

CHULMLEIGH ACADEMY TRUST

FAMILY POLICY

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1 INTRODUCTION AND PURPOSE

- 1.1 Chulmleigh Academy Trust ('the Trust') is committed to ensuring that maternity, paternity, adoption and shared parental leave benefits are applied fairly and consistently.
- 1.2 This policy outlines the statutory rights and responsibilities of employees who are pregnant or have recently given birth, and sets out the arrangements for pregnancy-related sickness, health and safety and maternity leave. It also outlines employees' entitlement to paternity leave and shared leave and sets out the arrangements for taking these.
- 1.3 In addition, this policy sets out the arrangements for adoption leave and pay for employees who are:
 - 1.3.1 Adopting a child through a UK or overseas adoption agency;
 - 1.3.2 Fostering a child with a view to possible adoption; and/or
 - 1.3.3 Having a child through a surrogate mother
- 1.4 This policy does not apply to agency workers or the self-employed.
- 1.5 This policy does not form part of any employee's contract of employment and we may amend it at any time.

2 WHO IS RESPONSIBLE?

- 2.1 The Board of Directors has overall responsibility for the effective operation of this policy and for ensuring that it complies with the relevant statutory framework. The Board of Directors has delegated a number of the responsibilities under this policy to the Executive Headteacher.
- 2.2 The Executive Headteacher is responsible for ensuring:
 - 2.2.1 staff compliance with the policy;
 - 2.2.2 that the application of the policy to staff members is periodically risk-assessed; and
 - 2.2.3 that any necessary controls are implemented.

3 ENTITLEMENT TO MATERNITY LEAVE

- 3.1 All employees are entitled to up to 52 weeks' maternity leave, which is divided into:
 - 3.1.1 ordinary maternity leave (OML), which is up to 26 consecutive weeks (including a consecutive two-week period immediately following childbirth during which a new mother is not permitted to return to work); and
 - 3.1.2 additional maternity leave (AML), which is an additional period of up to 26 consecutive weeks immediately following OML.
- 3.2 The employee must comply with the notification requirements set out in paragraph 4.

4 NOTIFICATION OF PREGNANCY

- 4.1 The employee must inform her line manager as soon as possible that she is pregnant.
- 4.2 The 15th week before the expected week of childbirth is known as the 'Qualifying Week.' Before the end of the Qualifying Week, or as soon as reasonably practical afterwards, the employee must tell the Trust:
- 4.2.1 that she is pregnant;
 - 4.2.2 the expected week of childbirth (as recorded on the MATB1 form); and
 - 4.2.3 the date on which the employee would like to start her maternity leave.
- 4.3 The employee must provide a certificate from a doctor or midwife (usually on a MATB1 form) confirming her expected week of childbirth.
- 4.4 The employee should contact the Payroll Section as soon as possible. Payroll will send the employee a Maternity Information letter, which includes notification form MAT5 (MAT6 for teachers). The employee should complete the MAT5 (MAT6 for teachers) notification form and send the original to Payroll as soon as possible, but at least by the 15th week before her EWC. A copy should be given to the line manager who must arrange for it to be placed on her personnel file.
- 4.5 If a performance appraisal is due whilst the employee will be on maternity leave, the line manager should agree with the employee to either carry this out before she starts her leave or upon her return.

5 HEALTH AND SAFETY

- 5.1 The manager and/or the relevant risk assessor is/are required to carry out specific risk assessments for all employees of childbearing age.
- 5.2 When an employee notifies her manager that she is pregnant it is important that this risk assessment is reviewed, in consultation with the employee and the risk assessor.
- 5.3 A further review should take place when the employee returns to work following maternity leave.
- 5.4 Should the risk(s) be significant the line manager will need to take action, in consultation with Occupational Health and/or independent medical practitioners (as appropriate). This may include:
- 5.4.1 Removing the hazard(s) or avoiding the employee's exposure to the risk(s);
 - 5.4.2 Advising the employee of the risk; and/or
 - 5.4.3 Informing the employee of any action the Trust will take to ensure that the employee is not exposed to a risk that could cause harm.
- 5.5 Removing the employee from the workplace if the level of risk is greater than the level of risk expected outside the workplace. This can be done by temporarily adjusting her working conditions and/or hours of work, offering the employee suitable alternative work (if any is available) or if neither of these is feasible, suspending the employee from work (with pay) for as long as necessary to protect her safety and that of the child.

- 5.6 The Health and Safety Executive (HSE) has advised that 'pregnancy should not be equated with ill health, it should be regarded as part of everyday life and its health and safety implications can be adequately addressed by normal health and safety procedures'.

6 ANNUAL LEAVE

- 6.1 During OML and AML, the employee will be entitled to holiday as provided under her contract. If the employee's maternity leave spans more than one annual leave year, she will be entitled to carry over holiday from that year to the following year, in accordance with the Trust's rules regarding the carrying over of annual leave.
- 6.2 Employees that work term time only, including teachers, will be entitled to the statutory 28 days (pro rata for those working part time). This is not an additional entitlement to annual leave on top of the current school closure arrangements. These employees are required to take annual leave during school holidays.
- 6.3 Teachers on maternity leave are entitled to the statutory 28 days' annual leave. A teacher who takes maternity leave must be able to take the statutory annual leave at a time outside of her maternity leave. Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question i.e. both before and after the maternity leave period.
- 6.4 On return from maternity leave, a teacher must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate leave in that leave year. Where the return from maternity leave is so close to the end of the leave year that there is not enough time to take the entire annual leave entitlement, a teacher must be allowed to carry over any balance of leave to the following leave year. A teacher can be required to take this during the remaining periods of school closure after the statutory annual leave for that leave year has been accommodated.
- 6.5 For all other staff, the employee must ensure that annual leave is planned around her maternity leave to ensure that no more than 4 days' annual leave is carried forward into the next leave year. The employee should discuss her holiday plans with her line manager in good time before taking maternity leave, to ensure that minimal annual leave is carried forward into the next annual leave year.

7 TIME OFF FOR ANTENATAL APPOINTMENTS

- 7.1 Pregnant employees may take reasonable paid time off during working hours for antenatal appointments.
- 7.2 Employees should try to give the Trust as much notice as possible of the appointment. The Trust may ask the employee to provide the following, unless it is the first appointment:
- 7.2.1 a certificate from the doctor, midwife or health visitor stating that the employee is pregnant; and
- 7.2.2 an appointment card.

8 RISK OF RUBELLA – TEACHERS

- 8.1 If in the early months of pregnancy a teacher is advised by an approved medical practitioner to absent herself from school because of the risk of rubella, she shall be granted leave with full pay, provided that she does not unreasonably refuse to serve in another school where there is no such undue risk.

- 8.2 The employee should provide a fit note or letter from an approved medical practitioner to evidence that she has been advised not work due to the risk of rubella.

MATERNITY

9 STARTING MATERNITY LEAVE

- 9.1 Before starting maternity leave, appropriate and reasonable contact arrangements for the maternity leave period should be made.
- 9.2 The earliest date the employee can start maternity leave is 11 weeks before the expected week of childbirth, unless either:
- 9.2.1 The employee is absent due to sickness wholly or partly because of pregnancy within the four weeks before the expected week of childbirth. Maternity leave will then start at this point and maternity pay will be applied if appropriate; or
 - 9.2.2 if childbirth happens earlier than the date specified on the MATB1 form, the employee's maternity leave will start from the day after the actual date of birth and maternity pay will start from the same date. In these circumstances, the employee must give their line manager written notice of the actual date of birth at the earliest opportunity.
- 9.3 If the employee is certified medically unfit to remain at work between the eleventh and fourth week before the expected week of childbirth, the employee can choose whether to take sick leave or start maternity leave.
- 9.4 The employee can change her maternity leave start date by informing her line manager at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable.

10 STATUTORY MATERNITY PAY

- 10.1 Statutory maternity pay (SMP) is payable for up to 39 weeks. SMP will stop being payable if the employee returns to work (except where the employee is simply keeping in touch in accordance with paragraph 14).
- 10.2 The Qualifying week is 15 weeks before the expected week of childbirth. The Relevant Period is eight weeks ending with the Qualifying Week.
- 10.3 The pregnant employee is entitled to SMP if:
- 10.3.1 She has been continuously employed for at least 26 weeks at the end of the Qualifying Week and she is still employed by the Trust during that week;
 - 10.3.2 during the Relevant Period, the employee's average weekly earnings are not less than the lower earnings limit set by the government;
 - 10.3.3 the employee provides the Trust with a doctor's or midwife's certificate (MATB1 form) stating her expected week of childbirth;
 - 10.3.4 the employee gives at least 28 days' notice (or, if that is not possible, as much notice as she can) of her intention to take maternity leave; and
 - 10.3.5 the employee is still pregnant 11 weeks before the start of the expected week of

childbirth or has already given birth.

10.4 SMP is calculated as follows:

10.4.1 First six weeks: SMP is paid at the rate of 90% of the employee's average weekly earnings calculated over the Relevant Period.

10.4.2 Remaining 33 weeks: SMP is paid at the rate set by the government for the relevant tax year, or the rate paid in the first six weeks (if this is lower).

10.5 SMP entitlement starts on the day on which the employee's OML begins and, thereafter, at the end of each complete week of absence. SMP payments are made on the next normal payroll date and income tax, National Insurance and pension contributions are deducted as appropriate.

10.6 The employee is still eligible for SMP if she leaves employment for any reason (for example, if she resigns or is made redundant) after the start of the 15th week before the expected week of childbirth. In such cases, if the employee's maternity leave has not already begun, SMP starts in whichever is the later of:

10.6.1 the week following the week in which employment ends; or

10.6.2 the eleventh week before the expected week of childbirth.

11 **OCCUPATIONAL MATERNITY PAY**

11.1 Occupational maternity pay (OMP) is based on the employee's length of continuous service.

11.2 OMP is paid on the condition that the employee will be available to work, or able to return to work, for a required Return to Work Period. A Return to Work Period is the 13-week (or three-month) period for which the employee is required to return to work following maternity leave, as defined in her terms and conditions of service.

11.3 OMP will be paid from when the employee starts her maternity leave period. If childbirth happens before the maternity leave period was due to start, OMP will be paid from the day after the actual date of birth.

11.4 OMP will stop being payable if the employee returns to work (except where she is simply keeping in touch in accordance with paragraph 14).

11.5 12 weeks of half pay OMP is repayable if the employee does not complete the required return to work period.

11.6 If an employee is made redundant whilst on maternity leave, OMP ceases on the last day of employment. The employee is not required to pay back any half pay elements of OMP (12 weeks) paid up to and including the last day of employment. (This applies to employees on permanent and fixed term contracts).

11.7 Please refer to Schedule 1 and Schedule 2 for full details of SMP and OMP.

12 **PENSIONS**

12.1 During OML and any further period of paid maternity leave, the Trust shall continue to make any employer contributions that it usually makes into the employee's pension scheme, based on what the employee's earnings would have been if she had not been on maternity leave.

This is provided that the employee continues to make contributions based on the maternity pay she is receiving. If the employee wishes to increase her contributions to make up any shortfall from those based on her normal salary, she should contact her line manager.

- 12.2 During any period of unpaid maternity leave, the employee can choose to pay contributions in order for the period to count in full for pension purposes. The contributions (payable by the Trust and the employee) are based on contractual pay immediately before the unpaid period started.
- 12.3 If the employee wants to pay any such contributions, she must confirm this in writing to the Trust within 30 days of returning to work, or on leaving employment if this sooner.
- 12.4 For the avoidance of doubt, if the employee does not pay contributions, this period of unpaid leave will not count towards her pension.

13 DEDUCTIONS FROM SALARY

- 13.1 All SMP or maternity pay from the Trust is treated as earnings and is therefore subject to income tax and National Insurance deductions.

14 KEEPING IN TOUCH

- 14.1 The Trust may make reasonable contact with the employee from time to time during her maternity leave.
- 14.2 The employee may work (including attending training) for up to ten days during maternity leave without bringing her maternity leave or SMP to an end (known as Keeping in Touch Days). This is not compulsory and must be discussed and agreed with her line manager. In any case, the employee must not work in the two weeks following birth.
- 14.3 The employee will be paid at her normal basic rate of pay for time spent working on a Keeping in Touch Day and this will be inclusive of any maternity pay entitlement.

15 DECIDING NOT TO RETURN DURING MATERNITY LEAVE

- 15.1 If the employee does not intend to return to work, or is unsure, it is helpful if the employee discusses this with the Trust as early as possible. If the employee decides not to return, the employee should give notice of resignation in accordance with her contract (or a shorter period if agreed with her line manager).
- 15.2 The amount of maternity leave left to run when the employee gives notice must be at least equal to her contractual notice period, otherwise the Trust may require her to return to work for the remainder of the notice period.
- 15.3 Once the employee has given notice that she will not be returning to work, she cannot change her mind without our agreement.
- 15.4 This does not affect the employee's right to receive SMP, however, the employee may need to pay back the half pay received during her maternity leave. Please refer to Schedule 1 and Schedule 2

16 ENTITLEMENTS IN THE EVENT OF MISCARRIAGE, STILLBIRTH OR EARLY DEATH

- 16.1 In the event of a miscarriage or stillbirth during the 1st to 24th week of the employee's pregnancy, the employee is entitled to statutory and/ contractual sick pay entitlements,

subject to meeting eligibility requirements. The employee must obtain a certificate from her GP to cover any sickness period. The employee will not be entitled to either statutory or occupational maternity benefits.

- 16.2 In the event of a miscarriage or stillbirth during or after the 24th week of pregnancy, or early death of the employee's baby whilst she is still absent on maternity leave, the employee will be entitled to receive the full statutory and occupational maternity leave and pay benefits, subject to eligibility requirements.
- 16.3 In the event of the birth of a live child at any point during her pregnancy who subsequently dies, the employee will be entitled to full maternity scheme benefits.

17 **RETURNING TO WORK**

- 17.1 Once the employee has notified the Trust in writing of her intended start date for maternity leave, the Trust shall assume that she will return to work on the next available working day following the end of the additional maternity leave period. This will usually be discussed during the agreed contact.
- 17.2 The employee is only required to tell the Trust of her return to work date if she is returning earlier than her additional maternity leave end date. In this case, the employee must provide her line manager with at least 21 days' written notice.
- 17.3 In addition to the above provisions, the employee is required to provide a medical certificate indicating her return to work date and her fitness to return to work if she wishes to return during a school holiday period.
- 17.4 Shortly before the employee is due to return to work, the Trust may invite her to have a discussion (whether in person or by telephone) about the arrangements for her return. This may cover:
 - 17.4.1 updating the employee on any changes that have occurred during her absence;
 - 17.4.2 any training needs the employee might have; and
 - 17.4.3 any changes to working arrangements.
- 17.5 The employee is required to return to work for a three-month period of time after her maternity leave ends, in order to protect any occupational (contractual) maternity pay paid to her.

18 **RETURN BY SUPPORT STAFF FOLLOWING A RESIGNATION AND BREAK FOR MATERNITY REASONS (NOT APPLICABLE TO TEACHERS)**

- 18.1 Where a member of support staff returns to the Trust service following a break for maternity reasons, or reasons concerned with caring for children or other dependants he or she will be entitled to have previous service taken into account in respect of the following provisions provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened:
 - 18.1.1 Sickness provisions;
 - 18.1.2 Maternity provisions;
 - 18.1.3 Adoption provisions; and

- 18.1.4 Period of notice to terminate employment
- 18.2 For the purpose of the calculation of entitlement to annual leave, the eight years' time limit does not apply, provided that no permanent full time employment has intervened.
- 18.3 For the avoidance of doubt, any employee returning on this basis will need to accrue service with the Trust of two consecutive years before acquiring rights in relation unfair dismissal and redundancy payments.
- 18.4 If a support staff employee chooses to return to work with the Trust she will be asked to complete and sign a form confirming her service and that no paid employment has intervened.

PATERNITY

ENTITLEMENT TO PATERNITY LEAVE

- 18.5 Paternity leave is available when a child is born or placed with an employee for adoption (unless the employee is taking adoption leave). Further details of adoption leave are set out in our Adoption section below.
- 18.6 The employee is entitled to paternity leave if s/he meets all the following conditions:
 - 18.6.1 The employee has been continuously employed by the Trust for at least 26 weeks ending with the 15th week before the expected week of childbirth or the week in which the employee or her/his partner is notified by an adoption agency that the employee/they have been matched with a child.
 - 18.6.2 The employee:
 - 18.6.2.1 is the biological father of the child; or
 - 18.6.2.2 is the partner of the child's mother or of someone who has been matched with a child by an adoption agency; or
 - 18.6.2.3 the employee expects to have main responsibility (with the child's mother or co-adopter) for the child's upbringing; or
 - 18.6.2.4 the employee is the child's biological father and the employee expects to have some responsibility for the child's upbringing.
 - 18.6.3 The leave is for the purpose of caring for the child, or supporting the child's mother or co-adopter in caring for the child.
 - 18.6.4 The employee has not already taken shared parental leave in respect of the same child. The employee may be entitled to take shared parental leave and should refer to the section on Shared Parental Leave below.

19 TIMING AND LENGTH OF PATERNITY LEAVE

- 19.1 Paternity leave must be taken as a period of either one week or two consecutive weeks. It cannot be taken in instalments.
- 19.2 Paternity leave can be taken from any date following the date of the child's birth or adoption placement, but must end within 56 days of the child's placement or birth or the first day of

the expected week of childbirth (if born earlier than this).

- 19.3 Once the employee has decided when s/he is going to take paternity leave, the employee must discuss this with her/his line manager and provide the appropriate documentary evidence and information.

20 REASONABLE CONTACT

- 20.1 Before the employee starts paternity leave, s/he should agree appropriate and reasonable contact arrangements for the paternity leave period with her/his line manager.

21 STATUTORY PATERNITY PAY

- 21.1 In this paragraph, **Relevant Period** means the eight-week period ending with the **Qualifying Week** which is the 15th week before the Expected Week of Childbirth or the week in which the employee or her/his partner was notified of being matched with the child.

- 21.2 If the employee takes paternity leave in accordance with this policy, the employee will be entitled to statutory paternity pay (**SPP**) if, during the Relevant Period, the employee's average weekly earnings are not less than the lower earnings limit set by the government.

- 21.3 SPP is paid at a prescribed rate which is set by the government for the relevant tax year, or at 90% of the employee's average weekly earnings calculated over the Relevant Period if this is lower.

22 PENSIONS

- 22.1 During paternity leave, the Trust shall continue to make deductions from the employee's statutory paternity pay. If the employee has concerns about her/his pension or the affect that her/his planned paternity leave may take, the employee should contact their line manager.

23 DEDUCTIONS FROM SALARY

- 23.1 All payments under the statutory and the Trust paternity pay schemes are treated as earnings and are therefore subject to income tax and national insurance deductions.

24 SICKNESS DURING PATERNITY LEAVE

- 24.1 If the employee is ill whilst on paternity leave, the employee will not be entitled to receive sick pay.

25 ENTITLEMENTS IN OTHER CIRCUMSTANCES

- 25.1 Depending on the circumstances, the employee's entitlement to paternity leave will be effected as follows.

- 25.2 In the case of childbirth:

25.2.1 If the mother has a miscarriage or stillbirth before the end of the 24th week of her pregnancy, the employee will be entitled to the relevant statutory and occupational sick leave and pay entitlements. The employee is not entitled to paternity benefits.

25.2.2 During 25th week of pregnancy onwards:

25.2.2.1 If the mother has a miscarriage or stillbirth after the end of the 24th

week of pregnancy, the employee will be entitled to receive the full statutory and occupational paternity leave and pay entitlements.

25.2.3 If the newborn baby dies during the statutory paternity leave or pay periods, paternity leave and pay will continue as normal.

25.2.4 In the case of adoption:

25.2.4.1 If the placement does not go ahead at all, the employee is not entitled to receive any statutory or occupational entitlements.

25.2.4.2 If the child ceases to live with the adopter during the statutory paternity pay period, the employee will continue to be entitled to statutory leave and pay.

26 RETURNING TO WORK

26.1 The employee does not need to notify the Trust of her/his intention to return to work from paternity leave, as the Trust will assume that the employee will return to work at the end of the one or two consecutive week period.

26.2 The employee is normally entitled to return to work after paternity leave to the same position the employee held before commencing leave. The employees terms of employment will be the same as if the employee had not been absent.

26.3 If the employee is also taking shared parental leave in respect of the same child, this will be dealt with separately.

ADOPTION

27 PRE-ADOPTION MEETINGS

27.1 **The primary** adopter has a right to take paid time off for up to 5 pre-adoption meetings or interviews with, for instance, adoption agencies or solicitors, before starting adoption leave. The primary adopter is the person who has been matched with a child for adoption or, where two people have been jointly matched, whichever of them has been elected to be the child's adopter for statutory leave and pay purposes.

27.2 The employee must produce evidence of the appointment where this is requested by her/his line manager.

27.3 The secondary adopter also has a statutory entitlement to take unpaid time off work to accompany the primary adopter to up to two of their pre-adoption appointments. Where an employee wishes to attend these meetings, line managers can use their discretion to make use of annual leave, flexi leave or some other arrangement, subject to operational and business needs.

28 ENTITLEMENT TO ADOPTION LEAVE

28.1 To qualify for adoption leave, the employee must meet all of the following conditions:

28.1.1 The employee is adopting a child through a UK adoption agency, or the employee is a local authority foster parent who has been approved as a prospective adopter;

28.1.2 The adoption agency or local authority has given the employee written notice that

it has matched the employee with a child for adoption, or that it will be placing a child with the employee under a fostering for adoption arrangement, and tells the employee the date the child is expected to be placed into her/his care (known as the expected placement date, EPD);

- 28.1.3 The employee has notified the agency that s/he agrees to the child being placed with the employee on the EPD.
- 28.2 In a surrogacy case, the employee is entitled to adoption leave if all the following conditions are met:
 - 28.2.1 A surrogate mother gives birth to a child who is biologically the employee's child, the child of the employee's spouse or partner, or the child of both the employee and their spouse or partner.
 - 28.2.2 The employee expects to be given parental responsibility for the child under a parental order from the court. The child must live with the employee and s/he must apply for the parental order within six months of the child's birth.
- 28.3 Only one parent can take adoption leave. If the employee's spouse or partner takes adoption leave with his or her employer, the employee will not be entitled to adoption leave but s/he may be entitled to paternity leave (see the Trust's Paternity section above) and/or shared parental leave.
- 28.4 For the avoidance of doubt, the employee will not qualify for ordinary adoption leave if s/he is a step-parent adopting her/his partner's child/children or where the adoption is immediately preceded by a period of foster care.
- 28.5 The maximum adoption leave entitlement is 52 weeks, consisting of 26 weeks' ordinary adoption leave (OAL) and 26 weeks' additional adoption leave (AAL). OAL is a period of up to 26 consecutive weeks leave, starting no later than the actual date of placement. AAL is a further period of up to 26 consecutive weeks' adoption leave immediately following the period of OAL.

29 **NOTIFICATION REQUIREMENTS**

- 29.1 Not more than seven days after the agency or local authority notifies the employee in writing that it has matched her/him with a child (or where that is not reasonably practicable, as soon as reasonably practicable), the employee must give the Trust notice in writing of the EPD, and the employee's intended start date for adoption leave (the intended start date).

30 **STARTING ADOPTION LEAVE – UK ADOPTIONS**

- 30.1 Before starting adoption leave, appropriate and reasonable contact arrangements for the adoption leave period should be made.
- 30.2 In adoption or fostering for adoption cases, OAL may start on a predetermined date no more than 14 days before the EPD, or on the date of placement itself, but no later.
- 30.3 If the employee is certified medically unfit to remain at work earlier than the 14th day before the EPD, the employee is only entitled to the relevant benefits for sickness absence.
- 30.4 If the employee is certified medically unfit to remain at work between the 14th day before and the expected date of placement, the employee can choose whether to take sick leave or start adoption leave.

30.5 If the employee continues to be medically unfit for work, it is likely that the adoption will be postponed until s/he is fully recovered.

31 OVERSEAS ADOPTIONS

31.1 If the employee is adopting a child from overseas, the requirements set out in this policy are varied as follows:

31.1.1 The employee must have received notification that the adoption has been approved by the relevant UK authority (known as an official notification).

31.1.2 The employee must give the Trust notice in writing of:

31.1.2.1 her/his intention to take adoption leave;

31.1.2.2 the date s/he received official notification; and

31.1.2.3 the date the child is expected to arrive in Great Britain.

31.1.3 This notice should be given as early as possible but in any case within 28 days of receiving official notification (or, if the employee has fewer than 26 weeks' employment with the Trust at the date of official notification, within 30 weeks of starting employment).

31.1.4 The employee must also give the Trust at least 21 days' notice in writing of her/his intended start date. This can be the date the child arrives in Great Britain or a predetermined date no more than 28 days after the child's arrival in Great Britain.

31.2 The employee must also notify the Trust of the actual date the child arrives in Great Britain within 28 days of that date.

31.3 Adoption leave in these cases may start on a predetermined date no more than 28 days after the child arrives in Great Britain, or on the date of the child's arrival in Great Britain, but no later.

31.4 If the employee wants to change her/his intended start date, the employee should tell her/his line manager in writing. The employee should give the Trust as much notice as s/he can, but wherever possible, the employee must tell the Trust at least 21 days before the original intended start date (or the new intended start date if the employee is bringing the date forward).

32 STATUTORY ADOPTION PAY

32.1 Statutory adoption pay (SAP) is payable for up to 39 weeks. It stops being payable if the employee returns to work sooner or if the placement is disrupted. The employee is entitled to SAP if:

32.1.1 s/he have been continuously employed for at least 26 weeks ending with the week in which the approved UK or overseas adoption agency notified the employee that s/he had been matched with the child (known as the Qualifying Week) and are still employed by us during that week;

32.1.2 the employee's average weekly earnings during the eight weeks ending with the Qualifying Week (known as the Relevant Period) are not less than the lower earnings limit set by the government; and

32.1.3 the employee has given the Trust the relevant notifications under paragraph 29.

32.2 Payment of SAP starts when the employee's adoption leave period commences.

32.3 SAP payments stop if the employee returns to work before the end of the SAP period (except for Keeping in Touch Days).

33 **ANNUAL LEAVE**

33.1 During OAL and AAL, holiday entitlement will accrue at the rate provided under the employee's contract. Where this leave spans more than one annual leave year, the employee will be entitled to carry over holiday from that year to the following year, in accordance with the Trust's rules regarding the carrying over of annual leave.

33.2 Employees that work term time only, including teachers, will be entitled to the statutory 28 days (pro rata for those working part time). This is not an additional entitlement to annual leave on top of the current school closure arrangements. These employees are required to take annual leave during school holidays.

33.3 For all other staff, the employee must ensure annual leave is planned around her/his adoption leave to ensure that no more than 4 days' annual leave is carried forward into the next leave year. The employee should discuss her/his holiday plans with her/his line manager in good time before taking adoption leave to ensure that minimal annual leave is carried forward into the next leave year.

34 **PENSIONS**

34.1 If the employee is a member of the Teachers' or Local Government Pension Schemes, the employee will have pension deductions made from her/his occupational and statutory adoption pay.

34.2 If the employee does not pay contributions, this period of unpaid leave will not count towards her/his pension.

35 **DEDUCTIONS FROM SALARY**

35.1 All payments under the statutory and the Trust adoption pay schemes are treated as earnings and are therefore subject to income tax and national insurance deductions.

36 **KEEPING IN TOUCH DAYS**

36.1 The Trust may make reasonable contact with the employee from time to time during her/his adoption leave.

36.2 The employee may work (including attending training) on up to ten days (**Keeping in Touch Days**) during adoption leave without bringing her/his adoption leave to an end. This is not compulsory and must be discussed and agreed with her/his line manager.

36.3 The employee will be paid at her/his normal basic rate of pay for time spent working on a Keeping in Touch Day and this will be inclusive of any adoption pay entitlement.

37 **SICKNESS ABSENCE DURING ADOPTION LEAVE**

37.1 If the employee is ill whilst on OAL or AAL, s/he is not entitled to receive sick pay.

37.2 The employee's entitlement to receive sick pay would resume upon her/his return to work from adoption leave.

38 ENTITLEMENT IN THE EVENT OF THE CHILD NOT BEING PLACED OR CEASING TO LIVE WITH THE ADOPTER

38.1 If the placement does not go ahead at all, the employee is not entitled to receive any statutory or occupational entitlements.

38.2 If the placement does not go ahead, but the employee has already started her/his adoption leave, the employee will be entitled to statutory adoption leave and pay for up to eight weeks after the end of the week the employee was notified that the child would not be placed with her/him.

38.3 If the child ceases to live with the adopter during the statutory adoption pay period, the employee will continue to be entitled to statutory adoption leave and pay for up to eight weeks after the end of the week the placement ended, if it was not due to end earlier.

39 RETURNING TO WORK

39.1 Where the employee takes her/his maximum entitlement of 52 calendar weeks adoption leave, the employee's line manager can assume that s/he will return to work on the next available working day following the end of the AAL period. This will usually be discussed during the agreed contact.

39.2 The employee is only required to tell her/his line manager of her/his return to work date if s/he is going to return earlier than her/his AAL end date. In this case, the employee must provide her/his line manager with at least 21 days' written notice.

39.3 Shortly before the employee is due to return to work, the Trust may invite her/him to have a discussion (whether in person or by telephone) about the arrangements for his/her return. This may cover:

39.3.1 updating the employee on any changes that have occurred during her/his absence;

39.3.2 any training needs the employee might have; and

39.3.3 any changes to working arrangements (for example if the employee has made a request to work part-time).

39.4 The employee is required to return to work for a three-month period of time, in order to protect any OAP paid to her/him.

SHARED PARENTAL LEAVE

40 WHAT IS SHARED PARENTAL LEAVE?

40.1 Shared parental leave (**SPL**) is a form of leave that gives employees and their partners more flexibility in how to share the care of their child in the first year after birth/adoption than simply taking maternity and paternity leave. Assuming that both the employee and their partner is eligible, 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 at different times. They may be able to take leave in more than one block.

41 ENTITLEMENT TO SPL

41.1 SPL leave is available when a child is born or placed with the employee for adoption. Further details of adoption leave are set out in our Adoption Policy.

41.2 The employee is entitled to SPL in relation to the birth/adoption of a child if:

41.2.1 the employee is the mother of the child and share the main responsibility for the care of the child with the child's father or with her/his partner;

41.2.2 the employee is the biological father of the child and share the main responsibility for the care of the child with the child's mother; or

41.2.3 the employee is the partner of the child's mother and share the main responsibility for the care of the child with the mother (where the child's father does not share the main responsibility with the mother).

41.2.4 an adoption agency has placed a child with the employee and/or her/his partner for adoption, or where a child is placed with the employee and/or her/his partner as foster parents under a 'fostering for adoption' or 'concurrent planning' scheme and the employee intends to share the main responsibility for the care of the child with her/his partner;

41.3 The following conditions must also be fulfilled:

41.3.1 The employee has been continuously employed by the Trust for at least 26 weeks by the end of the Qualifying Week (the fifteenth week before the expected week of childbirth), and still be employed by the Trust in the week before the leave is to be taken;

41.3.2 the other parent must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the expected week of childbirth and had average weekly earnings of at least £30 during 13 of those weeks;

41.3.3 the employee and the other parent/her/his partner must give the necessary statutory notices and declarations as summarised below, including notice to end any maternity/adoption leave, statutory maternity/adoption pay (SMP/SAP) or maternity allowance (MA) periods; and

41.3.4 either the employee or her/his partner must qualify for statutory adoption leave and/or SAP and must take at least two weeks of adoption leave and/or pay.

41.4 The total amount of SPL available is 52 weeks, minus:

- 41.4.1 the weeks spent by the child's mother on maternity leave (or the weeks in which the mother has been in receipt of SMP or MA if she is not entitled to maternity leave); or
 - 41.4.2 the weeks of adoption leave taken by either the employee or her/his partner (or the weeks in which her/his partner has been in receipt of SAP if they were not entitled to adoption leave).
- 41.5 If the employee is the mother, she cannot start SPL until after the compulsory maternity leave period, which lasts until two weeks after birth.
- 41.6 If the employee is the child's father or the mother's partner, s/he should consider using her/his two weeks' paternity leave before taking SPL. Once the employee starts SPL s/he will lose any untaken paternity leave entitlement. SPL entitlement is additional to her/his paternity leave entitlement.

42 **OPTING IN TO SHARED PARENTAL LEAVE AND PAY**

- 42.1 An employee considering taking SPL is encouraged to discuss his or her entitlement with her/his line manager as early as possible. It could be that these discussions take place before any formal notices are given.
- 42.2 For school-based staff, formal requests for SPL should be submitted during term time.
- 42.3 Not less than eight weeks before the date the employee intends her/his SPL to start, the employee must give her/his line manager a written opt-in notice giving:
- 42.3.1 The employee's name and the name of the other parent;
 - 42.3.2 if the employee is the mother of the child, the start and end dates of her maternity leave;
 - 42.3.3 if the employee is the father of the child or the mother's partner, the start and end dates of the mother's maternity leave, or if she is not entitled to maternity leave, the start and end dates of any SMP or MA period;
 - 42.3.4 if the employee is taking adoption leave, her/his adoption leave start and end dates/her/his partner's adoption leave start and end dates or (if the employee's partner is not entitled to adoption leave), the start and end dates of their SAP;
 - 42.3.5 the total SPL available, which is 52 weeks minus the number of weeks' maternity leave, SMP, MA, adoption leave or SAP period taken or to be taken by the employee or her/his partner;
 - 42.3.6 how many weeks of the available SPL will be allocated to the employee and how many to the other parent/her/his partner (the employee can change the allocation by giving her/his line manager a further written notice, and the employee does not have to use her/his full allocation);
 - 42.3.7 if the employee is claiming statutory shared parental pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of the SMP, MA or SAP period taken or to be taken);
 - 42.3.8 how many weeks of available ShPP will be allocated to the employee and how much to the other parent/her/his partner. (The employee can change the allocation

by giving her/his line manager a further written notice, and the employee does not have to use her/his full allocation);

42.3.9 an indication of the pattern of leave the employee is thinking of taking, including suggested start and end dates for each period of leave. This indication will not be binding at this stage, but please give the Headteacher/Senior Manager as much information as the employee can about her/his future intentions; and

42.3.10 declarations by the employee and the other parent that they both meet the statutory conditions to enable them to take SPL and ShPP.

43 **ENDING MATERNITY/ADOPTION LEAVE**

43.1 If the employee is the child's mother/the employee is taking or intends to take adoption leave and wants to opt in to the SPL scheme, the employee must give her/his line manager at least eight weeks' written notice to end her/his maternity/adoption leave (a **curtailment notice**) before/he can take SPL. The notice must state the date the employee's maternity/adoption leave will end. The employee can give the notice before or after her/his birth/adoption leave starts, but the employee cannot end her maternity leave until at least two weeks after birth/ the employee must take at least two weeks' adoption leave.

43.2 The employee must also give her/his line manager , at the same time as the curtailment notice, a notice to opt into the SPL scheme or a written declaration that the other parent/her/his partner has given her/his employer an opt-in notice and that the employee has given the necessary declarations in that notice.

43.3 The other parent/the employee's partner may be eligible to take SPL from her or his employer before the employee's maternity leave ends, provided the employee has given the curtailment notice.

43.4 The curtailment notice is binding and cannot usually be revoked. The employee can only revoke a curtailment notice if maternity/adoption leave has not yet ended and one of the following applies:

43.4.1 if the employee realises that neither s/he nor the other parent/the employee's partner is in fact eligible for SPL or ShPP, in which case the employee can revoke the curtailment notice in writing up to eight weeks after it was given;

43.4.2 if the employee gave the curtailment notice before giving birth, the employee can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or

43.4.3 if the other parent has died.

43.5 Once the employee has revoked a curtailment notice, the employee will be unable to opt back into the SPL scheme.

44 **ENDING THE EMPLOYEE'S PARTNER'S MATERNITY/ADOPTION LEAVE OR PAY**

44.1 If the employee is not the mother, but the mother is still on maternity leave or claiming SMP or MA, or if the employee's partner is taking adoption leave or claiming SAP from his or her employer, the employee will only be able to take SPL once the mother/her/his partner has either:

44.1.1 returned to work;

- 44.1.2 given the employer a curtailment notice to end the maternity/adoption leave;
- 44.1.3 given the employer a curtailment notice to end SMP (if entitled to SMP but not maternity leave) or SAP (if entitled to SAP but not adoption leave); or
- 44.1.4 given the benefits office a curtailment notice to end MA (if not entitled to maternity leave or SMP).

45 **EVIDENCE OF ENTITLEMENT**

45.1 The employee must also provide on request:

- 45.1.1 A copy of the birth certificate (or if the employee has not yet obtained a birth certificate, a signed declaration of the child's date and place of birth);
- 45.1.2 One or more documents from the adoption agency showing the agency's name and address and the expected placement date; and
- 45.1.3 The name and address of the other parent's employer (or a declaration that they have no employer).

46 **BOOKING SPL DATES**

46.1 Having opted into the SPL system, the employee must book her/his leave by giving her/his line manager a period of leave notice. This may be given at the same time as the opt-in notice or later, provided it is at least eight weeks before the start of SPL.

46.2 The period of leave notice can either give the dates the employee wants to take leave or, if the child has not been born or placed with the employee yet, it can state the number of days after birth/placement that s/he wants the leave to start and end. This may be particularly useful if the employee intends to take paternity leave starting on the date of birth and wish to take SPL straight afterwards.

46.3 Leave must be taken in blocks of at least one week.

46.4 If the employee's period of leave notice gives a single continuous block of SPL, s/he will be entitled to take the leave set out in the notice.

46.5 If the employee's period of leave notice requests split periods of SPL, with periods of work in between, the Trust will consider the employee's request as set out in paragraph 47 below.

46.6 The employee can give up to three period of leave notices. This may enable the employee to take up to three separate blocks of SPL (although if the employee gives a notice to vary or cancels a period of leave this will in most cases count as a further period of leave notice).

47 **PROCEDURE FOR REQUESTING SPLIT PERIODS OF SPL**

47.1 In general, a period of leave notice should set out a single continuous block of leave. The Trust may be willing to consider a period of leave notice where the SPL is split into shorter periods with periods of work in between (discontinuous leave). The employee should discuss this with her/his line manager in good time before formally submitting her/his period of leave notice. This will give the Trust more time to consider the request and hopefully agree a pattern of leave with the employee from the start.

47.2 Upon receiving a request for discontinuous leave, the employee's line manager might

consider the following when making a decision:

- 47.2.1 What impact will the leave arrangements have on the school and could this be mitigated?
 - 47.2.2 Are there important events/days planned that must be covered during the leave period?
 - 47.2.3 Are there busy/challenging periods during the leave requested?
 - 47.2.4 Would any modification to the leave reduce the impact on the school and might the employee be agreeable to this?
 - 47.2.5 How will the role be covered while the employee is absent?
 - 47.2.6 Will there be significant staffing issues during the leave period requested?
 - 47.2.7 What will be the impact on the customer/client/pupils during this period of leave? Can this be managed?
- 47.3 If the employee wants to request split periods of SPL, s/he must set out the requested pattern of leave in her/his period of leave notice. The Trust will either agree to the request or start a two-week discussion period. At the end of that period, the Trust will confirm any agreed arrangements in writing. If the Trust has not reached agreement, the employee will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in the employee's notice (for example, if the employee requested three separate periods of four weeks each, they will be combined into one 12-week period of leave). Alternatively, the employee may:
- 47.3.1 choose a new start date (which must be at least eight weeks after her/his original period of leave notice was given), and tell the Trust within five days of the end of the two-week discussion period; or
 - 47.3.2 withdraw the employee's period of leave notice within two days of the end of the two-week discussion period (in which case the notice will not be counted and the employee may submit a new one if s/he chooses).

48 CHANGING THE DATES OR CANCELLING SPL

- 48.1 The employee can cancel a period of leave by notifying her/his line manager in writing at least eight weeks before the start date in the period of leave notice.
- 48.2 The employee can change the start date for a period of leave by notifying her/his line manager in writing at least eight weeks before the original start date or the new start date, whichever is earlier.
- 48.3 The employee can change the end date for a period of leave by notifying her/his line manager in writing at least eight weeks before the original end date or the new end date, whichever is earlier.
- 48.4 The employee can combine discontinuous periods of leave into a single continuous period of leave. Since this will involve a change to the start date or end date of a period of leave, the employee will need to notify her/his line manager in writing at least eight weeks before the original start date or the new start date, whichever is earlier.

- 48.5 The employee can request that a continuous period of leave be split into two or more discontinuous periods of leave, with periods of work in between. This will involve a change to the start date or end date and, therefore, the employee will need to notify her/his line manager in writing at least eight weeks before the original start date or the new start date, whichever is earlier. The Trust does not have to grant the employee's request but will consider it.
- 48.6 A notice to change or cancel a period of leave will count as one of the employee's three period of leave notices, unless:
- 48.6.1 it is a result of the employee's child being born earlier or later than the expected week of childbirth or the child being placed with the employee earlier or later than the expected placement date;
 - 48.6.2 the employee is cancelling a request for discontinuous leave within two days of the end of the two-week discussion period under paragraph 47.3.
 - 48.6.3 it is at the Trust's request; or
 - 48.6.4 the Trust agrees otherwise.

49 **PREMATURE BIRTH**

- 49.1 Where the child is born early (before the beginning of the expected week of childbirth), the employee may be able to start SPL in the eight weeks following birth even though s/he cannot give eight weeks' notice. The following rules apply:
- 49.1.1 If the employee has given a period of leave notice to start SPL on a set date in the eight weeks following the expected week of childbirth, but her/his child is born early, the employee can move the SPL start date forward by the same number of days, provided s/he notifies her/his line manager in writing of the change as soon as s/h can. (If the employee's period of leave notice already contained a start date which was a set number of days after birth, rather than a set date, then no notice of change is necessary.)
 - 49.1.2 If the employee's child is born more than eight weeks early and s/he wants to take SPL in the eight weeks following birth, the employee should submit her/his opt-in notice and her/his period of leave notice as soon as s/he can.

50 **SHARED PARENTAL PAY**

- 50.1 The employee may be able to claim Statutory Shared Parental Pay (ShPP) of up to 39 weeks (less any weeks of SMP, MA or SAP claimed by the employee or her/his partner) if the employee had at least 26 weeks' continuous employment with the Trust at the end of the Qualifying Week (fifteen weeks before the expected week of childbirth) and her/his average earnings are not less than the lower earnings limit set by the government each tax year. ShPP is paid by employers at a rate set by the government each year.
- 50.2 The employee should tell the Trust in her/his period of leave notice(s) whether s/he intends to claim ShPP during her/his leave (and if applicable, for what period). If it is not in the employee's period of leave notice the employee can tell the Trust in writing, at least eight weeks before s/he wants ShPP to start.

51 OTHER TERMS DURING SHARED PARENTAL LEAVE

- 51.1 The employee's terms and conditions of employment remain in force during SPL, except for the terms relating to pay.
- 51.2 Annual leave entitlement will continue to accrue at the rate provided under the employee's contract. If the employee's SPL will continue into the next holiday year, any holiday entitlement that cannot reasonably be taken before starting her/his leave can be carried over must be taken immediately before returning to work unless her/his line manager agrees otherwise. The employee should discuss her/his holiday plans with her/his line manager in good time before starting SPL. All holiday dates are subject to approval by the employee's line manager.

52 KEEPING IN TOUCH

- 52.1 The Trust may make reasonable contact with the employee from time to time during her/his SPL although we will keep this to a minimum. This may include contacting the employee to discuss arrangements for her/his return to work.
- 52.2 The employee may ask or be asked to work (including attending training) on up to 20 'keeping-in-touch' days (KIT days) during her/his SPL. This is in addition to any KIT days that the employee may have taken during maternity leave. KIT days are not compulsory and must be discussed and agreed with the employee's line manager.
- 52.3 The employee will be paid at her/his normal basic rate of pay for time spent working on a KIT day and this will be inclusive of any shared parental pay entitlement.

53 RETURNING TO WORK

- 53.1 If the employee wants to end a period of SPL early, s/he must give her/his line manager eight weeks' written notice of the new return date. If the employee has already given three period of leave notices the employee will not be able to end her/his SPL early without her/his line manager's agreement.
- 53.2 If the employee wants to extend her/his SPL, assuming s/he still had unused SPL entitlement remaining, the employee must give her/his line manager a written period of leave notice at least eight weeks before the date s/he was due to return to work. If the employee has already given three period of leave notices s/he will not be able to extend her/his SPL without her/his line manager's agreement. The employee may instead be able to request annual leave or ordinary parental leave, subject to the needs of the school.
- 53.3 The employee is normally entitled to return to work in the position s/he held before starting SPL, and on the same terms of employment. However, if it is not reasonably practicable for the Trust to allow the employee to return into the same position, the Trust may give the employee another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances:
- 53.3.1 if the employee's SPL and any maternity, paternity or adoption leave s/he has taken adds up to more than 26 weeks in total (whether or not taken consecutively);
or
- 53.3.2 if the employee took SPL consecutively with more than four weeks of ordinary parental leave.
- 53.4 If the employee wants to change her/his hours or other working arrangements on return from

SPL, s/he should make a request for flexible working. Please refer to the Trust's Flexible Working policy.

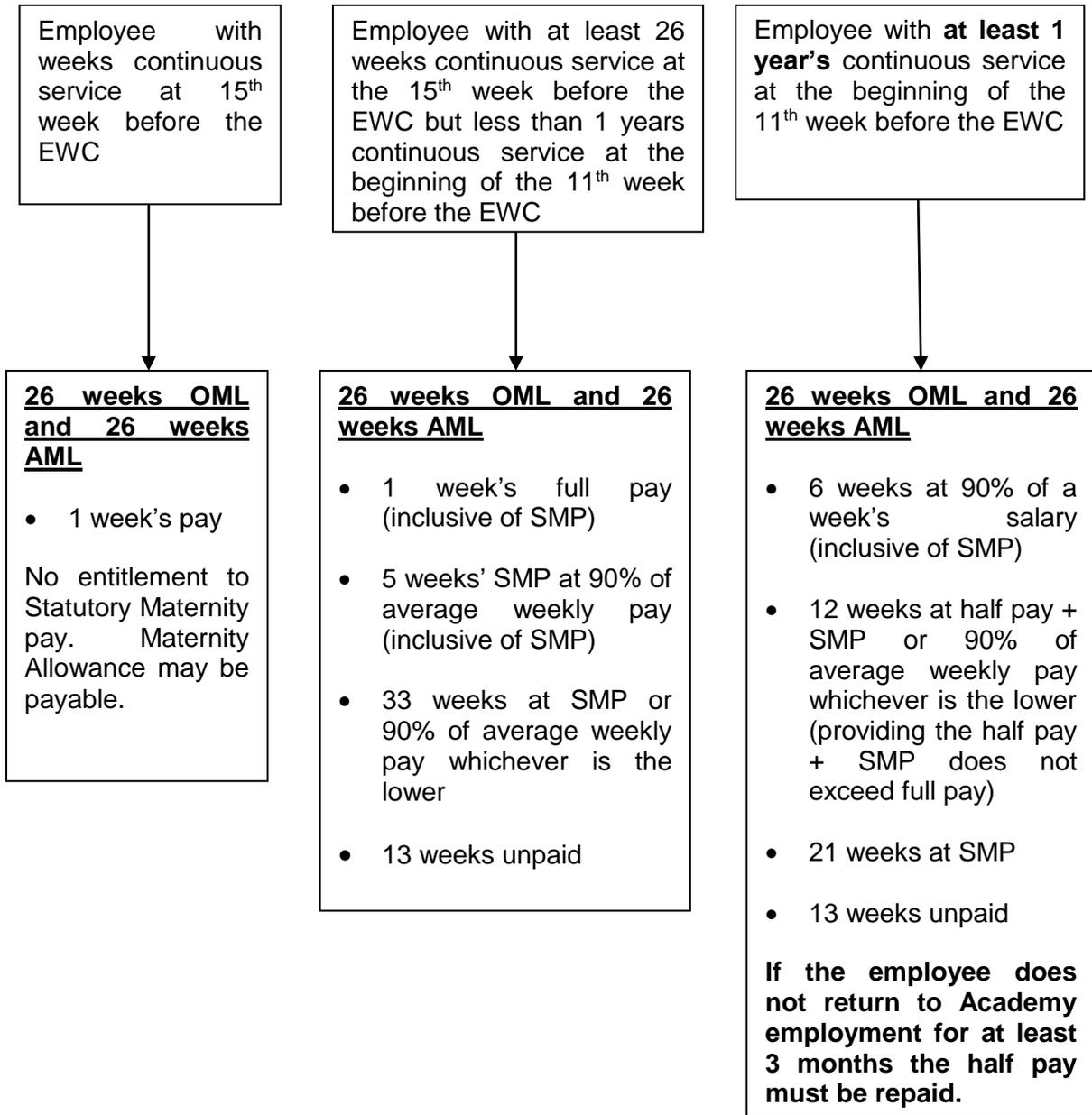
53.5 If the decides that s/he does not want to return to work s/he should give notice of resignation in accordance with her/his contract.

54 **FLEXIBLE WORKING REQUESTS**

54.1 The Trust will deal with any requests by employees to change their working patterns (such as working part-time) after maternity leave, adoption leave and shared parental leave on a case-by-case basis. The Trust will try to accommodate the employee's wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the Trust. It is helpful if requests are made as early as possible.

END OF POLICY

**SCHEDULE 1
ALL EMPLOYEES (EXCLUDING TEACHERS) MATERNITY BENEFITS FLOWCHART**



OML = Ordinary Maternity Leave
AML = Additional Maternity Leave
SMP = Statutory Maternity Pay*
EWC = Expected Week of Childbirth

SCHEDULE 2 TEACHERS MATERNITY BENEFITS FLOWCHART

