
- provided proof of pregnancy including EWC (MATB1 certificate).

If an employee does not qualify for SMP then her original MATB1 form will be returned to her along with an SMP1 form which explains why she can't receive SMP within 7 days of the School making their decision. If an employee does not qualify for SMP, they may qualify for Maternity Allowance (MA) which can be accessed via JobCentre Plus or via a claim form on the UK Government website <https://www.gov.uk/government/publications/maternity-allowance-claim-form>

#### **Adoption**

- 26 weeks continuous service by the week the adopter is notified of being matched with a child;
- provided official proof of the date of placement e.g. letter from the adoption agency;

- provided a copy of the matching certificate provided by the adoption agency;
- for overseas adoptions only, provided proof of the date the child arrives in the UK.

### Surrogacy

- 26 weeks' continuous service by the 15<sup>th</sup> week before the EWC;
- provided proof of pregnancy including EWC (copy of birth mother's MATB1 certificate);
- the intended parents must have applied for, or intend to apply for, a Parental Order and expect to obtain this;
- provided a copy of the parental order within 6 months of the child's birth;
- if requested must provide a 'statutory declaration' (written statement signed in the presence of a legal professional) confirming you have applied or will apply for a parental order in the 6 months after the child's birth.

### 2.3.2 Occupational maternity/adoption pay (OMP/OAP) – Support Staff

Period	Entitlement
Weeks 1 – 6	Payable at 90% of the employees average weekly earnings
Weeks 7 – 18	12 weeks at ½ pay (plus SMP if eligible) <b>or</b> 6 weeks full pay spread as agreed between employee and employer <b>or</b> 6 weeks paid in full on return to work
Weeks 19 – 39	Entitlement to SMP/MA
Weeks 40 – 52	Nil pay

To qualify for OMP/OAP the employee must have:

- agreed to return to work for at least 3 calendar months following their leave (an employee will be considered to have returned to work even if they choose to add holiday to the end of leave or are unable to physically return to work due to sickness);

### Maternity and surrogacy

- more than one year of continuous service with the School and/or relevant local authority at the start of the 11<sup>th</sup> week before the Expected Week of Childbirth (EWC).

### Adoption

- more than one year of continuous local government service by the date notice is given that they are matched with a child.

The employee will be asked about whether they intend to return to work for the purpose of receiving the occupational pay element. The employee can choose not to respond to this request.

### 2.3.3 Occupational maternity/adoption pay (OMP/OAP) – Teaching Staff

To receive OMP/OAP, a teacher must have more than one year of continuous service as a teacher with the Trust at the start of the 11<sup>th</sup> week before EWC. If a teacher does not have the required service, they may still be entitled to Statutory Maternity Pay (SMP).

OMP/OAP is paid on the understanding that the teacher will return to her employment for a period which equates to 13 weeks full time service (including periods of School closure). She will be considered as having returned to work even if she is unable to return to work because of sickness.

If the teacher does not return to work after OMP/OAP has been paid then the OMP/OAP paid for weeks 7 to 18 will need to be refunded to the Trust.

Payment for OMP/OAP will be as follows:

Period	Entitlement
Weeks 1 – 4	Full pay as OMP, offset against payments made by way of SMP or Maternity Allowance (for employee's not eligible for SMP)
Weeks 5 – 6	90% of Average weekly earnings or Normal Weekly earnings, whichever is higher. OMP payments are offset against SMP to ensure that the employee does not receive more than 90% pay.
Weeks 7 – 18	Half pay + SMP except where combined pay exceeds normal pay pay <b>or</b> 6 weeks full pay spread as agreed between employee and employer <b>or</b> 6 weeks paid in full on return to work
Weeks 19 – 39	Entitlement to SMP/MA
Weeks 40 – 52	Nil pay

Employees should be aware that the OMP/OAP plus SMP/SAP payment cannot exceed their normal rate of full pay, therefore if this occurs, the occupational pay element will be reduced.

### 2.4 Notification requirements for maternity/adoption leave

If the employee does not give the required notification, they lose their right to start maternity/adoption leave on their chosen date. The only exception to this is where it is not reasonably practicable for the employee to give notice any earlier e.g. if the baby is born much earlier than expected.

If the employee changes their mind and wishes to change the start date of their leave they must give 28 days' notice (support staff and teaching staff).

Written confirmation of the end date of their maternity/adoption leave will be sent to the employee by the School within 28 days of their notification form being received (supporting documents A or B). It will be assumed that the employee is taking 52 weeks leave.

### **2.4.1 Maternity**

Pregnant employees are advised to notify their Headteacher of their pregnancy as soon as possible, however, as a minimum employees must:

#### Support Staff

- complete supporting document A and return to their Headteacher no later than 28 days before they want to commence their maternity leave.

#### Teaching Staff

- notify their Headteacher in writing at least 14 weeks before the EWC that they intend to take maternity leave.
- complete supporting document A and return to their Headteacher no later than 21 days before they want to commence their maternity leave.

#### All Staff

Supporting Document A (Notification of Maternity Leave Form) includes the following information:

- Confirmation of the pregnancy and the EWC. This is usually via a MAT B1 certificate;
- The date they wish to commence maternity leave.

As soon as is practicable after the birth, the employee should notify their Headteacher of the baby's date of birth in writing.

If maternity leave is triggered by the birth of the child or pregnancy related absence during the 4 weeks prior to the EWC the maternity leave will start on the day following the first day of sickness absence or the day of childbirth. The employee must inform their Headteacher of the date of birth as soon as reasonably practicable and any absence should be reported to their Headteacher in line with the sickness reporting procedures.

### **2.4.2 Adoption**

The primary adopter should advise their Headteacher as soon as possible, however, as a minimum employees should complete supporting document B and return to their Headteacher within 7 days of being told that they have been matched with a child, which includes the following information:

- Confirmation of the adoption i.e. through the provision of a matching certificate;
- The date the child is to be placed with the employee;
- The date they wish to commence adoption leave.



### **2.4.3 Surrogacy**

The primary parental order parent is advised to notify their Headteacher of the surrogate's pregnancy as soon as possible, however, as a minimum employees are asked to complete supporting document B and return to their Headteacher by no later than 28 days before they want to commence their adoption leave. This form includes the following information:

- Confirmation of the birth mother's pregnancy and the EWC. This is usually via a copy of the birth mother's MATB1 certificate;
- The date they wish to commence adoption leave.

A Parental Order parent is also required to provide a copy of the Parental Order within 6 months of the adoption leave/pay commencing. The Trust reserve the right to reclaim any payment made and to be compensated for leave taken, if the employee fails to provide a copy of the Parental Order within 6 months of the start of the adoption leave/pay.

Adoption leave would be triggered for parents in a surrogacy arrangement if the child was born earlier than the adoption leave start date.

As soon as is practicable after the birth, the employee should notify their Headteacher of the baby's date of birth in writing.

### **2.5 Other time off**

This section details entitlement to time off for pregnant employees, primary adopters and primary parental order parents. Details of time off for partners/fathers can be found in section 3.5.

Employees must produce evidence of all appointments if requested to do so.

#### **2.5.1 Antenatal care/appointments**

All pregnant employees, regardless of hours worked, pay or length of service are entitled to reasonable paid time off for antenatal appointments.

Antenatal appointments may include any of the following, provided they have been recommended by a doctor or midwife:

- medical appointments;
- parent craft;
- relaxation classes.

All time off, including travelling time within working hours, will be paid at the employee's normal hourly rate of pay.

#### **2.5.2 Pre- adoption leave**

The primary adopter is entitled to paid time off to attend up to 5 pre-adoption appointments after they have been matched with a child.

### **2.5.3 Pre- surrogacy leave**

Employees in a legal surrogacy arrangement have the right to paid time off to attend 2 antenatal appointments with the surrogate mother.

### **2.5.4 Sickness**

If an employee has not started their maternity leave, it will be automatically triggered by a pregnancy related absence during the 4 weeks before the EWC, however, before this time, a pregnancy related absence would not automatically trigger maternity leave to start. Occupational sick pay or SSP will still be payable during the 4 weeks before the EWC if the absence is due to anything other than a pregnancy related condition.

Employees who are sick during their maternity/adoption leave period are not entitled to sick pay as they will be receiving SMP/SAP, unless they end their maternity leave. Where an employee cannot attend work at the end of their maternity/adoption leave due to sickness, the normal contractual arrangements for sickness absence will apply.

## **2.6 Risk assessments**

The School's responsibility for the health and safety of our employees comes into sharp focus when considering the requirements for an expectant or new mother and therefore it is important that the Headteacher carries out a formal risk assessment for an employee when she declares her pregnancy.

The risk assessment should be reviewed on a regular basis throughout the pregnancy and upon her return to work following maternity leave to ensure the operating environment is considered. Where risks that may adversely affect the health and safety of the employee or their baby are identified, the Headteacher should consider temporary adjustments to the employee's working conditions and/or hours or offer suitable alternative work, if available. The employee's normal rate of pay continues during any period of adjustment. The Headteacher should be aware that if adjustments are not deemed to be feasible, the employee is entitled to paid leave for as long as necessary to protect her and/or the child's health and safety.

The following are examples of the type of risks that can arise in the workplace:

- Physical fatigue from standing or poor posture position for long periods of times can lead to miscarriage, premature birth and low birth weight. Potential remedies include avoiding excessive volume and hours of work, seating being made available, longer rest breaks or work stations being adjusted;
- Work involving substantial vibration or movement may lead to miscarriage, therefore tasks should be avoided if they risk whole body vibration or jolts to the abdomen;
- Exposure to radiation, chemical and biological agents, lead, infectious diseases, work related stress or extremes of cold and heat should also be avoided;

- For pregnant women or women who have had a caesarean section, lifting heavy items can lead to injury therefore the amount of physical work should be reduced or suitable aids supplied.

The following table gives some examples of the aspects of pregnancy that may lead to changes in the work environment:

<b>Aspect of pregnancy</b>	<b>Work factors to consider</b>
Morning sickness	Early shift work, exposure to nauseating smells
Backache	Standing, manual handling, posture
Varicose veins	Standing, manual handling, posture
Haemorrhoids	Working in hot conditions
Frequent visits to toilets	Difficulty in leaving work area
Increasing size	Use of protective clothing, work in confined spaces, manual handling, speed of movement and reach
Tiredness	Overtime, night work/evening work
Balance	Working on uneven, wet or slippery surfaces

### **2.6.1 Breastfeeding**

When a woman returns to work after maternity leave, she may have particular wishes and needs connected to the new baby, including the provision of facilities to allow her to express milk during the working day. Consideration should be given to any health and safety implications for breastfeeding employees and a risk assessment should be completed to identify any issues.

Although it is appreciated that space is often at a premium in many buildings, every effort should be made to provide suitably quiet and private facilities for women who are breastfeeding or expressing milk. Headteacher /Head of School should be aware that the ladies toilets are not an acceptable facility.

## **2.7 Special circumstances**

### **2.7.1 Premature births**

If an employee has their baby prematurely, the School will consider each case on an individual basis as to what assistance may be relevant. For example, it may be appropriate to extend the maternity leave arrangements.

### **2.7.2 Stillbirth and miscarriage**

In the unfortunate event that the baby is stillborn or lost through miscarriage after 24 weeks, the employee is entitled to take maternity leave.

Where a miscarriage or termination takes place before 24 weeks the School will offer support to the individual circumstances. Where necessary The school will help by discussing, sick leave or other leave may be appropriate, depending on the needs of the employee and any medical opinion.

The school's Health Assured Employee Assistance Programme is able to provide emotional support via a 24/7 helpline, staffed by BACP qualified counsellors.

### **2.7.3 Adoption placement ends**

Adoption leave will end where the adoption placement does not take place or breaks down or where the child dies. The adoption leave will end 8 weeks after such an event.

### **2.7.4 Parental Order is refused**

Where the intended parents' application for a Parental Order is refused by the court, the employee's entitlement to adoption leave will end 8 weeks later or at the end of the adoption leave, whichever is earlier.

For surrogacy arrangements the School reserve the right to reclaim any payment made and to be compensated for leave taken, if the employee fails to provide a copy of the Parental Order within 6 months of the adoption leave/pay commencing.

## **2.8 Keeping in touch (KIT) days**

All employees on maternity or adoption leave can participate in up to 10 KIT days where an employee can work without bringing their leave to an end. KIT days are not limited to the employee's normal job and can include attending training events, appraisals, meetings, as well as enabling an employee to return to work gradually at the end of their leave.

Any KIT days must be mutually agreed, therefore just as an employer cannot insist that work is carried out during a maternity or adoption leave period, an employee cannot insist on working during the period.

Working any part of a day will count as one full day for the purpose of calculating the number of KIT days taken.

Payment arrangements should be discussed and clearly understood and agreed before any work is undertaken and efforts should be made to ensure both the employee and Headteacher are fully aware of the work to be carried out on the day.

Where an employee has multiple posts within the Trust only 10 KIT days can be taken in total as they are allocated per person, not per job. In addition, in the case of employees on maternity leave, KIT days cannot be taken during the first two weeks following the birth.

### **2.8.1 Payment for KIT days**

Payment will be based on the number of hours actually worked on a KIT day, paid at their normal rate of pay, offset against any SMP/SAP and/or OMP/OAP received for that day.

## **2.9 Returning to work following maternity/adoption leave**

Employees who intend to return to work at the end of their full ML entitlement do not have to give any further notification to their manager.

An employee is entitled to return to the job in which they were employed under their original contract of employment and on terms and conditions not less favourable than those which would have been applicable to them if they had not been on maternity leave. "Job" for this purpose, means the nature of the work which they are employed to do and the capacity and place in which they are employed.

Where it is not practicable by reason of redundancy to return to work to the job the employee had before their maternity leave commenced, they must be offered a suitable alternative post, prior to other colleagues, which must be on terms and conditions not substantially less favourable than those on which they were originally employed.

Suitable alternative employment may also be offered if exceptional circumstances (other than redundancy e.g. reorganisation), which would have occurred regardless of their absence, necessitate a change in the job in which they were employed prior to their absence. The work to be done should be suitable to them and appropriate to the circumstances and the capacity and place in which they are to be employed. The terms and conditions of employment should not be less favourable to them than if they had been able to return to the job in which they were originally employed.

### **2.9.1 Returning before the full leave entitlement**

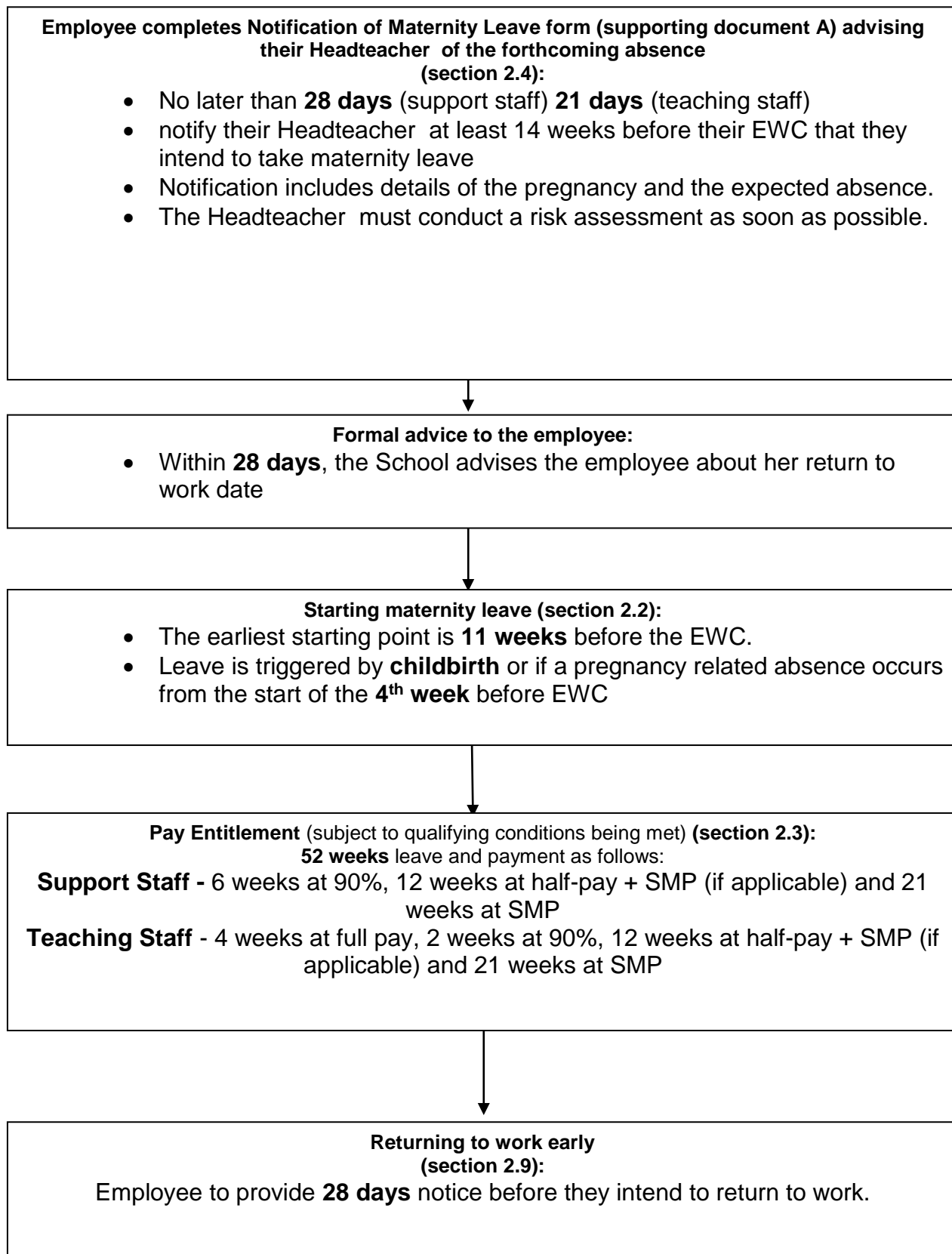
If the employee wants to return before the end of her full leave entitlement of 52 weeks she must tell her manager at least 28 days before her new intended return date (whether in the OML or AML period). These notice periods are the minimum required. To help managers plan cover employees should give as much notice as possible of any changes to their plans.

If the employee does not give the minimum notice, her manager may postpone her return until 21 days after the date she informed her manager that she would like to return early, but not to a date after her ML would have ended.

If the employee does not intend to return at the end of her ML she should give normal contractual notice.

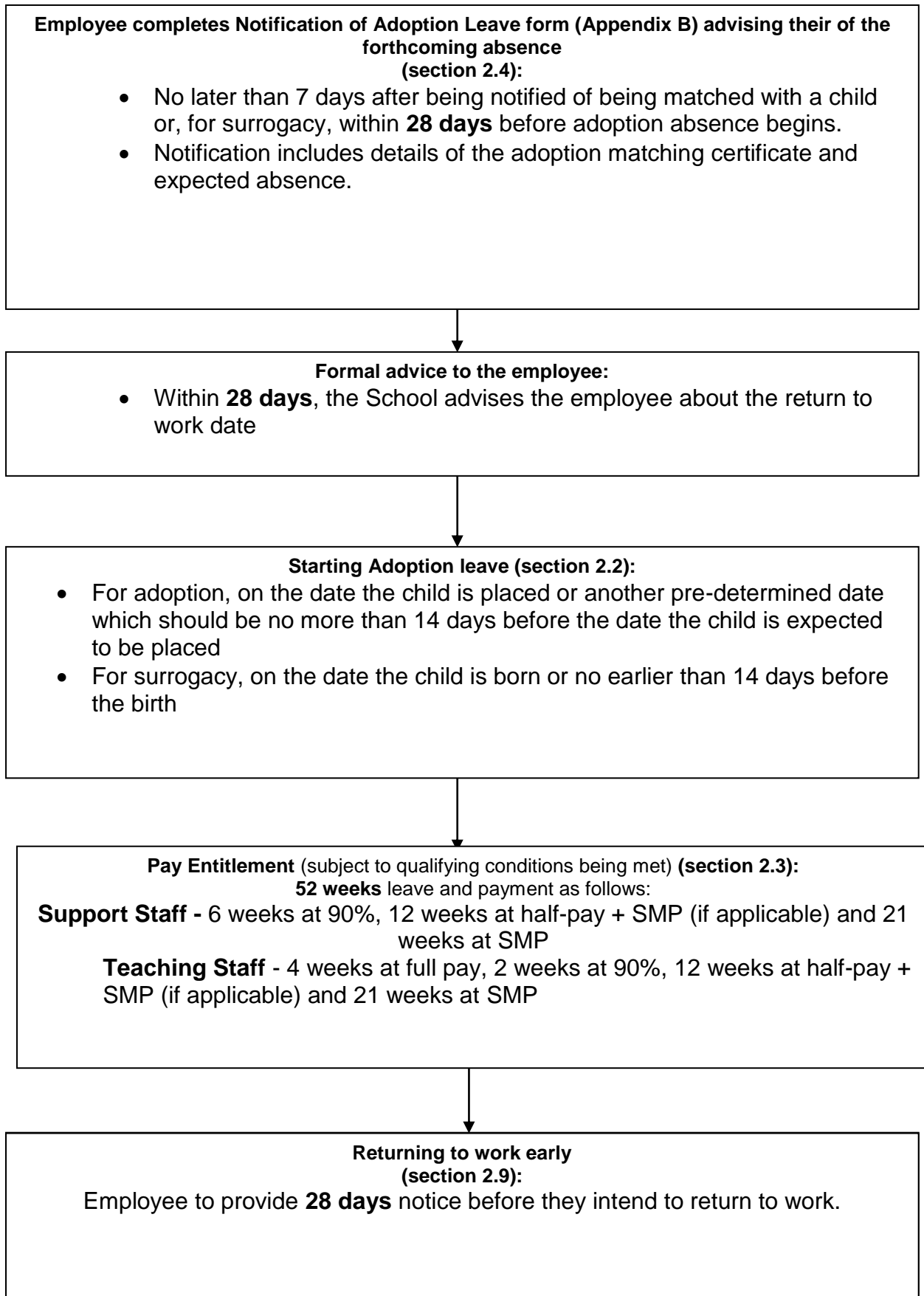
## 2.10 Maternity leave flowchart/ timeline

This timeline provides a helpful summary of the main times to be aware of where a maternity situation occurs within the workplace.



## 2.11 Adoption leave flowchart/ timeline

This timeline provides a helpful summary advising of the main times to be aware of where an adoption situation occurs within the workplace.



### 3. Paternity

#### 3.1 Frequently used terms/abbreviations

EWC	Expected week of childbirth - the week beginning on a Sunday, in which the doctor or midwife expects your child to be born
MSL/ASL	Maternity/adoption support leave – one week’s leave at full pay taken within 56 days of the birth/adoption by father/partner or, where the mother does not have a partner and is not being supported by the child’s father, the nominated carer of the expectant mother (see section 3.2.3)
SPP	Statutory Paternity Pay – a legal entitlement to a certain amount of statutory pay to qualifying employees which is paid for up to 2 weeks.
OPP	Occupational Paternity Pay – equivalent to normal pay and includes any entitlement to Statutory Paternity Pay (SPP)

#### 3.2 Leave entitlement

##### 3.2.1 Paternity leave

Paternity leave provides employees whose partner is having a baby, adopting a child or having a baby through a surrogacy arrangement with **1/2 weeks’ paid time off work**, subject to the following criteria being met:

- have been continuously employed for 26 weeks by the end of the 15<sup>th</sup> week before EWC or, for adopters, the date they were notified of a match;
- expect to have responsibility for the upbringing of the child.

Paternity leave must be taken in full week blocks, therefore, where an employee intends to take two weeks of paternity leave, these must be taken consecutively or the second week will be lost. Only one period of leave is available per pregnancy or adoption, irrespective of the number of children born or adopted. A week is the same amount of days that you normally work e.g. if you only work Mondays and Tuesdays a week is 2 days.

Paternity leave is intended to be used to support the mother or adopter, therefore, it cannot be taken before the birth and should be taken within 56 days of the birth or placement. If the baby is born early, this time limit is extended to within 56 days of the EWC.

Whilst the employee is unlikely to know the actual date they want their leave to start, they should indicate the timeframe they are intending to take their leave in, which will be either:

- the date the child is born or placed;
- a certain number of days or weeks after the child is born;
- from a pre-determined date after the first day of the EWC (if the child has not been born by this date, the employee must choose another date).



If the employee chooses to start their leave on the date of the child's birth or placement and they are at work that day, the leave will actually commence the following day.

### **Paternity Leave Pay (Teaching Staff)**

Teaching staff who meet the qualifying criteria above are entitled to a **maximum of 2 weeks paternity leave**.

### **3.2.2 Maternity/Adoption Support Leave (Support Staff Only)**

Maternity support leave is one week's paid leave, pro rata for part time workers, normally taken together, at or around the time of the birth or adoption of a child. This is an occupational benefit and applies to all employees except teachers under teachers' (Burgundy Book) Conditions of Service.

MSL payment is based on normal weekly contractual hours (or an average weeks' pay, where varied hours are regularly worked).

To qualify for maternity support leave and pay STAR MAT employees must:

- Be the person nominated by an expectant mother or a soon-to-be adoptive parent (where that adoptive parent will be the primary carer to the child), to be the primary provider of support and care to her at or around the time of the arrival of her child
- The nominated carer may be:
  - the biological father of the child, the mother's or primary carer's husband or partner, or the adoptive parent who is not the primary carer
  - Someone else with a caring relationship to the mother/ primary carer and/or the child may be eligible for MSL, but will need to demonstrate their relationship and why they are taking on this role
- Have completed 26 weeks' continuous service with the Trust or a related employer at the time they make the request
- Provide a copy of either the MAT B1 form or the adoption matching certificate.

MSL should be refused only in exceptional circumstances, to meet service needs.

### **3.3 Notification requirements**

The employee can change their mind about the start date for their paternity and/or maternity/adoption support leave, however, they should provide their Headteacher with 28 days of notice of any change, unless this is not reasonably practicable.

#### **3.3.1 Paternity Leave**

The employee should notify their Headteacher of their intention to take paternity leave by the 15<sup>th</sup> week before the EWC, or for adoptive parents within 7 days of being notified of an adoption match or as soon as reasonably practicable (no later than 28 days before the start of the leave).

The employee should complete the paternity leave application form (Appendix C) and return it to their Headteacher

### **3.3.2 Maternity/Adoption Support Leave – Support Staff Only**

Where an employee wishes to take maternity/adoption support leave they should complete and return the MSL/ASL application form (Appendix D). The expectant mother/adopter will also need to sign this form to declare that the employee is the only person they have nominated as their carer. This form must be returned to their Headteacher along with a copy of the maternity certificate (MATB1) or adoption placement certificate.

### **3.4 Other time off**

In addition to entitlements for the mother, primary adopter/parental order parent, **all employees** are entitled to the following

- to take reasonable paid time off for antenatal care and appointments
- Fathers and partners are entitled to attend up to 2 antenatal appointments.

An employee is eligible for the above if they are: -

- the baby's father;
- the expectant mother/primary adopter's spouse or civil partner;
- in a long-term relationship with the expectant mother/adopter;
- parental order parents in a legal surrogacy arrangement who intend to become the child's legal parents.

### **3.5 Special circumstances**

#### **3.5.1 Premature births**

If an employee's baby is born prematurely, at any point in the pregnancy, they will be eligible to take paternity leave and/or maternity support leave as usual.

#### **3.5.2 Stillbirth and miscarriage**

In the unfortunate event that the baby is still born or lost through miscarriage after 24 weeks, the employee is entitled to take paternity and/or maternity support leave.

Where a miscarriage or termination takes place before 24 weeks the School will offer support to the individual circumstances.

#### **3.5.3 Combining paternity and maternity support leave**

An employee eligible for Paternity Leave may also be eligible for MSL. An employee who takes one week of MSL can take only one week of Statutory Paternity Leave with Statutory Paternity Pay (where eligible for SPP).

Employees are entitled to either MSL, PL or a combination, and the associated policy on maternity support leave pay for the relevant individual is as follows:

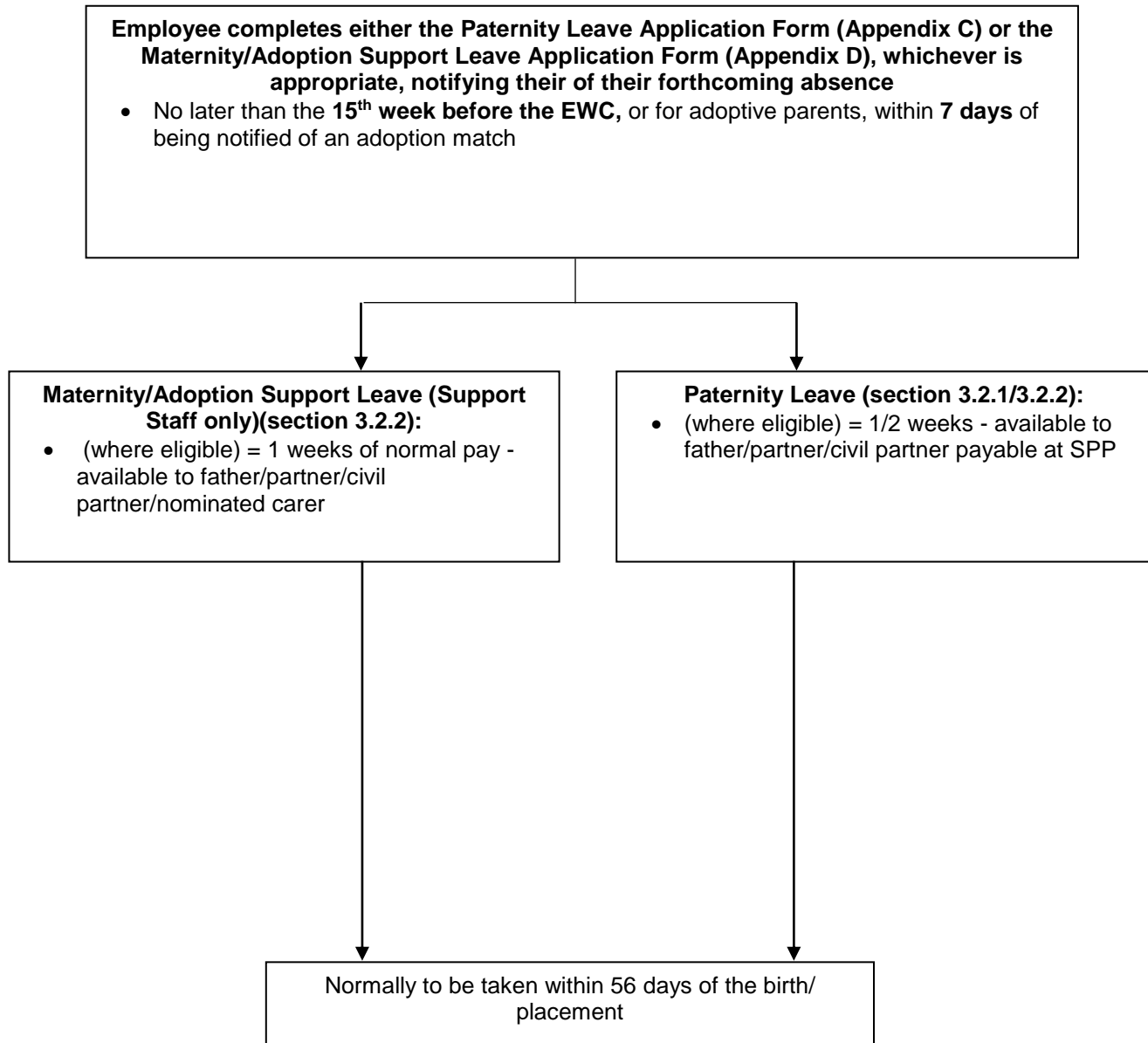
	MSL	Paternity	Payment
Biological father	Yes	Yes	One week pay, one week SPP*
Husband or Partner of primary carer	Yes	Yes	One week pay, one week SPP*
Secondary adoptive parent	Yes	Yes	One week pay, one week SPP*
A relative with close caring relationship (e.g. parent)	Yes	No	One week pay
Someone else with a caring relationship to the primary carer and/or child**	Yes	No	One week pay
Teachers (who also meet 1, 2 or 3 above)	No	Yes	Two weeks SPP*

\* Where eligible for SPP

\*\* Need to demonstrate nature of relationship and why they are taking on this role.

### 3.6 Paternity leave flowchart/ timeline

This flowchart/timeline provides a helpful summary of the main times to be aware of where a maternity support leave and paternity situation occurs within the workplace.



## 4. Shared parental leave (SPL)

### 4.1 Shared Parental Leave frequently used terms/abbreviations

Booking notice	A written request from an employee of dates they wish to take SPL, giving at least 8 weeks' notice. Employees can submit up to a maximum of 3 booking notices. (see supporting document H - SPL Booking Notice application)
Continuous leave	Request to take a single block of SPL. Such requests must be approved by employers
Discontinuous leave	Request for several periods of SPL on one booking notice form i.e. take a period of SPL, return to work, take another period of SPL. Approval for such requests is at Headteacher discretion (see section 4.6.2)
EWC	Expected week of childbirth - the week beginning on a Sunday, in which the doctor or midwife expects your child to be born
Notice of curtailment	Written notice from an eligible mother/primary adopter or parental order parent to end their maternity/adoption leave early. This creates a number of weeks, up to a maximum of 50, which can be taken by either parent/partner as SPL if they meet the eligibility criteria (also see 'Reducing the Pay Period' below)
Notice of entitlement	Written notice from an employee stating that they meet the eligibility criteria to take SPL
OMP/OAP	Occupational Maternity/Adoption Pay – enhanced employer maternity payments paid during maternity/adoption leave to employees who meet the qualifying conditions and who intend to return to work after maternity leave. These enhanced payments are in addition to SMP/SAP payments and are half pay during weeks 7 to 18 of maternity/adoption leave (see section 2.3)
Primary Parental Order parent	A person in a legal surrogacy arrangement, who are entitled to and intend to apply for a Parental Order under the Human Embryology and Fertilisation Act 2008, and who have elected to be the main carer for the child
Primary Adopter	A person who has been matched with a child for adoption and who has elected to be the main carer for the child
Reducing the pay period	Where an eligible mother/primary adopter or parental order parent ends their maternity/adoption leave early, ending their SMP/SAP (or MA) and/or OMP/OAP payments (see ShPP below)

Revoking notice to curtail	Once an employee has given notice to end their maternity/adoption leave this can only be revoked (withdrawn) in very limited circumstances (see section 4.7.2)
SMP/SAP	Statutory Maternity/Adoption Pay – a legal entitlement to a certain amount of statutory pay to qualifying employees which lasts for up to 39 weeks. SMP/SAP is paid at the current statutory rate
SPL	Shared Parental Leave - must be taken in blocks of at least one week and taken between the baby's birth and first birthday or within 1 year of adoption (see section 4.2)
ShPP	Statutory Shared Parental Pay - Up to a maximum of 37 weeks' pay is created when an eligible mother/primary adopter or parental order parent ends their maternity/adoption leave early (see section 4.5)
SPLiT days	Shared Parental Leave in Touch Days - days during SPL leave where an employee, by mutual agreement with their Headteacher carries out work/attends work related events up to a maximum of 20 days without bringing their shared parental leave to an end (see section 4.9).

#### 4.2 What is shared parental leave?

SPL gives eligible parents increased flexibility to choose how to share the care of their child during the first year of birth or adoption. **In contrast to maternity, adoption and paternity leave, eligible employees will be able to stop and start their SPL, return to work between periods of leave and it enables both parents to be on leave at the same time.**

The mother/primary adopter may choose to reduce the weeks of maternity/adoption leave below 52 weeks in order to create some weeks of SPL. The mother/primary adopter can do this by returning to work or by giving notice that they will end their maternity/adoption leave on a future date. The number of weeks maternity/adoption leave already taken will be deducted from the total entitlement of 52 weeks to calculate the number of weeks of SPL that are available to the mother/primary adopter and their partner/father of the child if they both satisfy the eligibility criteria. **The mother/primary adopter can share their leave with only one other person.**

Employees who are eligible can therefore chose to end their maternity/adoption leave/pay early and commence shared parental leave/pay.

They will be able to choose how to split the available leave between them and can decide to be off work at the same time or different times. They will need to decide how to divide the leave and pay entitlements between them, as leave or pay taken by one parent will reduce the pool of leave and pay that is available to the other parent.

SPL can be taken as a single continuous block or in smaller blocks of discontinuous leave (a minimum of a week at a time) interspersed with time at work. This is in contrast to maternity leave which can only be taken in a single continuous block by the mother/primary adopter.

### **4.3 Who can access shared parental leave?**

SPL can only be accessed by individuals who share the main responsibility for the care of the child at the time of the birth or placement for adoption. SPL can be used by the mother plus either the father of the child or the mother's spouse/civil partner/partner, subject to qualifying criteria. SPL can also be accessed by adoptive parents and parental order parents in a legal surrogacy arrangement who intend to become the child's legal parent.

In order to qualify for SPL, the mother/primary adopter must satisfy the following criteria:

- share responsibility for the child with your partner/child's other parent
- be entitled to maternity/adoption leave or pay (including Maternity Allowance)
- have ended or given notice to end their maternity/adoption entitlements

A parent intending to take SPL must:

- be an employee;
- share the primary responsibility for the child with the other parent at the time of birth or placement for adoption;
- have properly notified their entitlement and intention to take SPL, complying with the SPL process set out in this policy and have provided the necessary declaration (supporting document E or F) and evidence;
- have at least 26 weeks service at the end of the 15<sup>th</sup> week before the EWC or the matching date;
- still be working for the organisation at the start of each period of SPL.

The partner must:

- meet the 'employment and earnings test' by having been an employed or self-employed earner for a total of 26 weeks (not necessarily continuously) and earned an average of at least £30 a week in any 13 of those weeks in the 66 weeks leading up to the EWC or matching date.

It is the employee's responsibility to check they are eligible for SPL and/or pay and both parties will be required to submit a declaration stating that they are eligible (see section 5.6.1).

### **4.4 Leave entitlement**

A mother/primary adopter/parental order parent must take a minimum of 2 weeks of maternity/adoption leave before it can be ended early (curtailed). During this time, the father/partner may be eligible to maternity support leave or paternity leave (see section 3).

The mother/primary adopter can only opt into SPL and/or ShPP if they bring forward the date on which their maternity/adoption leave period ends either by returning to work or giving written notice that they intend to curtail their leave on a future date. Depending on the date chosen by the mother/adopter, this will create up to a maximum of 50 weeks that can be taken as SPL.

If the mother/primary adopter takes 51 weeks or more of their maternity/adoption leave no SPL will be created, as only the untaken balance can be taken as SPL.

The minimum period of SPL which can be taken is one continuous week and the maximum period is 50 weeks. SPL can start on any day of the week. Employees are only entitled to a maximum of 50 weeks SPL regardless of the number of children born as a result of the pregnancy or the number of children placed under the same adoption agreement.

#### **4.5 Pay entitlement**

Statutory Shared Parental Pay (ShPP) will be created where an eligible mother/primary adopter brings their SMP/SAP or MA to an end early, known as “reducing” the pay period. A mother/primary adopter must take at least 2 weeks of SMP/SAP before it can be reduced.

As with SPL, the mother/adopter can only opt into ShPP if they bring forward the date on which their SMP/SAP or MA period ends, by either returning to work or giving written notice that they intend to reduce their pay period on a future date. Depending on the date chosen by the mother/primary adopter, this will create up to a maximum of 37 weeks that will be available as ShPP.

If the mother/adopter takes 38 weeks or more of SMP/SAP or MA then no ShPP will be created, as only the untaken balance can be taken as ShPP.

In order to qualify for Statutory Shared Parental Pay (ShPP), the employee must:

- meet the criteria set out in section 5.3;
- have average weekly earnings (before tax and NI) at least equal to the Lower Earnings Limit.

Details of the current ShPP rate can be found by visiting <https://www.gov.uk/shared-parental-leave-and-pay>

Occupational maternity/adoption pay (OMP/OAP), paid during weeks 7 to 18 of maternity/adoption leave, is only available to the mother/primary adopter during maternity/adoption leave.

By ending their maternity leave early and commencing shared parental leave the mother/primary adopter loses any entitlement they may have had to occupational maternity/adoption pay (OMP/OAP). Therefore employees who are entitled to OMP/OAP may wish to end their maternity leave after their entitlement to OMP/OAP has expired (after the 18<sup>th</sup> week of maternity leave).

#### **4.6 Notification requirements**

It is the employee’s and their partner/child’s father’s responsibility to ensure that they meet the eligibility criteria for SPL and/or ShPP before submitting the relevant forms to their Headteacher detailed below (see section 5.3).

##### **4.6.1 Notice of entitlement and curtailment**



An employee who is intending to take SPL, either as the mother/primary adopter or the mother/primary adopter's partner/child's father must give their Headteacher notification of their entitlement and intention to take SPL at least 8 weeks before they can begin any period of SPL by completing the relevant notice of entitlement form at supporting document E (mother/primary adopter) or F (partner/child's father) in this policy.

An employee who is the mother/primary adopter can bring forward the date on which their maternity/ adoption leave and pay ends by either:

- giving written notice of curtailment to end maternity/adoption leave early (by completing supporting document E);
- returning to work.

Once written notice of ending maternity/adoption leave early (curtailment) has been given, it is binding and the leave will end on the date specified in the notice. A mother/primary adopter cannot change their decision to end maternity/adoption leave after notice has been given except in very limited circumstances (see section 5.7.2).

The notice of entitlement must include an indication of when the employee expects to take their leave, although this is non-binding and does not give the employee an entitlement to take the leave. It encourages the employee to think ahead and consider how they might want to take their SPL but they will still need to give their Headteacher a booking notice to take particular periods of SPL (supporting document H) (see section 5.6.2).

Once the mother/primary adopter returns to work, they cannot restart their maternity/adoption leave, however, their SPL leave and pay periods will continue to run in the background. If the mother/primary adopter wishes to opt into SPL and pay after returning to work, they must give at least 8 weeks' notice to end their maternity/adoption pay period and must still be within the 39 week pay period in order to be eligible for ShPP.

Within 14 days of the SPL entitlement notification being submitted by the employee the employer can request that they provide the following information:

- The name and business address of the partner's employer (where the employee's partner is no longer employed or is self-employed their contact details must be given instead);
- For biological parents, a copy of the child's birth certificate (or where one has not been issued yet, a declaration as to the time and place of birth);
- For adoptive parents, 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;
- For parental order parents, a copy of the child's birth certificate (or where one has not been issued yet, a declaration as to the time and place of birth) and a statutory declaration that you intend to apply for a Parental Order within 6 months of the child's birth and that you expect that Order to be made.

In order to be entitled to SPL the employee must provide this information within 14 days of it being requested. This information is requested in the Notice of Entitlement forms (supporting documents E and F) and can be provided at the same time as the form or within 14 days of this date.

#### **4.6.2 Booking shared parental leave (SPL)**

In addition to providing notification of entitlement to SPL, the employee is also required to submit notice to book a period of leave. In most cases, the booking notice will be submitted at the same time as the notice of SPL entitlement form is submitted, as employees are also required to provide 8 weeks' notice of any requested leave.

An employee is only entitled to submit **3 booking notices** during SPL to book leave or to vary a previously agreed pattern of leave. Each of the notifications to book leave may request either a single, continuous block of leave or discontinuous periods of leave.

Where an employee requests to take a single block of leave, the notification cannot be refused.

A request to take a pattern of discontinuous leave can be refused by a Headteacher if they feel it cannot be accommodated e.g. 2 weeks in June, 3 weeks in September and all of November and December in the same notification. The Headteacher will have a 2 week period, starting on the date the booking notice is submitted by the employee, to discuss the pattern of leave requested, propose alternatives and try to reach a compromise regarding the leave if possible.

If a discontinuous pattern of leave is refused and no alternative can be agreed, or if the employee does not receive a response within 14 calendar days, the employee is entitled to take the total number of weeks leave requested on the booking notice as a single continuous block of leave starting on the initial start date of the first period of leave requested by the employee.

If no agreement is reached for discontinuous leave requests the employee has 15 calendar days from the date they submitted their form, to withdraw their request without it counting as one of their booking notices. In addition, the employee has 19 calendar days from the date they submitted their form to change the start date of the continuous period of leave. If the employee does not choose a start date, then the leave will begin on the first leave date requested in their original notification.

Employees should use supporting document H to book a period or periods of SPL.

#### **4.7 Changing leave arrangements**

##### **4.7.1 Request to vary previously agreed SPL**

An employee can change an agreed period of SPL providing they give their Headteacher 8 weeks' notice of the variation. Any notice to vary previously agreed leave counts towards the total entitlement of 3 booking notices.

Employees should use supporting document H to vary a period or periods of SPL.

##### **4.7.2 Revoking notice to curtail maternity/adoption leave**

Once an employee has given notice to end (curtail) their maternity/adoption leave, they may only withdraw (revoke) the notice if:

- They have not already returned to work;
- the end (curtailment) date has not passed.

and where one of the following circumstances applies:

- it is discovered in the 8 weeks following the notice that neither the mother/primary adopter nor their partner has any entitlement to SPL or ShPP;
- in the event of the death of the partner;
- if the notice was given before birth and the mother withdraws her maternity leave curtailment notice in the six weeks following the birth (maternity only).

If an employee revokes their notice in the first two circumstances above, there is no further opportunity to opt into SPL at a later date for the same child. In the third circumstance, the employee will be able to opt into SPL at a later date in line with the usual notification requirements.

Where an employee withdraws (revokes) their notice to end their maternity leave within 6 weeks of the birth, their partner/child's father's entitlement to SPL will cease with immediate effect. The partner/child's father must notify the Headteacher that they are no longer entitled to SPL, however, their Headteacher may require them to be absent for up to 8 weeks to enable them to stand down any cover arrangements that have been put in place. During this time, the employee's absence will still be treated as SPL, even though there is no entitlement. During this time, the employee will no longer be entitled to ShPP, therefore the absence will be unpaid.

If an employee who is the partner/child's father has already taken some SPL and pay when the mother/primary adopter revokes their notice to curtail their maternity/adoption leave, the School will not seek to recover the payment as they were entitled to it at the point it was taken. However, if the mother/primary adopter opts into SPL at a later date, the SPL and ShPP already taken will be deducted from the remaining total available.

The employee must inform their Headteacher in writing if they wish to revoke a notice to curtail their maternity/adoption leave.

## **4.8 Special circumstances**

### **4.8.1 Premature birth**

If an employee has booked a period of SPL to start within 8 weeks of the child's EWC, the employee can take the leave and pay after the actual birth if they wish. The employee will need to give their Headteacher notice to vary the SPL that they originally applied for as soon as practicable following the birth.

If an employee has not booked a period of SPL and the child is born 8 weeks or more before the EWC, they can book a period of leave to start within 8 weeks of the actual birth providing they give notice as soon as reasonably practicable after the birth.

Any changes required to leave that is planned after 8 weeks following the birth would be subject to the usual 8 weeks' notice, irrespective of the child having been born early.

#### **4.8.2 Maternal, paternal or infant death**

If the mother/primary adopter dies without having taken any maternity/adoption leave or pay, the full 52 weeks of leave and 39 weeks of pay will be available as SPL and pay. If the mother/primary adopter dies after they have already taken some maternity/adoption leave or after they have curtailed their maternity/adoption leave, the amount of SPL available for the partner/child's father will be 52 weeks leave/39 weeks pay minus the number of weeks leave already taken. Where the mother has died, the requirement for the partner to give 8 weeks' notice of entitlement and to book SPL initially will not apply. Should the partner choose not to take the leave in a single continuous block, subsequent notices to take SPL will remain subject to 8 weeks' notice.

If the partner/child's father dies before the mother/primary adopter have curtailed their maternity/adoption leave, they will remain on maternity leave and will no longer be able to opt into SPL. If the death occurs after the mother/adopter has curtailed their maternity/adoption leave but before they returned to work, they can revoke their curtailment notice and revert to maternity leave. Alternatively, they can remain opted in to SPL and all remaining SPL will revert to them. Where the employee has used their 3 notifications of leave, they will acquire a statutory right to a 4<sup>th</sup> notification to book the leave. The 8 weeks notification period will not apply for the first period of leave booked or varied following the partner/child's father's death.

If the child dies before the mother/primary adopter has curtailed their maternity/adoption leave, they will no longer be entitled to opt into SPL. The mother/primary adopter will remain entitled to maternity/adoption leave and the partner/child's father will remain entitled to paternity leave and pay. If the child dies after they have opted in to SPL, they will both be entitled to take the leave and pay that they had already booked. Any entitlement that had not been booked at the time of the child's death will no longer be available.

#### **4.9 Shared parental leave in touch (SPLiT) days**

All employees, taking SPL can participate in up to 20 SPLiT days each without bringing their leave to an end. SPLiT days are not limited to the employee's normal job and can include attending training events, appraisals, meetings, as well as enabling an employee to return to work gradually at the end of their leave.

Any SPLiT days must be mutually agreed, therefore just as an employer cannot insist that work is carried out during a period of SPL, an employee cannot insist on working during the period.

Working any part of a day will count as one full day for the purpose of calculating the number of SPLiT days taken or pay received.

Payment arrangements should be discussed and clearly understood and agreed before any work is undertaken and efforts should be made to ensure both the employee and Headteacher are fully aware of the work to be carried out on the day.

#### **4.9.1 Payment for SPLiT days (Support Staff)**

Payment will be based on the number of hours actually worked on a SPLiT day, paid at their normal rate of pay, offset against any SMP/SAP and/or OMP/OAP received for that day.

#### **4.10 Returning to work following SPL**

Employees are expected to return to work on the next working day after the end date of any period of SPL, unless they inform their Headteacher otherwise. If they are unable to attend work due to sickness the normal sickness absence notification requirements apply. In any other case, later return without prior notice may be treated as unauthorised absence.

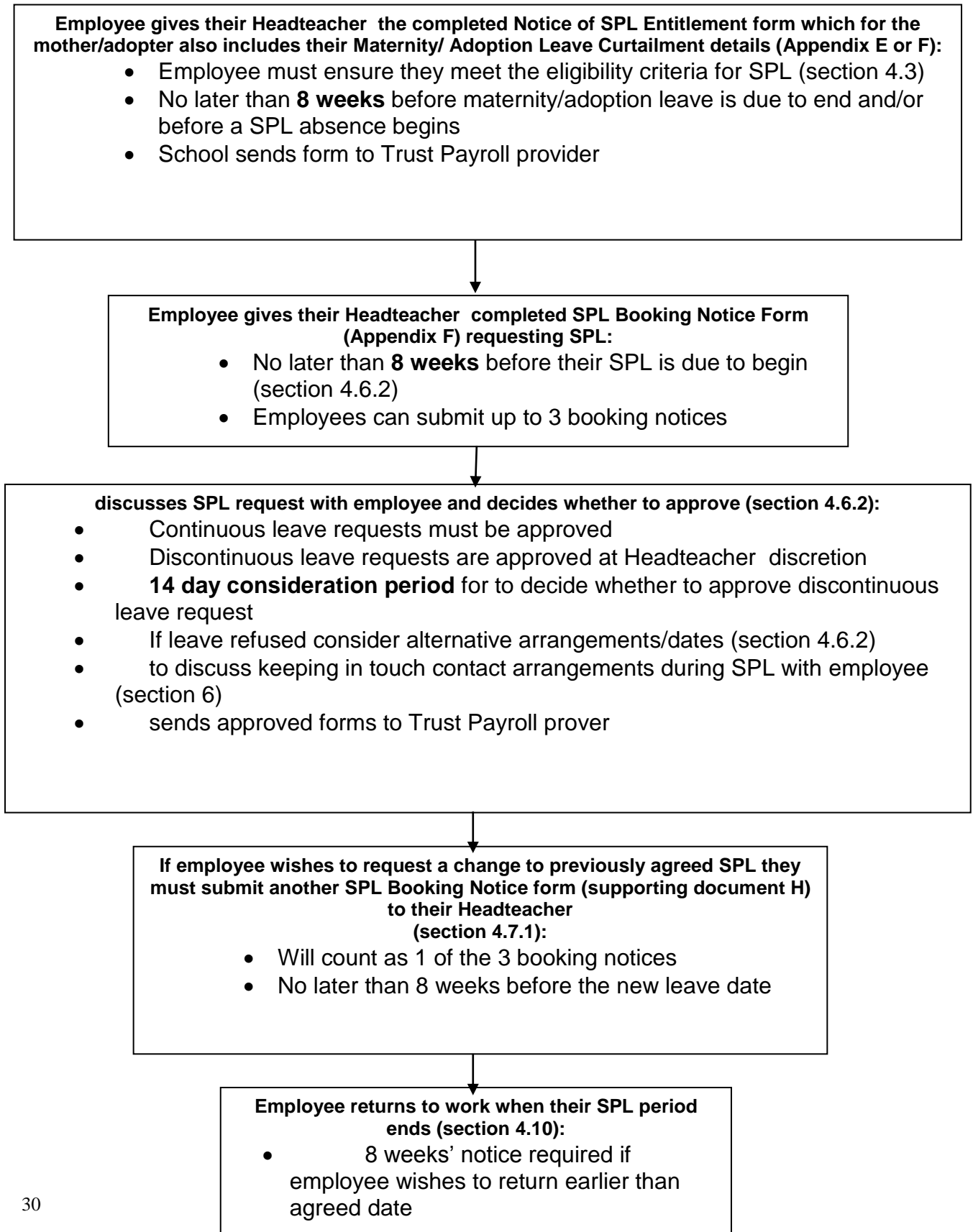
If an employee wished to return earlier than the expected return date, they may provide written notification to vary the leave and must give at least eight weeks' notice of their date of early return. If they have already used their three notifications to book and/or vary leave then the School does not have to accept the notice to return early but may do so if it is considered to be reasonably practicable to do so.

If the employee does not want to return to work after their SPL, they are required to give the School notice in line with their contract of employment.

The Headteacher should ensure they meet with the employee either prior to their return or immediately upon their return to aid their smooth return to the workplace and discuss any particular needs they may have.

#### 4.11 Shared parental leave flowchart/ timeline

This timeline provides a helpful summary of the main times to be aware of where a shared parental leave situation occurs within the workplace.



## 5. Parental Leave

Parental leave is different from Shared Parental Leave and offers support to employees with children aged under 18 years who wish to take unpaid leave to care for their child.

### 5.1 Entitlement

Employees who have been continuously employed with the School for one year are entitled to unpaid parental leave, provided they expect to have responsibility (i.e. parental responsibility) for a child. The leave should be taken before the child's 18th birthday. Employees should be the parent:

- named on the child's birth certificate
- named on the child's adoption certificate

**OR**

- have legal parental responsibility for the child

Eligible employees are entitled to unpaid parental leave of a **maximum of 18 weeks** for each child. Employees may not take more than **4 weeks'** leave in respect of an individual child during a calendar year. The right to take leave applies in relation to each child, including twins or other multiple births. What amounts to "caring for a child" is construed quite widely and could include simply spending more time with the child.

Leave must be taken in blocks of one week. If the child qualifies for a disability living allowance, however, the leave can be taken as single days or multiples of a day.

Both natural and adoptive parents may exercise these rights.

### 5.2 Notice

Employees must give the Headteacher 21 days notice of the date on which they wish their leave to begin. The notice given must specify the intention to take parental leave and the dates on which the period of leave is to begin and end (**See Appendix 2 – example notification form for Parental Leave**).

In addition the School may ask for evidence of an employee's entitlement.

The type of evidence that may be requested should show:

- The employee's responsibility or expected responsibility for the child in respect of whom they propose to take parental leave
- The child's date of birth, or in the case of a child who was placed with the employee for adoption, the date on which the placement began

**AND**

- Where the employee's entitlement depends on whether the child is entitled to disability living allowance (i.e. they wish to take parental leave for a period of less than one week), the child's entitlement to that allowance.

### **5.3 Postponement of leave**

The Headteacher can postpone the parental leave if he/she considers that the employee taking leave at that time would unduly disrupt the operation of the School. The employee must be informed of any postponement within seven days of receipt of the notice of their intention to take leave. The Headteacher must:

- Agree to allow the employee to take the same period of leave at a specified later date
- Consult with the employee about the new start date, which must be within six months of the date originally requested
- Write to the employee confirming the postponement, the reasons for it and the new dates when leave will start and end

Parental leave cannot be postponed if it is being taken on the birth of a child or the placement of a child for adoption.

### **5.4 Returning to work**

If the period of leave is four weeks or less, the employee has the right to return to the same job. If the period is more than four weeks (because it followed on from other statutory leave), the right is to return to the same job. However, if that is not reasonably practicable, the employee has the right to return to a similar job;

- With the same seniority, pension rights and similar rights
- On terms and conditions not less favourable than those which would have applied if they had not been absent

The employee will not to be subjected to any detriment by the School for taking or requesting parental leave.

### **5.5. Bereavement Leave (Parental Bereavement (Leave and Pay) Act 2018)**

Employees may take up to 2 weeks' paid leave, in the unfortunate event of a child passing away when they are under the age of 18. This also applies if an employee has suffered a stillbirth after 24 weeks of pregnancy.

Parental Bereavement Leave can be taken as either a single 2-week block or 2 separate blocks of one week each. The leave can be taken up to the 56th week after the child has passed away.

This leave will be paid the normal rate of pay if the employee has 26 weeks' service.

A week's notice must be given in cases where the leave is not immediately after the death or stillbirth and the notice must include:

- the date of the death or stillbirth;
- the date on which the employee chooses any period of absence to begin; and



- whether the employee intends that period of absence to be a period of one or two weeks' parental bereavement leave.

Employees are entitled to Parental Bereavement leave if they:

- are a biological/birth parent of the child under the age of 18 years; or
- have acquired formal parental responsibility under the Children Act 1989 of the child who is under 18 years old; or
- have adopted the child under the age of 18.

## **6. Communication during leave**

Due to the length of time the employee is likely to be away from their place of work as a result of maternity, adoption or shared parental leave, it is important that the employee discusses the way in which they would like their Headteacher to communicate with them during their leave.

This contact should not be about engaging in any work, but simply about keeping the employee up to date with any workplace developments, vacancies and training opportunities that may arise during the course of their leave. Towards the end of their leave, the Headteacher may wish to discuss return to work arrangements or the employee may wish to discuss the possibility of flexible working. Further information on the right to request flexible working can be found in the Trust's Flexible Working Policy.

## **7. Terms and conditions during leave**

An employee on maternity/adoption leave or SPL is entitled to return to the job in which they were employed under their original contract of employment on terms and conditions not less favourable than those that would have applied if they had not been absent. Where it is not possible for the employee to return to their original job, due to restructure or redundancy, the School must offer a suitable alternative vacancy where one exists.

### **7.1 Annual leave**

Employees will continue to accrue annual leave during both their OML and AML. Where possible all leave should be taken in the current leave year but a maximum of 5 days can be carried forward to the following year and must be taken by 31<sup>st</sup> May.

Employees whose ML spans two years are usually able to carry over 5 days of leave (pro rata for part time employees) in the normal way. In exceptional circumstances provisions can be made to allow employees to carry over any excess leave in to the following leave year, for example if it is agreed that an employee is unable to take all of her annual leave in the leave year in which she commences her ML she will be allowed to carry it over. For employees not returning to work, annual leave will be calculated up to the last day of employment.

Employees should therefore plan to take leave before commencement of ML and may wish to request some leave at the end of the ML period. If an employee does not return to work for a period of at least three months after ML, then any leave taken to which she was not entitled to will be reclaimed.

## **7.2 Annual Leave calculations for Term Time Only staff**

Employees who take maternity leave must be able to take their contractual leave entitlement (including bank holidays) at a time outside of their ordinary and additional maternity leave.

Due to the way that term-time only employees are contracted and paid, issues around taking annual leave accrued during maternity leave can be complex. To ensure they have received their full contractual and statutory entitlements to leave it may be necessary for term-time only workers to take leave during term-time or to pay them additional leave during school closure periods.

An employee should not receive payment in lieu of untaken annual leave unless she does not return to her job following maternity leave. This will be calculated on a pro rata basis for the leave year in question. However, it should be noted that if an employee does not return to her job she may be required to refund any OMP paid - this may be offset by payments due in respect of holiday pay.

Teaching staff do not have an annual leave entitlement included within their terms and conditions of service. Therefore, the statutory entitlement of 5.6 weeks per year (including Bank and statutory holidays) will be considered to apply for any calculations relating to annual leave. As teachers receive full pay during all school closure periods, any such periods will be counted towards their statutory entitlement. For teaching staff the leave year runs from September to August.

## **8. Pensions**

During maternity, adoption, paternity or shared parental leave, the employee pays pension contributions on the actual payment received, therefore the employee's service during this period counts in full, as contributions are paid.

During any period of maternity, adoption, paternity or shared parental leave where no pay is received, the employee will make no pension contributions and therefore the employee's service during this time does not automatically count for pension purposes. The employee can choose to pay contributions to cover this period and therefore maintain their service, however, this decision must be made within 30 days of either the return to work or the end of the employee's employment, whichever comes first.

Further guidance can be obtained from the Pensions team by contacting either the LGPS or Teacher's Pension.

## **9. Further information**

### **9.1 Confidentiality**

All information will be handled sensitively and in line with the General Data Protection Regulations (GDPR) 2018.

### **9.2 Dealing with abuses of the policy**

Employees who attempt to abuse this policy may face disciplinary action. The School takes false or misleading accusations very seriously which may result in further action taken through the disciplinary procedure. This will not include ill-founded allegations that were made in good faith.

The School can, where there is a suspicion that fraudulent information has been provided or where the School has been informed by the HMRC that a fraudulent claim has been made, investigate the matter further through the disciplinary procedure without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act.

### **9.3 Publicising/distribution of the policy**

A copy of this policy is available from the School. New employees will be informed of the existence of this policy in corporate induction information.

### **9.4 Reviewing the policy**

The operation of this policy will be kept under review and such changes will be made to the policy as deemed appropriate following necessary consultation with the trade unions.

**Appendix A - Notification of Maternity Leave Form**

This form should be completed by any employee taking maternity leave at least 28 days before your absence begins, or as soon as is reasonably practicable, and passed to the CEO/Headteacher .

Personal Details		
Name	Payroll Number	
Post Title		

Maternity pay/leave
Expected Week of Childbirth:
Start Date of Maternity Leave:
At the beginning of the 11 <sup>th</sup> week before the EWC I have: <b>*choose one option</b>
1 Less than one year’s continuous local government service and have average weekly earnings below the Lower Earnings Limit for National Insurance purposes, therefore, may be entitled to Maternity Allowance*
2 Less than one year’s continuous local government service, but 26 weeks’ continuous local government service by the end of the 15 <sup>th</sup> week before the EWC and have average weekly earnings above the Lower Earnings Limit for National Insurance purposes, therefore please pay SMP only*
3 At least one year’s continuous local government service but DO NOT intend to return to work therefore please pay SMP but do not pay Occupational Maternity Pay*
4 At least one year’s completed continuous local government service and intend to return to work for at least 3 months, therefore please pay my Occupational Maternity Pay during my maternity leave period (offset by MA/SMP)*
5 At least one year’s continuous local government service and intend to return to work for at least 3 months, but don’t want my Occupational Maternity Pay until I return to work, therefore please pay me SMP as relevant*

**Pension (LGPS only)** \* choose one option

I wish to elect to pay pension contributions during my unpaid maternity leave and will make arrangements to do so on my return.

I do not wish to elect to pay pension contributions during my unpaid maternity leave period

**Signed:**

**Date:**

**Appendix B - Notification of Adoption Leave Form**

The main adopter should complete this form. Completion of the form should be within 7 days of being notified by the Adoption Agency that a child or children is available for adoption and the adoptive parent(s) have agreed to the adoption placement, or as soon as is reasonably practical.

Personal Details		
Name	Payroll Number	
Post Title		

Notification details of Adoption Leave			
Date of placement			
Adoption <b>Leave</b> requested from		to	
Adoption <b>Pay</b> requested form			
Adoption <b>Pay</b> Entitlement (please tick): <input checked="" type="checkbox"/>			
39 weeks' Statutory Adoption Pay (Employee must have 26 weeks' continuous service ending in the week in which the child is matched for adoption to qualify for SAP). Employees must give 28 days' notice before they want to be paid SAP, unless the time between the child being matched and placed is less than that.			

Declaration
<p>I can confirm that I am the main adopter of a child(ren) being legally adopted through an adoption agency.</p> <p>If I wish to change the date that my adoption leave will start I will inform the Trust at least 28 days before I originally intended to start my leave, <b>or</b> 28 days before the revised date (or as soon as reasonably practical.)</p> <p>I enclose / will forward details of any relevant documents relating to the adoption requested by the Trust.</p> <p>I agree to the conditions of the Adoption Leave scheme and understand that to give false or misleading information can result in disciplinary proceedings, which could in turn result in my dismissal.</p>

Signed:

Date:

### Appendix C - Paternity Leave Application Form

Personal Details		
Name	Payroll Number	
Post Title		

*[Select from the options below and delete as appropriate]*

Expected week of birth	
Actual date of birth	

*[OR]*

Date matched for adoption	
Date placed for adoption	

Length of service at the end of the 15 <sup>th</sup> week before the <i>[delete as appropriate – expected week of birth/date matched for adoption]</i>	
--	--

I declare that I am (please tick as appropriate):

- the biological father of the child
- married to the child’s mother
- the civil partner of the child’s mother
- the cohabiting partner of the child’s mother

OR

- married to the person adopting the child
- the civil partner of the person adopting the child
- the cohabiting partner of the person adopting the child

and I am adopting jointly and have elected to receive statutory paternity leave and pay.

I declare that:

- I expect to have the responsibility for the upbringing of the child.
- The purpose of my paternity leave and entitlement to paternity leave pay is to take care of the child and support *[insert relationship]* during the paternity leave period.
- To my knowledge I am the only person exercising the right to entitlement to take paternity leave in respect of this child.
- I satisfy the eligibility conditions for paternity leave and that all the information provided in my written request for paternity leave are correct.

*[Select from the options below and delete as appropriate]*

I acknowledge and agree that I must give notice of my intention to take paternity leave at least 15 weeks before the expected week of confinement.

*[OR]*

I acknowledge and agree that I must give notice of my intention to take paternity leave seven days after the date the adopter was notified of having been matched with the child.

I also consent to my employer processing the information contained in this declaration.

**Signed:**

**Date**

**Appendix D - Maternity/ Adoption support leave application form**

*Section A*

Personal Details			
Name		Payroll Number	
Job Title			

*Section B*

<p><b>Name of Expectant Mother/ Adopter:</b></p> <p><b>Your Relationship to the above:</b></p> <p><b>Expected Week of Childbirth/ Date of placement:</b></p>
--

*Section C*

<p><b>Date(s) Leave is Requested</b></p>
--

*Section D*

<p><b><u>To be completed by the person named in Section B</u></b></p> <p><i>I hereby declare that the person named in Section A above is the only person whom I have nominated as my carer to assist in the care of my child and provide support at or around the time of the birth/ placement.</i></p> <p><b>Signed</b></p> <p><b>Date</b></p>
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*Section E*

<p><b><u>To be completed by the applicant (outlined in Section A above)</u></b></p> <p><i>I declare that the above statement is true and accurate to the best of my knowledge. I understand that to give false or misleading information can result in disciplinary proceedings, which may lead to dismissal.</i></p> <p><b>Signed</b></p> <p><b>Date</b></p>
---

All sections of this form must be completed and a copy of the expectant mother's MATB1 or adopters placement certificate should be attached before returning to the Headteacher

## Appendix E - Maternity/Adoption Leave Curtailment Notice and Notice of Shared Parental Leave Entitlement Form

If you wish to take shared parental leave, then you must submit this form to the Headteacher before any maternity/adoption leave ends and at least **8 weeks** before the start of the first period of shared parental leave.

### Basic Details

Employee Name:	
Date on which mother or main adopter commenced (or will commence) maternity / adoption leave:	
I am the: (Please tick one of the below) Mother of the child Main Adopter of the child Other parent of the child Mother/Adopters partner	

### Notice of curtailment of maternity / adoption leave

Please complete this if you are the **mother or main adopter**. If on maternity/adoption leave, this date must be at least two weeks after the birth/adoption of your baby.

I wish my maternity / adoption leave to end on the following date:	
Signed:	Date:

Please complete this if you are the **partner** of the mother or main adopter.

I confirm my partner's maternity / adoption leave ended / will end on the following date:	
---	--

### Shared Parental Leave Details

Maximum number of weeks of shared parental <b>leave</b> available (52 weeks minus the number of weeks taken on maternity/adoption leave according to the above dates i.e. minus 2 weeks compulsory maternity/adoption leave)	
Maximum number of weeks of shared parental <b>pay</b> available (39 weeks minus the number of weeks maternity/adoption pay according to the above dates)	
Number of weeks of shared parental leave / pay <b>you</b> intend to take	
Number of weeks of shared parental leave / pay the <b>other parent/partner</b> intends to take	

### Requested Shared Parental Leave / Pay Dates

Start date	End date	Number of weeks leave	Number of weeks pay (if applicable)



The above dates do not constitute a formal binding request at this stage. However if you wish them to do so please indicate "Yes": Yes / No

If you indicate "No", then please complete **FORM B - Notice to Take or Vary a Period of Shared Parental Leave** for each period of leave requested at least **8 weeks** before the period of SPL is due to start.

#### Declarations

##### By the Employee

Please confirm your eligibility by ticking the appropriate boxes below and signing the form

- I am the mother, father, or main adopter of the child and will share the care of the child with my partner named below
- I meet the eligibility criteria for shared parental leave

If appropriate:

- I meet the eligibility criteria for shared parental pay
- I am the mother or main adopter and have completed the **notice of curtailment of maternity / adoption leave** section and understand that this is **binding** subject to certain conditions outlined in the policy
- I consent to you retaining and processing the information contained in this form

Signed:

Date:

**Appendix F - Shared Parental Leave Booking Notice Form**

You should complete this form if you wish to request a period of shared parental leave / pay, or to vary a previously approved period.

The notice must be given **at least eight weeks** before the date the SPL is to be taken or if varying SPL at **least eight weeks** before the new date of the SPL. You should also have submitted a **Notice of Entitlement and intention to take Shared Parental Leave (FORM A)** and have had your eligibility for shared parental leave confirmed.

You are entitled to request a maximum of three variations of leave; therefore this request will count as one of those requests.

<b>Name of Employee</b>	
<b>Name of Partner</b>	

**Requested Shared Parental Leave / Pay Dates**

<b>Start date</b>	<b>End date</b>	<b>Number of weeks leave</b>	<b>Number of weeks pay (if applicable)</b>

**Request to Vary Previously Requested Parental Leave / Pay Dates**

<b>Previously Approved Start date</b>	<b>Previously Approved End date</b>	<b>Detail the change you would like to request</b>

**We confirm that we agree to the request / variation outlined above.**

**Signed: (Employee)**

**Date:**

**Signed: (Employee's Partner)**

**Date**