

**HORSLEY WOODHOUSE  
PRIMARY SCHOOL  
MATERNITY PATERNITY  
ADOPTION AND  
PARENTAL LEAVE  
POLICY**

**Headteachers & Chairs of  
Governors**

Dear Colleagues

Maternity, Paternity, Parental and Adoption Leave Schemes

An updated maternity, paternity, parental and adoption leave schemes document is attached for consideration by Headteachers and Governing Bodies.

The purpose of this revision has been to incorporate the recent national changes in the entitlements to such leave and pay schemes. In particular a new section on Shared Parental leave has been added. The document also includes the relevant updates to any associated administrative procedures.

This guidance has been presented to the recognised Professional Associations and Trade Unions at Schools' Joint Consultative Committee (SJCC) for consideration. At this stage revisions to the document have been confined to reflecting the statutory changes. The guidance has been issued now in order to support schools in implementing and managing the entitlements available to relevant employees.

There is continuing consultation and negotiation through SJCC on areas of Derbyshire County Council policy that are contained in Maternity, Paternity, Parental and Adoption Leave Schemes. Should amendments to policy or procedures be agreed as a result of consultation there will be a further update of the document later in the academic year.

Colleagues are reminded that the paragraphs relating to these leave schemes in the Authorised Leave of Absence policy were replaced by the separate publication, Maternity, Paternity, Parental and Adoption Leave Schemes some years ago.

Should you have any queries please contact CAYA Advice and Guidance team on 01629 535734 or the Shared Services Centre as appropriate.

Yours faithfully



Emma Crapper  
HR Service Partner CAYA



# Maternity, Paternity, Parental and Adoption Leave Schemes

# Advice and Guidance

Date of Issue	September 2012 (Revised June 2015)
To	Chairs of Governors and Headteachers of all Schools.
Purpose of Document	To inform Headteachers and Governors of the revised Maternity/Paternity/Parental and Adoption leave schemes.
Summary of Main Points	<p>This agreement replaces the previous agreement in the LA Personnel Handbook.</p> <p>The amendments to the previous agreement take account of revised legislation, recommended good practice, reflect recent case law and how instances of teachers' accrual of annual leave should be accommodated.</p> <p>This document relates to Conditions of Service issues and is, therefore, available to all schools at no cost as part of the LA's Personnel Handbook.</p>
Contact/ Further Information	CAYA HR Advice and Guidance Service on 01629 535734

# DERBYSHIRE LA

## Maternity, Paternity, Parental and Adoption Leave Schemes

### HORSLEY WOODHOUSE PRIMARY SCHOOL

#### Schemes

	Page No
<b>1. Introduction</b>	<b>4</b>
1.1 Scope	
1.2 Risk assessment	
<b>2. Maternity Leave</b>	<b>5</b>
2.1 Notes on maternity leave	
2.2 Sickness	
2.3 Annual leave and bank holiday – support staff	
2.4 Annual leave and bank holiday – teachers	
2.5 Time off for Antenatal care	

<b>3. Maternity Pay</b> 3.1 Benefits, statutory maternity pay (SMP) 3.2 Notes on maternity pay 3.3 Maternity Allowance/Non-qualification for SMP 3.4 Pensions 3.5 Application for Maternity leave	<b>7</b>
<b>4. Returning to work</b> 4.1 After the birth 4.2 Right to return 4.3 Failure to return 4.4 Protection against detriment or dismissal 4.5 Interruption of work 4.6 Keeping in touch days Maternity leave plan Notification of maternity model letter	<b>9</b>
<b>5. Adoption</b> 5.1 Leave entitlement 5.2 Pay 5.3 Applying for Adoption Leave 5.3.1 Notes on adoption leave 5.4 Keeping in Touch Days 5.5 Return to work 5.6 Pensions Notification of adoption model letter Maternity leave/Adoption leave Flowchart	<b>14</b>
<b>6. Paternity Leave</b> 6.1 Ordinary Paternity Leave 6.2 Notification of Ordinary Paternity Leave 6.3 Ordinary Statutory Paternity Pay 6.4 Additional Paternity Leave	<b>26</b>
6.5 Notification of Additional Paternity Leave 6.6 Additional Statutory Paternity Pay 6.7 Returning to Work After Additional Paternity Leave 6.8 Keeping in touch days 6.9 Rights on and After Return to Work 6.10 Pensions Paternity Leave Application Form	

<b>7. Parental Leave</b>	<b>26</b>
7.1 Eligibility	
7.2 Notes on parental leave	
7.3 Applying for Parental Leave Parental Leave Application Form	
<b>8. Shared Parental Leave</b>	<b>29</b>
8.1 What is Shared Parental Leave?	
8.2 How Will Shared Parental Leave Operate?	
8.3 Continuous and Discontinuous SPL	
8.4 Eligibility	
<b>9. SPL Guidance for Headteachers and Governing Bodies</b>	<b>31</b>
9.1 When does SPL take effect?	
9.2 What notice must employees give if they intend to take SPL?	
9.3 Can I refuse a request to take SPL?	
9.4 Can I insist on evidence that an employee is entitled to SPL?	
9.5 Can an employee take SPL if his/her partner is self-employed?	
9.6 Can same sex couples take SPL?	
9.7 Are parents entitled to SPL if their baby is due before 5 April 2015 but is born on or after that date?	
9.8 Can employees on SPL take Keeping in Touch days?	
9.9 Do employees receive statutory pay while on SPL?	
<b>10. Employee Guidance on Shared Parental Leave</b>	<b>34</b>
10.1 Eligibility - Shared Parental Leave	
10.2 Eligibility - Shared Parental Pay	
10.3 Will SPL work for you?	
10.4 How much leave and pay am I entitled to and when can I take it?	
10.5 What happens to my pension when on SPL?	
10.6 How do I apply?	
<b>Notice of Entitlement and Intention to take Shared Parental Leave and Pay</b>	<b>37</b>
Model letters for use in connection with SPL	

## INTRODUCTION

A good employer recognises the value of its employees and aims to retain the skills and experience of employees in the workforce who have caring, as well as work, responsibilities. In addition there are statutory duties placed on the employer. These guidelines reflect recent legislation, case law and how instances of teachers' accrual of annual leave should be accommodated. The statutory rights fall into the following areas:

- Maternity Leave
- Maternity Benefits
- Time off for Antenatal Care
- Protection against detriment or dismissal
- Paternity Leave & pay
- Parental Leave
- Adoption Leave

## 1.1 Scope

These procedures apply to all employees of the school who qualify.

## 1.2 Risk Assessment

The Management of Health and Safety at Work Regulations 1999 requires risk assessments to be undertaken for all pregnant employees to identify if any hazards exist within the workplace that could affect them or their baby.

Where unacceptable hazards are found, corrective action will be taken wherever possible to protect the pregnant employee. If this is not possible further or other measures may be required. All pregnant employees should receive a copy of the Risk Assessment form within 14 days of notification to the Headteacher of the impending birth. Schools purchasing the traded service can obtain a risk assessment form from the Children & Younger Adults Dept (CAYA) Health & Safety (H&S) section via the Extranet.

It is important that employees inform the Headteacher as soon as they become aware that they are pregnant so that a risk assessment can be carried out for them. Any concerns regarding their routine should be discussed immediately with their Headteacher.

Upon notification of an employee being pregnant they should be informed of the flexible working application form in the Leave of Absence policy. Full guidance on applying for flexible working can be found at attached link: [Authorised Leave of Absence Policy](#) .

The Risk Assessment form can be found on the CAYA Health & Safety section of the Extranet.

- Provision should be made to allow the pregnant employee to take rest periods when possible.
- Follow any advice given to the pregnant employee by her GP, midwife or any other appropriate medical adviser.
- The pregnant employee should keep school management informed of any changes to her condition or that of her unborn child.
- Review the risk assessment periodically throughout the pregnancy and for six months after the birth, in particular if there is a significant change in the health and condition of the pregnant worker or her unborn child.

- The risk assessment should remain in place for six months following the birth.

## 2. MATERNITY LEAVE

All employees, regardless of hours of work or length of service are entitled to **52 weeks'** statutory maternity leave comprising 26 weeks ordinary maternity leave (OML) and 26 weeks additional maternity leave (AML). Please see section 8 onwards for information on Shared Parental Leave.

### 2.1 Notes on Maternity Leave

- Maternity leave can start on any day.
- The earliest date is 11 weeks (at 29 weeks pregnant) prior to the expected week of childbirth (EWC). This is the week in which the baby is due and is the week that contains the date the doctor has said that the baby will be born.
- The latest date maternity leave commences is the day after the birth, if the baby is born earlier than expected.
- If the employee is sick and absent from work with a pregnancy related illness within 4 weeks before the baby is born, maternity leave will commence automatically on the day after the first day of absence.
- There is 2 weeks' compulsory maternity leave for all employees immediately following the birth.
- In the unfortunate event of a stillbirth, the employee is entitled to the full provisions of the maternity leave scheme, if this has occurred after 24 weeks of pregnancy. If earlier, then the Governors may grant time off under the provision of the Special Leave Scheme. Support may be provided through the Employee Counselling Service. Purchase of the Local Authority's HR Advice and Guidance Service automatically entitles schools to access this. Other schools may purchase the Welfare service separately.

### 2.2 Sickness

Any period of Maternity Leave is not sick leave and will not be taken into account when calculating sick leave entitlements. If an employee is absent due to sickness, other than pregnancy related, the normal sickness provisions will apply. Providing the employee complies with the normal sickness scheme provisions which apply to their post, the employee's absence will then be treated like that of any other employee who is unable to attend work due to sickness.

### 2.3 Annual Leave and Bank Holidays – Support Staff



Staff who have an annual leave entitlement, e.g. caretakers, accrue bank holidays and annual leave during maternity leave and can either carry it forward or use it for a paid period of deferral to return to work. Staff should discuss how and when they will take their annual leave entitlement.

Staff who are employed term-time only are paid the proportional amount of annual leave with their salary each month and this forms part of their maternity pay calculation. There is therefore no accrual of annual leave during their period of maternity leave.

## 2.4 Annual Leave and Bank Holidays - Teachers

Teachers do not have a 'contractual' entitlement to annual leave; they do however have a 'statutory' right under the Working Time Regulations to minimum leave entitlements. The leave year for teachers would be from 1 September until 31 August. With effect from 1<sup>st</sup> April 2009 this entitlement is 28 days (5.6 weeks and is inclusive of Bank Holidays).

**This is not an entitlement to annual leave on top of the current school closure arrangements. Local Authorities have been advised by the 'Local Government Employers' that: -**

- A teacher who takes maternity leave must be able to take the 28 days statutory annual leave **outside of her maternity leave.**
- This annual leave **can be offset** by any period of school closure during the leave year in question i.e. both before and after the maternity leave period.
- Teachers are advised prior to commencing maternity leave of the entitlement to 28 days' annual leave to be taken either before or after the maternity leave, during school closure periods. On her return from maternity leave, outstanding leave can be taken in term time during that leave year if there are insufficient school closures to accommodate her leave in that year. As the leave year in Derbyshire runs from 1 September to 31 August a teacher returning from leave prior to the end of the leave year will be able to take their leave during the summer school closure, in view of this it is not anticipated any teacher will take leave during term time.
- Where return from maternity leave is so close to the end of the leave year that there is not enough time to take all her annual leave, it can be carried forward to the following leave year and be taken during the remaining periods of school closure, after the 28 days' annual leave for that year has been accommodated.

Pay in lieu of annual leave not taken can only be made where employment terminates i.e. usually only if a teacher does not return to her job following maternity leave (pay in lieu would be based on Annual Leave Entitlement for the proportion of the year worked minus the 'annual leave' – school closure periods - taken that year prior to the termination date)

## 2.5 Time Off for Antenatal Care

All pregnant employees are entitled to paid time off for antenatal care, including relaxation,

'parent craft' classes and medical examinations.

An employee can be requested to show a certificate from a registered medical practitioner or midwife confirming the pregnancy and an appointment card.

### **3. MATERNITY PAY**

**3.1 Maternity Pay** – Up to a maximum of 39 weeks (9 months), dependent upon eligibility for Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP).

- This is SMP of 6 weeks at 90% of earnings.  
In the case of teachers, they will be paid full pay for the first 4 weeks of maternity leave and 2 weeks at 90% pay, if they meet the service requirements for occupational maternity pay.
- + 12 weeks (weeks 7 to 18) at half pay OMP plus SMP (providing this does not exceed normal full pay);

The eligibility for 12 weeks' occupational maternity pay at half pay is dependent on being employed in local government service for 52 weeks by the 11<sup>th</sup> week before the expected week of childbirth (at week 29 of the pregnancy they have been employed for 1 year or more).

The 12 weeks' half pay is paid if the employee is returning to work for at least 3 months (13 weeks). This period applies even if a full-time employee successfully applies for a reduction to part-time working on their return. If you are unsure whether you intend to return to work you can opt to have the half pay frozen and paid at a later date.

- + 21 weeks at SMP (weeks 19 to 39).

Eligibility for SMP is dependent on being employed continuously for at least 26 weeks (6 months) by the 15<sup>th</sup> week before the expected week of childbirth (week 25) and the employee must earn, on average, at least equal to the lower earnings limit for National Insurance purposes 8 weeks prior to this date (between weeks 17 to 25).

### **3.2 Notes on Maternity Pay**

#### ***Childcare Vouchers***

- Maternity pay will be reduced if childcare vouchers are used during this period. Details relating to childcare vouchers are available through HR from the Local Authority. Childcare vouchers offer national insurance and tax deductions from your childcare costs.

#### ***Pay Award***

- Both statutory and occupational payments are recalculated to reflect pay awards where necessary.

#### ***Low Income***

- Employees on a low income may also qualify for a SureStart Maternity grant. Form SF100 SureStart is available from the Jobcentre Plus and this grant may be claimed from week 29 of the pregnancy or no later than 3 months after the child's birth. (A SureStart Maternity grant is available if you are expecting your first child or you are expecting a multiple birth and already have children in the family.)

Where an employee has more than one contract, Occupational Maternity Pay will be paid on the aggregated earnings of the contracts. In the case of Statutory Maternity Pay (SMP) this will be aggregated only if pay is aggregated on the contracts. If pay is made separately on each contract, then entitlement to SMP will be determined on each contract.

### **3.3 Maternity Allowance/Non-Qualification for SMP**

Employees not eligible to receive SMP may be entitled to claim Maternity Allowance (MA) from the Department for Work and Pensions (DWP), through Job Centre Plus:

- The 12 weeks' half pay OMP (weeks 7 to 18) will be paid in addition to any Maternity Allowance, provided it does not exceed full pay. The first 6 weeks' pay is less Maternity Allowance.

The LA will provide a form, SMPI, to submit to Job Centre Plus, confirming the reason why SMP is not payable.

### **3.4 Pensions**

The Employer will pay pension contributions throughout Ordinary Maternity Leave (OML) whether or not an employee received any pay.

Members of the local government pension scheme will pay contributions on any pay or allowances received (up to 39 weeks of SMP)

An employee will pay contributions based on her actual pay. If she does not qualify for SMP and receives no pay, then no contributions will be payable.

This period of service counts as reckonable for pension purposes. If the employee has any unpaid Additional Maternity Leave, it will not be reckonable for pension purposes. Employees can opt to pay arrears of contributions in order for this period of unpaid leave to count but they would need to arrange this within 30 days of their return to work.

### **3.5 Application for Maternity Leave**

(See Flowchart p18)

- The employee must inform the Headteacher as soon as possible that they are pregnant and she/he will carry out a risk assessment. On the Schools' Extranet there is a form available from CAYA Health and Safety section and advice available to schools purchasing the LA traded service.

The Headteacher may request support from Occupational Health. .

- The employee must notify the headteacher in writing when the baby is due and when they wish to commence maternity leave (see Maternity Plan on p11). This should be as early as possible but by the end of the 15<sup>th</sup> week before the expected week of childbirth (qualifying week) at the latest (week 25). The employee will also need to submit a MAT B1 (issued at Ante-natal clinic at approximately week 26) to the headteacher.
- Headteachers need to send the form to HR Shared Services Centre (where the school purchases HR Transactional service from the authority) and a response will be sent to the employee within 28 days, informing them when they are due back at work. The employee must return the slip on this letter to confirm maternity leave to the HR Shared Services Centre (where the school purchases the service).
- Prior to commencement, the employee should discuss and agree with the headteacher the type and frequency of contact they prefer while on maternity leave. For instance the headteacher may wish to contact the employee to inform her of training opportunities, significant developments, promotional opportunities and vacancies that occur.

## 4. RETURNING TO WORK

### 4.1 After the Birth

The baby's birth needs to be registered within 42 days of the birth at a register office. Employees can then claim Child Benefit and the claim should be made within 3 months of the birth.

The employee has the right to return to their existing post after taking ordinary maternity leave (up to 26 weeks).

- Prior to going on maternity leave, there is no longer a requirement for an employee to advise if and when she is returning to work. However, you may wish to discuss her intentions during routine contact.
- The employee can opt to return to work earlier than planned from maternity leave but she will need to provide a minimum of 21 days' notice<sup>1</sup> and ideally provide as much notice as possible. The employee cannot return to work within 2 weeks of giving birth.

Only when an employee wants to come back to work **before** the end of the **26 weeks**

---

<sup>1</sup> Legislation has extended this notice period to 8 weeks but in accordance with the National Conditions of Service for Local Government employees and Conditions of service for school teachers in England and Wales this remains at 21 days

ordinary maternity leave (OML), should she advise her Headteacher, **3 weeks** prior to early return.

In the case of Additional Maternity Leave, (AML), which starts at the end of OML for *up to 26 weeks* a Headteacher can write **21 days** before the end of OML asking for confirmation of the child's date of birth and asking whether she intends to return to work after AML. Employees have the right to return to their original job after taking AML, unless this is not reasonably practicable. In which case, the employee will be offered suitable alternative employment on no less favourable terms than the original post.

## **4.2 Right to Return**

If a redundancy situation exists and the employee is unable to return to work, a suitable alternative vacancy, where one exists, will be offered. If a re-organisation has taken place, this might necessitate a change in job to the one occupied prior to maternity leave. During maternity leave employees will be made aware of any potential changes which may affect their working arrangements.

The employee has the right to request flexible working. Every consideration will be given to flexible working arrangements and support facilities, subject to service delivery needs. In certain circumstances, there may be a need to offer a suitable alternative post or duties in the same school. Governors should be aware that a refusal to allow flexible working following a return from maternity leave may result in a claim of indirect sexual discrimination. There is a right to appeal if the initial request is refused. (Procedure and forms for requesting flexible working are located in the Authorised Leave of Absence Policy)

In any of the above situations, the position, location, terms and conditions of the alternative post should be no less favourable than prior to maternity leave.

Once an initial request for flexible working has been made, a further request may only be made after a 12 month period.

If the employee is still breastfeeding when she returns to work she will need to notify the Headteacher, who will carry out a risk assessment and discuss appropriate arrangements with her.

## **4.3 Failure to Return**

As the contract of employment continues throughout the maternity leave the contract can only be terminated by dismissal or resignation. It is important that an employee is aware of the date on which she must return and the consequence of failing to do so. Any failure to return is an unauthorised absence and should be dealt with as such.

An employee may postpone her return to work after the end of maternity leave through sickness for up to 7 days by self-certification. A medical certificate will be needed thereafter.

## **4.4 Protection against Detriment or Dismissal**

- Any dismissal or selection for redundancy relating to a pregnancy is automatically unfair.
- It is unlawful for an employee to suffer detrimental treatment at work throughout pregnancy, i.e. from notification to the end of the leave period.
- Any employee dismissed during pregnancy, or on maternity leave, will be entitled to receive written reasons for dismissal.

#### 4.5 Interruption of Work — (i.e. Industrial Action)

An employee may delay her return to work in a situation where because of industrial action or some other reason work is interrupted - she may instead return when work resumes or as soon as reasonably practicable thereafter.

In circumstances where a return to work date has **not** been notified by an employee she may return, by giving at least **7** days written notice. Such notice must be received no more than 14 days after the cessation of the industrial action.

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

Where employees and employers agree, a woman on maternity leave can go into work for up to 10 days without losing her right to maternity leave or a week's statutory pay. The employee remains on maternity leave during this period.

Payment should be made based on the existing rate of pay, for the number of hours worked. Any hours worked in a day during an employee's maternity leave period will count as a whole KIT day, up to 10 days maximum.

If a woman works more than 10 KIT days they are deemed to have returned to work and therefore lose their right to SMP for any week in which they have worked under their contract.

### EMPLOYEE'S MATERNITY LEAVE PLAN

1.	Name..... Date..... Employee No..... School .....	
2.	I am pregnant and my baby is due in the week beginning (expected week of childbirth):  Date.....	Employees should notify the school at least 15 weeks before the expected week of childbirth when they intend to start maternity leave.
2(a)	As you requested I have attached a MAT B1 certificate confirming this	Please obtain a certificate from your doctor or a midwife giving the expected week of childbirth.

3(a)	<i>I intend to take Ordinary Maternity Leave</i> <b>Yes/No</b> (delete as appropriate)	Ordinary Maternity Leave lasts for 26 weeks.
3(b)	<i>I also intend to take my full SMP entitlement (39 weeks maternity leave)</i> <b>Yes/No</b> (delete as appropriate)	Ordinary maternity leave lasts for 26 weeks and additional maternity leave lasts for 26 weeks.
3(c)	<i>I also intend to take Additional Maternity Leave: (52 weeks maternity leave in all)</i> <b>Yes/No</b> (delete as appropriate)	<i>Additional Maternity Leave runs from the end of Ordinary Maternity Leave for a further 26 weeks.</i>
	Return to work <b>Yes/No/Defer Decision</b> (delete as appropriate)	

In order to qualify for 12 weeks' additional half pay employees must have one year's service at the Qualifying Week (11<sup>th</sup> week before expected week of birth) and must return to work for 3 months\*.

Please choose 1 from the following options:

- a) at present I intend to return to work – please pay me my 12 weeks' half pay which I will repay if I subsequently do not return to work **YES/NO**
- b) at present I do not intend to return after the birth of my child – please withhold my 12 weeks' half pay **YES/NO**
- c) at present I do not know/I do not wish to tell you whether I am returning to work – please retain my 12 weeks' half pay which will become payable should I return to work for 3 months or more **YES/NO**

This model letter may be used to advise your Headteacher/Local Authority that you are pregnant. Notification must be at least 15 weeks before your expected week of childbirth.

**School:** .....

**Employee No:** .....

Dear.....

I am writing to tell you that I am expecting a baby, and it is due on.....

At present I intend to take maternity leave from..... and I expect/ do not expect\* to return to work after the baby is born. Please send me all relevant information.

If my circumstances change I will let you know.

Please arrange for a risk assessment to take place as soon as possible.

Yours sincerely,

\* Please delete as applicable

## 5. ADOPTION

### 5.1 Leave Entitlement

- Time off to attend appointments (if these cannot be accommodated outside the employee's normal working pattern).
- 52 weeks adoption leave. This is defined as 26 weeks ordinary adoption leave and 26 weeks additional adoption leave. Accrued annual leave and bank holidays may be taken before adoption leave commences

In order to qualify for adoption leave the employee must:

- have 26 weeks' service by the notification week (6 months)
- be the only partner/civil partner/same sex partner taking adoption leave
- be newly-matched with a child for adoption and by an approved adoption agency.

Please see Section 8 onwards for information on Shared Parental Leave.

**5.2 Pay** - Statutory Adoption Pay (SAP) for 39 weeks (9 months), dependent upon eligibility



for

SAP and Occupational Adoption Pay (OAP)

- This is 6 weeks at 90% of earnings. Teachers are paid 4 weeks at full pay and 2 weeks at 90% of earnings.
- + 12 weeks (weeks 7 to 18) at half pay OAP plus SAP (providing this does not exceed normal full pay)

The 12 weeks OAP half pay is paid if the employee is returning to work for at least 3 months and can be spread over a longer period if requested.

The eligibility for 12 weeks occupational adoption pay at half pay is dependent on being employed in local government service for 52 weeks. When the employee commences adoption leave they will have been employed for 1 year or more.

- + 21 weeks at SAP (weeks 19 to 39)

Eligibility for SAP is dependent on being employed continuously in local government service for at least 26 weeks (6 months) and the employee must earn, on average, at least equal to the lower earnings limit for National Insurance purposes.

### **5.3 Applying for Adoption Leave** (See Flowchart on page 16)

- The employee must inform the headteacher as soon as possible that they are adopting a child.
- The employee must notify the headteacher in writing (see letter on page 15) when the child will be placed and the date they have chosen for the adoption leave to commence (they are required to provide a copy of the matching certificate). The original documentation will need to be sent to the HR Shared Services Centre (for purchasing schools) with a completed form SC8 (HMRC)
- Following the receipt of the notification letter the employee will receive a written acknowledgement within 28 days informing them when they are due back at work from the HR Shared Services Centre. The employee is entitled to 52 weeks adoption leave. The employee must return the slip from the letter to confirm adoption pay arrangements during their adoption leave to the HR Shared Services Centre (for schools purchasing the LA Transactional HR service)

#### **5.3.1 Notes on Adoption Leave**

- Prior to commencing adoption leave the headteacher should discuss and agree with the employee the type and frequency of contact he/she prefers whilst on adoption leave. The headteacher may wish to contact the employee to inform them of any training opportunities, significant work developments, any relevant promotional opportunities or job vacancies that may occur during the absence.
- No notice is required if the employee intends to return to work at the end of the full adoption leave period.

- The employee can opt to return to work earlier than planned from adoption leave but will need to provide a minimum of 21 days' notice but ideally provide as much notice as possible.

#### **5.4 Keeping in Touch (KIT) days**

- By mutual agreement the employee can work for 10 days during adoption leave though they are not obliged to do so.
- They will receive payment for the number of hours worked without it affecting the SAP or adoption leave entitlement.
- The employee will remain on adoption leave during this period.
- The payment rate will be the existing rate of pay. The employee will only be paid for the time worked. If they attend work for 1 hour this will count as 1 KIT day.

#### **5.5 Return to work**

- The employee will be able to return to their existing post after taking ordinary adoption leave.
- If they also take additional adoption leave they have the right to return to their original job unless this is not reasonably practicable. Then the employee will be offered suitable alternative employment on terms no less favourable than the original post.
- The employee has the right to request flexible working. The request will be fully considered by the Governing Body and the employee will be notified regarding the decision. Once an initial request has been made a further request for flexible working can only be made after a 12 month period. If the application is refused the employee can appeal against the decision.

#### **5.6 Pensions**

The Employer will pay pension contributions throughout Ordinary Adoption Leave (OAL) whether or not an employee received any pay.

Members of the local government pension scheme will pay contributions on any pay or allowances received (up to 39 weeks of SAP)

An employee will pay contributions based on her actual pay. If she does not qualify for SAP and receives no pay, then no contributions will be payable.

This period of service counts as reckonable for pension purposes. If the employee has any unpaid Additional Adoption Leave, it will not be reckonable for pension purposes. Employees can opt to pay arrears of contributions in order for this period of unpaid leave to count but they would need to arrange this within 30 days of their return to work.

### **LETTER FOR EMPLOYEE TAKING ADOPTION LEAVE**

You may use this as a model letter to advise the HT/Local Authority that you are adopting. You should keep a copy of this letter and give one to your Headteacher.

Dear.....

Employee Number:

School:

I wish to inform you that I have been matched with a child for the purpose of adoption and I enclose for your information the Matching Certificate issued by the adoption agency.

The date the child is due to be placed with me is ..... and I therefore wish to take adoption leave with effect from .....

I intend to take ..... weeks adoption leave, however should I decide to return to work earlier I will write to you again giving you at least 21 days' notice of this and the date I wish to return.

Yours sincerely,

### MATERNITY LEAVE/ADOPTION LEAVE FLOWCHART

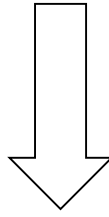
#### MATERNITY ADOPTION

Employee to inform the Headteacher at least 15 weeks (week 25) before the expected week of childbirth (See letter on page 12)

Risk Assessment completed

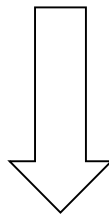
Employee Informs the Headteacher as soon as possible that they are adopting a child (eligibility 26 weeks service)

(See letter on page 15)

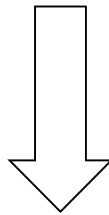


Employee sends MATB1 form (provided by midwife approx week 26) and maternity plan (page 9) Headteacher and return slip to confirm maternity pay arrangements

Employee to provide a copy of Adoption Matching Certificate to Headteacher and return slip to confirm adoption pay arrangements



Employee starts maternity/adoption leave – able to work 10 keeping in touch days as agreed with school



Employee provides a minimum of 21 days notice if returning to work before the full maternity/ adoption period expires

## 6. PATERNITY LEAVE

### 6.1 Ordinary Paternity Leave (OPL)

To qualify for paternity leave:

- The employee should be having or expecting to have the main responsibility (apart from any responsibility of the mother/co-adopter) for the child's upbringing **and** □ Be the biological father of the child OR the mother's husband OR partner/civil partner/same sex partner
- There is no minimum service qualification

They are entitled to:

- 10 days' ordinary paternity leave, (pro rata for part time employees) regardless of the number of children born as a result of the same pregnancy.
- 5 half days with pay to ante natal appointments (eg relaxation classes, exercise and parent craft classes)

Employees may take either one or two weeks' leave. If two weeks are taken, they must be consecutive calendar weeks.

Before Statutory Paternity Leave was introduced the Local Authority agreed the following leave arrangements for parental responsibilities as part of its locally agreed conditions of service. The local agreement enhances the statutory minimum.

- Employees on Teachers' Conditions of Service – 3 days full pay, 7 days at the statutory minimum, pro rata for part time employees.
- Employees on other Conditions of Service – a maximum of 10 days full pay, pro rata for part time employees.

Ordinary paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either the adoptive father or the adoptive mother may take ordinary paternity leave where the other adoptive parent has elected to take adoption leave. In respect of an adoptive child, the employee must have 26 weeks' continuous service by the week in which the child's adopter is notified of having been matched with the child for adoption.

Ordinary paternity leave is granted in addition to an employee's normal annual holiday entitlement. Ordinary paternity leave must be taken within 8 weeks of the birth (or, if the baby is born early, within the period from the actual date of birth up to 8 weeks after the first day of the expected week of birth) or within the placement date for adoptive parents. Ordinary paternity leave can start either from the date the child is born or placed for adoption or from a chosen number of days, or weeks, after that date.

The employee has the right to return to their existing post.

Please see Section 8 onwards for information on Shared Parental Leave.

## 6.2 Notification of Ordinary Paternity Leave

Where an employee wishes to request ordinary paternity leave, they must give the headteacher the proposed dates of absence in writing prior to the 15th week (week 25) before the expected date on which the baby is due, or as soon as is reasonable practicable. The employee should complete the Paternity Leave Application form (p22)

The employee should complete Form SC3 (from HMRC website, [www.hmrc.gov.uk](http://www.hmrc.gov.uk)) and provide a copy of the MAT B1 form and appointment card/letter or, in the case of adoptive parents, a copy of the matching certificate and give this to the Headteacher. For schools purchasing the HR Transactional Service this should be forwarded to the Shared Services Centre.

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

### **6.3 Ordinary Statutory Paternity Pay**

For schools purchasing the HR Transactional Service, please send the application form (p22) and form SC3 (HMRC) to the Shared Services Centre and a check will be made on the employee's service and level of earnings to calculate the correct level of payment.

Statutory paternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Statutory paternity pay can start from any day of the week in accordance with the date the employee starts his/her paternity leave.

Where employees do not take OPL in a block of 1 or 2 weeks, they may be entitled to occupational pay but no statutory payment, ie a teacher may only take 3 days' absence, or a support staff member take odd days over a period of time. These days, which are less than a week's block are not eligible for Statutory Paternity Pay but may be paid under the authorised leave of absence policy.

### **6.4 Additional Paternity Leave (APL)**

Additional Paternity Leave is available to the father of a baby or a spouse, partner or civil partner/same sex partner of the baby's father. To qualify for additional paternity leave the employee must meet the requirements as stated above for 2 weeks' OPL **and**

- Have at least 26 weeks' continuous employment (6 months) by 15<sup>th</sup> week (week 25) before the expected week of childbirth OR the week they are matched for adoption.
- Must continue to work for the school/authority up until the end of the week before the APL period begins
- The mother or co-adopter has returned to work before SMP/SAP expires, prior to the end of 39 weeks (9 months).

Eligible employees may take up to 26 weeks' additional paternity leave within the first year of their child's life.

Additional paternity leave is also available to adoptive parents, within the first year after the child's placement for adoption, provided that the child's adopter who elected to take adoption leave (the "primary adopter") has returned to work.

The earliest that additional paternity leave can commence is 20 weeks after the date on which the child is born, or 20 weeks after the date of placement of the child for adoption, and it must end no later than 12 months after that date. It will end no later than 12 months after the birth or placement date for adoption.

Additional paternity leave will generally commence on the employee's chosen start date specified in his/her leave notice, or in any subsequent variation notice (see 'Notification of additional paternity leave' below). APL must be taken as one continuous period and in multiples of complete weeks.

During the period of additional paternity leave, the employee's contract of employment continues in force and he/she is entitled to receive all his/her contractual benefits, except for salary, and contractual annual leave entitlement will continue to accrue.

If the employee is eligible to receive it, salary may be replaced by statutory paternity pay for some, or all, of the additional paternity leave period, depending on the length and timing of the additional paternity leave.

Pension contributions will continue to be made during any period when the employee is receiving statutory paternity pay but not during any period of unpaid additional paternity leave. Employee contributions will be based on actual pay, while employer contributions will be based on the salary that the employee would have received had he/she not gone on additional paternity leave.

## **6.5 Notification of Additional Paternity Leave**

The employee must give written notice at least 8 weeks before the start of APL that he/she wishes to take leave, providing the details as requested on the application form included in page 22. Employers should confirm an employee's entitlement to APL within 4 weeks of receiving an application.

## **6.6 Additional Statutory Paternity Pay (ASPP)**

Additional statutory paternity pay (ASPP) may be payable during some or all of additional paternity leave, depending on the length and timing of the leave. An employee is entitled to additional statutory paternity pay if:-

- He/she is the father of the child or married to, the civil partner of, or the partner of, the child's mother, or married to, the civil partner of, or the partner of, the primary adopter, and, in the case of a birth child, expect to have the main responsibility). In the case of adoption,

he/she must have been matched with the child for adoption. In both cases, he/she must be taking the leave to care for the child.

- He/she must have a minimum of 26 weeks' service, as at the end of the 15<sup>th</sup> week before the week in which the child is due to be born, in respect of an adopted child, as at the end of the 15<sup>th</sup> week before the week in which he/she was notified of having been matched with the child.
- He/she must remain in continuous employment until the week before the first week of additional paternity leave.
- The mother of the child must be entitled to one or more of maternity leave, statutory maternity pay or maternity allowance. In the case of adoption, the primary adopter must be entitled to one or both of adoption leave or statutory adoption leave or statutory adoption pay. The mother or primary adopter must have returned to work.
- The mother or primary adopter has at least two weeks of his/her maternity or adoption pay period that remains unexpired and has signed form SC7 (HMRC) to declare they intend to return to work and stop receiving any further MA or SMP before ASPP is due to start,
- He/she gives prior notification in accordance with the rules set out above. The employee must provide a signed declaration form SC7 (HMRC) at least 8 weeks before they intend to start their leave.

**If the employee does not satisfy the qualifying conditions, they must be given form ASPP1 showing the reason for not paying ASPP and their original form SC7. A copy of both forms should be retained on the employee's personal file.**

An entitled employee will receive 26 weeks of Additional Paternity Leave (APL) during the 12 months following the birth or adoption of a child. If the employee is eligible, he will receive a minimum of 2 weeks and a maximum of 19 weeks ASPP. He/she will be paid for any period of APL that falls within the unexpired part of the mother's 39 weeks SMP or maternity allowance period. ASPP is a weekly payment and is paid at the lower of the

- Current weekly rate of ASPP **or**
- 90% of the employee's average weekly earnings

(The Shared Services Centre will undertake the administration of the scheme for schools purchasing the transactional HR service)

The earliest start date for ASPP is 20 weeks after the birth.

Where the mother returns to work on annual leave or sick leave this does not count as a return to work.

A combined total of 39 weeks SMP/ASPP is applicable. If there is a gap between the end of the mother's maternity leave and the start of APL the employee will lose some of the entitlement to ASPP.

An employer checklist, Form ASPP3 has been produced by HMRC to assist employers in determining whether an employee is eligible for Additional Statutory Paternity Pay.

## **6.7 Returning to Work after Additional Paternity Leave**

The employee will have been formally advised in writing by the school of the end date of his/her additional paternity leave. The employee is expected to return on the next working day after this date, unless he/she notifies the school otherwise. If he/she is unable to attend



work at the end of additional paternity leave due to sickness or injury, schools' normal arrangements for sickness absence will apply. In any other case, late return without prior authorization will be treated as unauthorised absence.

An employee can request a change of leave dates or cancel the leave before the leave period has begun. At least 6 weeks' notice must be given, or as much notice as is reasonably practicable. In these circumstances the school must confirm the new start and end dates in writing to the employee within 28 days. If an employee gives less than 6 weeks' notice please consult with CAYA HR advice and guidance team the employer can insist that the period of leave is taken as originally planned if it is not reasonably practicable to accommodate the change.

There is no provision for an employee to extend the leave period once it has started but an early return can be requested. He/she must give the school at least 6 weeks' notice of his/her date of early return, in writing. If he/she fails to do so, the school may postpone his/her return to such a date as will give the school 6 weeks' notice, provided that this is not later than the expected return date.

If the employee decides not to return to work after additional paternity leave, he/she must give notice of resignation as soon as possible and in accordance with the terms of his/her contract of employment. If the notice period would expire after additional paternity leave has ended, the school may require the employee to return to work for the remainder of the notice period.

## **6.8 Keeping in Touch Days**

The same provisions apply for Keeping in Touch Days, as far maternity leave (see P9).

## **6.9 Rights On and After Return to Work**

On resuming work after both ordinary and additional paternity leave (in the latter case where it was an isolated period of leave or taken with certain other types of statutory leave), the employee is entitled to return to the same job as he/she occupied before commencing paternity leave on the same terms and conditions of employment as if he/she had not been absent.

## **6.10 Pensions**

The Employer will pay pension contributions throughout Ordinary Paternity Leave (OPL) whether or not an employee received any pay.

Members of the local government pension scheme will pay contributions on any pay or allowances received (up to 39 weeks of SPP)

An employee will pay contributions based on their actual pay. If they do not qualify for SPP and receive no pay, then no contributions will be payable.

This period of service counts as reckonable for pension purposes. If the employee has any unpaid Additional Paternity Leave, it will not be reckonable for pension purposes. Employees

can opt to pay arrears of contributions in order for this period of unpaid leave to count but they would need to arrange this within 30 days of their return to work.

**PATERNITY LEAVE APPLICATION FORM (OPL AND APL)**

<b>Name</b>	
<b>Employee Number</b>	
<b>School</b>	
<b>Dates requested (Minimum 2 weeks/maximum 26 weeks)</b>	
<b>The date the baby is due to be born/ placed on/OR if the child has been born/placed, the actual date of birth/placement</b>	
<b>The start date of the mother's/ co- adopter's Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Pay</b>	
<b>The purpose in requesting leave is to care for the child</b>	<b>YES/NO* (please delete)</b>
<b>Signature</b>	
<b>Date</b>	
<b>Headteacher Approved/Not Approved*</b>	
<b>Signature</b>	
<b>Date</b>	

- Please enclose form SC3 from HMRC (&SC7 if applying for ASPP); a copy of the MATB1 certificate and medical appointment card/letter or in the case of adoptive parents a copy of the matching certificate.
- If the dates change please inform your Headteacher as soon as possible.

Submit completed form to the Headteacher who will forward to the Local Authority, where appropriate.

## 7. PARENTAL LEAVE

### 7.1 Eligibility

Eligible employees can take unpaid parental leave to look after their child's welfare. □

The employee must have one year's continuous service when leave commences **and**

- be a named parent on the child's birth certificate OR named on the child's adoption certificate OR have legal parental responsibility for a child under 18 years old **and** □ the purpose of requesting the leave is to care for a child.

### Parental Leave Entitlement

- 18 weeks' unpaid parental leave (pro rata for part time employees, to match an individual's working week) for each child before the child's 18th birthday for each child. If the child is adopted, until the 18<sup>th</sup> anniversary of their placement with you or until their 18<sup>th</sup> birthday, whichever comes first.

Please see Section 8 onwards for information on Shared Parental Leave.

### 7.2 Notes on Parental Leave

- Any time taken as parental leave will be treated as continuous service - annual leave and all other contractual terms and benefits will accrue during this period.
- You are entitled to a maximum of 4 weeks unpaid parental leave per calendar year.
- Leave can be taken as a single block OR as a number of shorter periods if agreed by the headteacher. Leave should be taken as whole weeks, **unless your child is disabled**.
- The School may postpone parental leave up to 3 months for operational purposes and will provide the reasons for the postponement in writing together with the agreed revised commencement and end dates. Postponement will not be possible if it follows maternity leave, paternity leave or adoption leave.
- The employee has the right to return to their existing post. Their employment rights are protected during parental leave.
- If the employee fall ill during a period of parental leave and gives the School relevant notification and documentation they will be entitled to pay under the sickness scheme (where applicable) and this period will not count towards the parental leave entitlement.

### 7.3 Applying for Parental Leave

- Requests should be discussed with the Headteacher providing at least 21 days' notice of any proposed days of absence, with a copy of the relevant documentation (either the birth certificate, adoption certificate or proof of disability allowance). The employee needs to complete the Parental Leave Application Form (on page 24) submitting the completed form to the Headteacher. For schools purchasing the HR Transactional Service, the documentation should be sent to the HR Shared Services Centre.

## PARENTAL LEAVE APPLICATION FORM

<b>Name</b>	
<b>Employee Number</b>	
<b>School</b>	
<b>Child's Name (if known)</b>	
<b>Dates requested</b>	
<b>Dates of any previous parental leave taken (current or previous employer)</b>	
<b>The date the baby is due to be born/ placed on, OR if the child has been born/placed, the actual date of birth/placement</b>	
<b>I am named on the child's birth certificate, OR I have, or expect to have, parental responsibility under the Children Act 1989 OR I am an adoptive parent, foster parent or a spouse or partner/civil partner/same sex partner of any of the above who is living with the child</b>	<b>YES/NO* (please delete)</b>
<b>The purpose in requesting leave is to care for the child or make arrangements for the child's welfare</b>	<b>YES/NO* (please delete)</b>
<b>Signature</b>	
<b>Date</b>	
<b>Headteacher Approved/Not Approved*</b>	
<b>Signature</b>	
<b>Date</b>	

Please enclose relevant documentation, either a copy of the birth certificate/adoption certificate.

Submit completed form to HR Shared Services Centre.

## 8. Shared Parental Leave

### Introduction

This section explains what Shared Parental Leave (SPL) is and provides guidance for employees to help them decide whether SPL would work for them, and how it can be used alongside or instead of traditional maternity or adoption leave. It also provides School leaders with the information they need when considering requests for SPL.

### 8.1 What is Shared Parental Leave?

Shared Parental Leave allows parents more flexibility over how they share childcare during the first year of their child's life. It is generated when a mother (or adopter) ends their maternity or adoption leave early, so that the remaining period of leave can be shared. As long as their partner is also eligible, they can share the leave between them and choose how much of the leave each can take. They can choose to take leave at the same time as each other and return to work in between periods of leave if they wish.

### Key Points

- Shared Parental Leave is effective from 5 April 2015 in relation to babies who are **due** on or after this date;
- Employed mothers will continue to be entitled to 52 weeks of maternity and 39 weeks of statutory maternity pay or maternity allowance;
- An eligible mother can opt to end her maternity leave, and with her partner, or the child's father, opt for shared parental leave instead;
- As long as they both meet the qualifying requirements\* they can choose how to divide their shared parental leave and pay;
- Adopters have broadly the same rights as other parents to SPL and pay;
- SPL must be taken within the first 52 weeks following the birth / adoption and in minimum blocks of one week;
- Employees may be entitled to SPL and Statutory Shared Parental Pay if - They meet the eligibility requirements\*; and - The baby is due (or adopted) after 5 April 2015.
- Employees must give 8 weeks' notice of their intention to commence SPL.
- The scheme is based on the declarations from both parents about their eligibility and the consent of the other parent to take the leave.

### 8.2 How Will Shared Parental Leave Operate?

Each eligible parent can give their employer up to three separate notices to book or vary leave. Each notice can be for a block of leave, or for a pattern of 'discontinuous' leave, involving different periods of leave. Employers are not obliged to agree to discontinuous periods of leave, but must agree to requests for continuous SPL.

Where both parents meet the continuity of employment test\*, they will both be able to make use of the SPL entitlement. However, even if only one parent meets the criteria, a family may still be able to utilise SPL. For example, a self-employed parent could not take SPL, but may pass the

employment and earnings test, allowing the other parent to qualify, and allowing for greater flexibility in how they take their leave.

Up to 50 weeks SPL can be shared between parents as the first two weeks following the child's birth are reserved solely for the mother and are compulsory maternity leave. However, this does not prevent the mother's partner beginning their SPL at any time following the child's birth, (although there is still an entitlement to two weeks paid paternity leave). Parents may choose to take SPL at the same time as each other, or separately.

### 8.3 Continuous and Discontinuous SPL

SPL does not have to be taken in one continuous block; employees can return to work and then take a further period of shared parental leave. If an employee gives his or her employer a notice requesting discontinuous blocks of leave, the employer has the option to refuse this request. In this case the employee must then either:

- 
- Take the leave requested in one block;
- Withdraw the request; or
- Agree alternative dates with the employer

An employee can submit up to three separate notices requesting periods of leave. In effect this can enable an employee to take three separate blocks of leave without the employer being able to refuse this, provided that the notice provisions have been adhered to.

*\* These terms are defined in the section on eligibility*

### 8.4 ELIGIBILITY

The right of one parent to take leave is not only dependent on them satisfying the eligibility criteria, but is also dependent on their partner satisfying certain conditions, as detailed below.

<b>ELIGIBILITY</b>	
<b>A mother will be eligible for SPL if she meets the following criteria:</b>	<b>*The father of a child, or the partner of a child's mother will be eligible for SPL if they meet the following criteria:</b>
Has 26 weeks continuous employment by the end of the 15 <sup>th</sup> week before the expected week of childbirth and remains in continuous employment with that employer until the week before any period of shared parental leave that she takes;	Has 26 weeks' continuous employment by the end of the 15 <sup>th</sup> week before the expected week of childbirth and remains in continuous employment with that employer until the week before any period of shared parental leave that he or she takes;
Has the main responsibility for the care of the child at the date of the birth (apart from the responsibility of her partner or the child's father);	Has the main responsibility for the care of the child at the date of the birth (apart from the responsibility of the mother);
Is entitled to statutory maternity leave;	



Has curtailed her statutory maternity leave by giving the relevant notice, or returned to work before the end of the maternity leave period; and	
Has complied with the relevant notice and evidence requirements.	Has complied with the relevant notice and evidence requirements.
<b>EMPLOYMENT &amp; EARNINGS TEST</b>	
<b>In addition, the mothers partner must:</b>	<b>In addition, the child's mother must:</b>
Have been employed or self-employed during at least 26 of the 66 weeks before the expected week of childbirth;	Have been employed or self-employed during at least 26 of the 66 weeks before the expected week of childbirth;
Have weekly earnings of at least £30 for any 13 of those 66 weeks: and	Have average weekly earnings of at least £30 for any 13 of those 66 weeks;
Have the main responsibility for the child at the date of the birth (apart from the responsibility of the mother).	Have the main responsibility for the child at the date of the birth (apart from the responsibility of the employee).
	Be entitled to Statutory Maternity Leave, Statutory Maternity Pay or Maternity Allowance in respect of the child; and Have curtailed her Statutory Maternity Leave, or if she is not entitled to Statutory Maternity Leave, curtailed her Statutory Maternity Pay or Maternity Allowance.

\*An employee does not have to be the father of a child to be eligible to take SPL alongside the child's mother, if he or she has, or expects to have, the main responsibility for the care of the child alongside the mother and is not an immediate family member

## 9. Guidance for Headteachers and Governing Bodies

### 9.1 When Does Shared Parental Leave Take Effect?

The Shared Parental Leave Regulations 2014 will apply only in relation to babies **due** on or after 5 April 2015, or children placed for adoption on or after 5 April 2015. The actual date of birth does not change this.

#### Notice Requirements

An eligible employee must give at least eight weeks' notice of intention to take SPL. They can choose to take SPL at any time before the child's first birthday or before the first anniversary of the adoption placement.

### 9.2 What Notice Must Employees Give If They Intend To Take Shared Parental Leave?

There are a number of different notices that employees must give before they can take SPL.

Before either parent can take SPL, the mother must provide a leave curtailment notice, to bring her maternity leave to an end and this must be provided at least eight weeks before the start of the first period of SPL taken by either of the parents.

The employee, whether the mother or her partner, must give his or her headteacher a notice of entitlement and intention to take SPL not less than eight weeks before the start of his or her first period of SPL. The appropriate notice and declarations are detailed in the section 'How to Apply'.

Each employee taking SPL must give his or her manager a period of leave notice, setting out the start and end dates of the period or periods of leave requested, at least eight weeks prior to each period of SPL.

### **9.3 Can I Refuse A Request For Shared Parental Leave?**

If your employee requests a 'period of leave notice' requesting discontinuous periods of SPL, you can refuse the request and require the employee to either withdraw the request, or to take the leave in a continuous block.

However, you should note that an employee has the right to take up to three separate blocks of SPL, provided they submit a separate notice for each period of leave and give eight weeks' notice for each period. You can refuse a request for discontinuous SPL only if it is requested in the same notice.

An employee who submits a 'period of leave notice' requesting one continuous block of leave must be allowed to take the leave on the dates requested.

If a request for discontinuous leave is refused the employee can withdraw the notice or agree alternative dates with the employer. If he or she has not done either within two weeks of the date of the notice, the employee can either withdraw the notice at that point or take the total amount of leave requested on the leave notice as a continuous period of leave. The employee can choose a start date for the continuous period of leave that is no less than eight weeks from the start date of the leave notice.

See the links attached letters to discuss or refuse requests for discontinuous SPL.

### **9.4 Can I Insist On Evidence That An Employee Is Entitled To Shared Parental Leave?**

When an employee applies to take SPL, they are required to complete a notice of entitlement and intention to take SPL. This requires them to provide details of the child's expected date of birth and their partner's details.

Generally, it is expected that these declarations will be relied upon, provided that eligibility requirements are met and it is not required to check, for example, the earnings and employment history of the employee's partner.

However, false declaration that an employee is entitled to SPL and/or pay could be treated as a disciplinary issue.

### **9.5 Can An Employee Take Shared Parental Leave If His Or Her Partner Is SelfEmployed?**

Yes. An employee may be eligible to take SPL if his / her partner is self-employed, as long as the partner meets the relevant requirements relating to employment and earnings. See 'Eligibility'.

### **9.6 Can Same Sex Couples Take Shared Parental Leave?**

Yes. An employee can take SPL with his / her spouse, civil partner or partner. Partner is defined as someone who lives with the employee in an enduring family relationship but is not an immediate family member.

### **9.7 Are Parents Entitled To Shared Parental Leave If Their Baby Is Due Before 5 April 2015 But Is Born On Or After That Date?**

No. SPL is available only in relation to babies whose expected week of birth begins on or after 5 April 2015. The actual date of birth is not relevant for the purposes of eligibility for shared parental leave.

Similarly, if a baby expected on or after 5 April is born before that date, the parents' eligibility for shared parental leave is not affected.

### **9.8 Can Employees On Shared Parental Leave Take Keeping In Touch Days?**

Yes, employers and employees can agree up to 20 keeping in touch days during shared parental leave without bringing the leave to an end. Both parents have up to 20 keeping in touch days each, which can be taken as single days or in blocks of days. This is in addition to the 10 keeping in touch days available to the mother or primary adopted during maternity leave or adoption leave.

### **9.9 Do Employees Receive Statutory Pay While On Shared Parental Leave?**

Yes, up to 37 weeks statutory shared parental pay is available for parents to share between them while on shared parental leave. Similar provisions apply for parents taking shared parental leave in an adoption situation.

Statutory shared parental pay will be paid at a flat rate (currently £139.58, or 90% of the employee's normal earnings if this is less). Unlike SMP, there is no provision for employees to be paid 90% of their earnings for the first six weeks of their statutory shared parental pay period where this is higher than the statutory rate. Therefore, if an employee who is receiving SMP at the higher rate of 90% of her earnings switches to statutory shared parental pay within the first six weeks of her SMP period, she will move to the lower rate immediately.

## 10. EMPLOYEE GUIDANCE

### 10.1 Eligibility – Shared Parental Leave

If you wish to take SPL and/or pay, you must check your eligibility and provide a 'notice of entitlement'\* at least eight weeks before each period of leave. In addition, you must provide a declaration from your partner confirming your eligibility and agreeing to take shared /parental leave and/or pay.

#### **You:**

To qualify for SPL you must meet the following requirements:

- You must share care of the child with either:
  - Your husband or wife, civil partner or joint adopter;
  - The child's other parent;
  - Your partner (if they live with you and the child).
  
- You or your partner must be eligible for maternity pay or leave, and have given notice to curtail it.
- You must have been continuously employed for at least 26 weeks by the end of the 15<sup>th</sup> week before the due date (or the date you are matched with your adopted child).
- Be employed by the same employer whilst you take SPL.

#### **Your Partner:**

To qualify for SPL, your partner must meet the following requirements:

- During the 66 weeks before the baby is born, they must have worked for at least 26 weeks (not necessarily consecutively);
- They must have earned at least £30 a week on average in 13 of those 66 weeks.
- They may have been employed, self-employed or an agency worker.

Before requesting SPL, you are requested to discuss your intentions informally with your Headteacher or line manager, as appropriate to your situation.

### 10.2 Eligibility – Shared Parental Pay

Statutory Shared Parental Pay (ShPP) will be created where an eligible mother or adopter chooses to bring their maternity or adoption pay or maternity allowance to an end early. The untaken maternity or adoption pay or maternity allowance will become available as statutory shared parental pay – up to a maximum of 37 weeks.

You will qualify for Shared Parental Pay if one of the following applies:

- You qualify for Statutory Maternity Pay or Statutory Adoption Pay;
- You qualify for Statutory Paternity Pay and have a partner who qualifies for Statutory Maternity Pay or Maternity Allowance or Statutory Adoption Pay.

Before requesting Shared Parental Pay, you may want to discuss your intentions informally with your manager. Shared Parental Pay is requested by completing the Notice of Entitlement and returning it to your Headteacher.

To check both your own and your partner's eligibility for SPL and/or ShPP you can use the link below.

Calculate your leave and pay when you have a child - GOV.UK

### **10.3 Will Shared Parental Leave Work for You?**

Not everyone will meet the criteria to qualify for SPL, but even those who do will need to consider whether other arrangements will suit them better. Things you might want to consider when deciding on which option is best for you include:

- Whether one or both parents qualify and how you would like to share the care of your child;
- Whether the mother wants to reduce her maternity / adoption leave;
- Is there an entitlement to enhanced maternity / adoption / paternity / SPL pay, and would reducing the mother's maternity leave impact on this;
- What other options are available (such as flexible working requests, annual leave, parental leave) and how these could work alongside SPL; □ The wider financial implications e.g. pay and pensions.

Even if you don't choose SPL in the first instance, you can opt in at a later date if you are still eligible, as long as you provide the correct notice and take the leave within 12 months of your child's birth.

### **10.4 How Much Leave And Pay Am I Entitled To And When Can I Take It?**

The amount of SPL and pay depends on how much maternity or adoption leave has already been used up. SPL is 52 weeks minus the number of weeks already taken as maternity leave. (The first two weeks being compulsory maternity leave).

Statutory Shared Parental Pay is 39 weeks minus the number of weeks of statutory maternity (or adoption) pay or maternity allowance taken by the mother or adopter. ShPP is paid at the rate of £139.518 a week or 90% of your average weekly earnings, whichever is lower.

### **10.5 What Happens To My Pension Whilst On Shared Parental Leave?**

If you are a member of the local government pension scheme, whilst on paid shared parental leave, you will pay pension contributions on any pensionable pay received. If on unpaid shared parental leave, you will not automatically build up pension benefits as you will not be contributing. However, you can elect to buy back the lost pension. You should do this within 30 days of returning to work in order to benefit from the Shared Cost Additional Pension contribution contract. i.e. the Council will pay some of your contributions for you. Please see the following link for more details:

Local Government Pension Scheme: Working for us - Derbyshire County Council ([http://www.derbyshire.gov.uk/working\\_for\\_us/pensions/default.asp](http://www.derbyshire.gov.uk/working_for_us/pensions/default.asp))

### **10.6 How Do I Apply?**

Before applying, you should note that SPL can only be used when the mother has:

- Already returned to work, **or**
- Given notice to their employer that reduces their maternity / adoption leave and confirms when it will end by completing a maternity curtailment notice).

If the mother is not entitled to maternity / adoption leave (e.g. she may be self-employed), they must have ended, or given notice to reduce their maternity/adoption pay period or maternity allowance period for their partner to be eligible for SPL. If you wish to apply for SPL you must provide a notice of entitlement.

**You will need to include the following information:**

- The names of the mother and the partner;
- The start and end date of any statutory maternity / adoption leave taken or to be taken by the mother;
- The total amount of SPL available to be taken;
- The child's expected week of birth, actual date of birth, or date of placement. (If the notice is submitted prior to the birth then the date of birth must be provided as soon as reasonably practicable);
- How much SPL the mother and partner each intend to take;
- An indication as to when they intend to take SPL, (this is non-binding). This must be accompanied by a signed declaration from both the mother and partner confirming the following;
- A signed declaration that:
  - you will be sharing responsibility for the care of the child,
  - the mother has given notice to end her maternity entitlement, - you meet the continuity of employment test, - the information you have given is accurate.
  - Should you cease to be eligible you will inform the headteacher immediately.

**Your partner must also supply a signed declaration stating the following information:**

- Their name, address, and national insurance number;
- They are the father, mother of the child, or partner of the child's mother;
- They meet the criteria for the employment and earnings test;
- If they are the mother, that they are entitled to statutory maternity leave, statutory maternity pay or maternity allowance, and that they have given notice to end that leave and pay / allowance;
- That at the time of the birth or placement they shared the responsibility for the care of the child with the employee seeking to take SPL;
- They consent to the amount of leave and pay that you are seeking to take;
- They consent to the employer receiving this declaration to process the information contained within it;
- In the case of the mother, that she will immediately inform the partner should the mother cease to satisfy the eligibility criteria.

## **Notice of Entitlement and Intention to take Shared Parental Leave and Pay**

**How to complete this form:**

- **Both parents/adopters must complete and sign this form, whether they both work for the School or not.**

- **Where both parents work for the School/\*Derbyshire County Council, they must both fill in their own form to give to their Headteacher and then tick the box at the end of the form.**
- **Once complete, return this form to your Headteacher who will discuss leave arrangements. Once agreement has been reached, the form should be sent to Shared Services Centre, Adjustments Team, John Hadfield House, Dale Road, DE4 3RD or email [pay@derbyshire.gov.uk](mailto:pay@derbyshire.gov.uk) – for schools purchasing the council’s HR/payroll service**

To qualify for Statutory Shared Parental Leave (SPL) you must;

- Be an employee
- Have a partner with whom you share the main responsibility for the care of the child
- Meet the duration of employment test
- Have a partner who meets an employment and earnings test.

To qualify for Statutory Shared Parental Pay (ShPP) you must;

Be an employee or an agency worker

- Have a partner with whom you share the main responsibility for the care of the child
- The mother must have qualified for SMP or Maternity Allowance
- You must meet the duration of employment test and have normal weekly earnings of at least the Lower Earnings Limit for a fixed period;
- You have a partner that meets an employment and earnings test

At least 8 weeks’ notice must be given to the Council of any SPL or ShPP that the employee will take.

As an employee of School/\*Derbyshire County Council, I confirm that I wish to book Shared Parental Leave

Shared Parental Pay

If both parents are School/\*Derbyshire County Council Employees please tick here \_\_\_\_\_  
Please give this form to your line manager, asking for a meeting to discuss your leave requirements.

\*delete as applicable

## **Section 1- Mother**

Name (whether School/DCC employee or not)	
Mother's employer's name (if not School/DCC please provide employer address as well)	
Payroll Number	
Headteacher/Line Manager	
Maternity/Adoption leave start date (or will start)	
Date Statutory Maternity/Adoption pay started (or will start)	
Child's actual/expected date of Birth or date of placement for adoption	
Total number of weeks of SPL entitled to (the mother will be informed of Maternity Leave entitlement after she submits her MATB1)	
Total number of weeks of Shared Parental Pay entitled to	
Date from which mother intends to end Maternity Leave, and start SPL	
Total number of weeks SPL mother intends to take	
Dates expected to take SPL (all SPL must have start and end dates)	Block 1 start ___/___/___ end ___/___/___
	Block 2 start ___/___/___ end ___/___/___
	Block 3 start ___/___/___ end ___/___/___

**Section 1 – Father/Partner/Civil Partner/Adopter**

Name (whether School/ DCC employee or not)	
--	--



Partner's employer's name (if not School/DCC please provide employer address as well)	
Payroll Number	
Headteacher/Line Manager	
Maternity/Adoption leave start date (or will start)	
Date Statutory Maternity/Adoption pay started (or will start)	
Child's actual/expected date of Birth <i>or</i> date of placement for adoption	
Total number of weeks of SPL entitled to (the mother will be informed of Maternity Leave entitlement after she submits her MATB1)	
Total number of weeks of Shared Parental Pay entitled to	
Date from which mother intends to end Maternity Leave, and start SPL	
Total number of weeks SPL partner intends to take	
Dates expected to take SPL (all SPL must have start and end dates)	Block 1 start ___/___/___ end ___/___/___
	Block 2 start ___/___/___ end ___/___/___
	Block 3 start ___/___/___ end ___/___/___

## Section 2 – The Declarations

### Mother's declaration

#### I declare that

- I will meet, or will meet, the eligibility conditions and are entitled to take SPL and/or ShPP;
- that the information I have given is accurate;

- I am the mother/adopter
- If my circumstances change, and cease to be eligible for SPL and/or ShPP, I will immediately inform the School/\*Council.

---

Mother Signature

Date

**Partner's Declaration:**

**I declare that**

- I am the father of the child, spouse, civil partner or partner of the mother/adopter (please circle)  I satisfy the 'employment and earnings test' and at the date of the child's birth (or placement for adoption) will have main responsibility for the child, along with the mother
- I consent to the amount of SPL and/or ShPP that the mother/partner/adopter intends to take;
- I consent to the School/\*Council processing the information contained in the declaration form;
- If I cease to satisfy the eligibility conditions, I will immediately inform the School/\*Council.

---

Partner Signature

Date

\*delete as applicable

Dear Headteacher

Maternity/Adoption Leave Curtailment Notice Letter

I am writing to let you know that I want to bring my Maternity/Adoption Leave to an end early.

I am currently on Maternity/Adoption leave which commenced on dd/mm/yy and wish to give notice to end my leave on dd/mm/yy to enable me to start Shared Parental Leave. My child was born/placed on dd/mm/yy.

Or

I will be taking a period of Maternity/Adoption leave from dd/mm/yy and intend to return to work on dd/mm/yy to enable me to start Shared Parental Leave. The expected week of birth/date of placement is dd/mm/yy.

I understand that my leave will end on that date and that normally it will not be possible for me to revoke this notice once it has been given.

I have given this letter to my manager providing at least 8 weeks' notice of when I want my leave to commence.

I enclose with this letter either (delete as appropriate)

- 1) A Maternity/Adoption Leave Curtailment Notice
- 2) Notice of Entitlement and Intention to take Shared Parental Leave

Yours sincerely

Employee

Headteacher

School

Date

Dear .....

**Shared Parental Leave request to discuss leave booking**

Thank you for submitting your notice to take a period of shared parental leave (SPL) that was given on dd/mm/yy.

[OR]

Thank you for your notice to vary a previously submitted period of shared parental leave (SPL) request that was given on dd/mm/yy.

You have indicated that you would like to take leave on the following dates: *[insert dates submitted on the period of leave notice]*

I would like to arrange a convenient time to discuss your notification with you.

I therefore suggest a meeting at **[location]** on **[date]** at **[time]**. You can bring a trade union representative or work colleague to the meeting and you should make the appropriate arrangements if you wish to do that.

Please could you contact me to confirm whether you are able to attend the meeting suggested above or, if not, to suggest an alternative time and date.

Please do not hesitate to contact me if you have any questions in the meantime.

Yours sincerely

Headteacher

Headteacher

School

Date

Dear .....

**Shared Parental Leave: Refusal of a discontinuous leave booking**

Thank you for submitting your notice to take a period of shared parental leave (SPL) that was given on dd/mm/yy. You have indicated that you would like to take leave on the following dates:

*[Insert dates submitted on the period of leave notice]*

Having given the proposal thorough consideration, I regret I am unable to agree to the pattern of discontinuous leave that you requested.

I discussed alternative options with you, but agreement to an alternative pattern of leave has not been reached because *[insert reasons why the pattern of leave requested cannot be accommodated]*.

Given that we have not reached agreement, you have the following options:

- To take the discontinuous periods of leave requested in one continuous block, beginning on the original start date.
- To take the continuous block of leave starting on a new date. The new start date cannot be sooner than eight weeks from the date you submitted your original SPL notification.
- To withdraw your leave request at any time within the next 15 days. If the request is withdrawn in these circumstances it will not count as one of your three requests to book SPL. You can then take some more time to consider your leave options and resubmit your request at a later date.

Please confirm your decision to me in writing within the next 15 days.

If you have any questions about any aspect of your Shared Parental Leave and/or pay entitlement, please speak to me or the Shared Services Centre.

Yours sincerely

Headteacher cc:

SSC

Headteacher

School

Date

Dear .....

**Confirmation of Shared Parental Leave booking**

Thank you for your notice to take Shared Parental Leave commencing on dd/mm/yy.

I can confirm that the school has agreed to your Shared Parental Leave request. You will be away from work on Shared Parental Leave from ..... to .....

**[If leave is discontinuous then please amend as needed]**

You are expected to return to work on the first working day after your leave period ends.

If you wish to vary or reduce the leave that you have booked, you must give at least eight weeks' notice before any amended dates occur. A notice to vary your booked leave will count as a new notice thereby reducing your entitlement to make three statutory notifications by a further one.

Should you have any questions about the content of this letter, please do not hesitate to contact me.

Yours sincerely

Headteacher cc:

SSC

