Work and Families Policy

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1. Policy Summary and Guiding Principles

This Policy applies to all Engineering UTC Northern Lincolnshire (ENLUTC) staff. This document is intended to provide a summary of employees' entitlements to leave and pay. It is not a comprehensive summary of employees' legal rights and in any case of dispute on interpretation, the wording used in legislation, Conditions of Service Handbooks and in Local Agreements will take precedence. If further information is required, please contact HR.

1.2 As soon as reasonably practicable, employees should notify the Principal that they are pregnant, which will enable a risk assessment to be carried out. In the interests of health and safety it is very important to assess if any of the duties an employee is undertaking may put the baby's or the employee's health at risk. Normally employees will be allowed to continue in their existing job unless risks are identified. If employees have any concerns or worries, it is important that they are discussed with the Principal and HR at the earliest opportunity (for more information see the Guidance)

1.3 This Policy has been developed in recognition of the statutory requirements covering maternity, paternity and adoption provisions, as well as wider issues affecting working families. It also recognises the importance of supporting employees with family friendly approaches to working, to enable a greater work-life balance.

The following definitions are used in this Policy:

- 'Expected Week of Childbirth' (EWC) means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.
- 'Qualifying week' means the 15th week before the expected week of childbirth.
- The statutory leave year for teachers runs from 1 September to 31 August each year.
- Statutory Maternity Pay (SMP)
- Occupational Maternity Pay (OMP) • Birth Leave includes any arrangements for Paternity Leave.

2. Employee Guide to Maternity Provisions

2.1 <u>Right to time off for Ante-Natal Care</u>

Time off with pay will be given for ante-natal care. Employees are asked to inform the Principal as far in advance as possible, of the date and time of an appointment and the best estimate of the length of absence from work, including travelling time if significant. Employees should seek to arrange appointments at the beginning or the end of the day, although it is recognised this may not always be possible. Ante-natal care may include:

- Appointments with the GP or registered midwife
- Hospital appointments for scans or tests
- Other appointments made on the recommendation of the GP or a Specialist Community Public Health Nurse
- Ante-natal classes

If employees are not sure whether a particular appointment is included in one of the above categories, they should contact HR for further advice.

Except in the case of the first appointment, employees will be required to produce for the Principal:

i) An appointment card or some other document showing that the appointment has been made.

and

ii) A certificate from a registered medical practitioner, registered midwife or registered nurse, stating that they are pregnant.

The time taken to attend such appointments within an employee's working hours for that day will be paid at the usual rate provided they have complied with the above requirements.

2.2 The Expected Date of Childbirth The employee's midwife will provide a certificate stating the expected week of childbirth – MAT B1. This will be issued after the 21st week of pregnancy. This certificate is required in order to claim Statutory Maternity Leave and Pay, if eligible. Please see the Guidance for further information.

As soon as the expected date of birth is confirmed on the MATB1 form, the earliest date for starting the period of Maternity Leave can be calculated, which is the beginning of the 11th week before the Expected Week of Childbirth (EWC). To calculate this date, employees should count back 11 weeks from the Sunday before the date of expected birth. Employees may commence Maternity Leave any time between this date and the expected date of birth. However, Maternity Leave will start automatically if they are absent from work with a pregnancy-related illness during the 4 weeks before the baby is due, or if they give birth their Maternity Leave will commence the next day.

Maternity Leave cannot start after the expected date of birth.

2.3 Returning to Work

Employees will need to decide if they intend to return to work after the baby is born. The Principal should be informed of the employee's intentions as soon as possible. There are three options:

a) to definitely return to work – Employees have the following legal rights when returning to work following a period of Maternity Leave:

- if returning during or at the end of the first 26 weeks (Ordinary Maternity Leave(OML)) they are entitled to return to the same job on the same terms and conditions that they had before going on Leave, unless this is not reasonably practicable by reason of redundancy.
- if they take more than 26 weeks Leave (Additional Maternity Leave (AML)) they are also entitled to return to the same job on the same terms and conditions unless this is not reasonably practicable by reason of redundancy. If, however there is some reason other than redundancy why it is not reasonably practicable for the employee to return to her original job, she is entitled to be offered suitable alternative work on terms and conditions no less favourable than the original job.

Employees may decide that their previous working arrangements no longer suit their circumstances and may wish to discuss other alternative working arrangements with the Principal. These may include flexible working options such as reduced hours, or the option of taking some unpaid Parental Leave. If the employee wishes to make a request for varying her working arrangements, she will need to formally put this in writing to the Principal, giving as long a period of notice as possible so that suitable arrangements can be made if required. Whilst the employee has the right to request to vary her working arrangements there is no guarantee that her request will be granted. The decision is driven by the needs of the College. Please see the Flexible Working Policy.

To qualify for Occupational Maternity Benefits, it must be the employee's intention to return to work at the College following Maternity Leave for a minimum period of 3 months. This period would extend, on a pro rata basis, if the employee was to return working fewer hours than they worked prior to Maternity Leave.

An employee does not need to give her employer advanced notice if she intends to access her full entitlement to Ordinary and Additional Maternity Leave. However, if the employee intends to return before the end of her full entitlement she must give not less than 8 weeks' notice in writing, of her proposed return date. The employer has the right to postpone any request to return to work earlier than planned, until they have had the 8 weeks' notice required (as long as this is not postponed beyond the 52 week Maternity Leave period).

Under the Burgundy Book (paragraph 7.1 of Section 5) teachers must give 21 days' notice in writing if they wish to return before the end of their full entitlement.
b) An employee may choose to defer the decision until after the birth - if the employee is unsure about whether or not to return to work, they can elect not to receive Occupational Maternity Pay (OMP). If they decide at a later date to return to work, then any remaining entitlements will be paid to them following the completion of 3 months (or pro rata) service.

c) An employee may choose to definitely leave work - i.e. resign, which should be confirmed in writing if this is the chosen option.

If an employee resigns from her post without having returned to work for the requisite period of time she shall be required to refund the OMP payments made during her maternity, apart from those made during the first 6 weeks of Maternity Leave.

2.4 Maternity Leave and Pay

Introduction

The entitlement to Maternity Leave and pay is underpinned by employment legislation. In addition to the entitlement to Maternity Leave and pay as defined by statute, the National Conditions of Service as they apply respectively to teaching and support staff also give women the right to Occupational Maternity Leave and Occupational Maternity Pay subject to sufficient qualifying service.

All the rights described in this section apply to full-time and part-time staff, no matter how many hours they work but are subject to length of service. To apply for Maternity Leave and to receive the pay provisions under both the Occupational Maternity Scheme and Statutory Maternity Pay the employee must complete the relevant maternity documentation and this must be sent together with the MAT B1 form to their Principal. If this is done no later than the

15th week before the expected week of confinement the employee will be entitled to 52 weeks Maternity Leave. Support staff with 26 weeks' service at the 11th week before the EWC can take up to 63 weeks Maternity Leave (11 weeks before the birth and 52 weeks after).

Pension and Annual Leave

The contract of employment continues during Maternity Leave. With the exception of normal remuneration, the employee will continue to receive contractual benefits throughout their Maternity Leave. This applies during Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML). Please see Guidance for further information.

For Teachers

Pension: Any period when receiving pay during Maternity Leave is regarded as pensionable service. When pay stops, the employee may not pay into the pension scheme. However, it may be possible to pay additional pension contributions and employees should contact HR for further information.

Annual Leave: Under the Working Time Regulations 1998 (as amended), Teachers have a statutory right to paid annual leave amounting to 5.6 weeks (equivalent to 28 days for full-time staff, pro rata for part-time staff).

Please note this is not an additional entitlement to annual leave on top of the current College closure arrangements.

The Guidance provides a range of scenarios to illustrate various outcomes for teachers who have accrued annual leave whilst on Maternity Leave. (See Guidance document for A Guide to Accrual of Annual Leave.

For Support Staff:

Pension: Absence on paid or unpaid Maternity Leave is pensionable. Employees can continue to pay full pension contributions on maternity pay whether the pay element is at 9/10ths full pay or half pay. Payment for keeping-in-touch days will also be pensionable. On returning to work following a period of unpaid Maternity Leave the employee will be given the option of repaying her pension contributions for that period. These deductions can be made from her pay on return to work by arrangements with the payroll provider.

Annual Leave: Support staff who work all year round will continue to accrue annual leave during the whole of their Maternity Leave. Time off in lieu does accrue in respect of Bank Holidays during the whole of the Maternity Leave. Any time taken as Maternity Leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Periods of Maternity Leave will also count towards length of continuous service. Employees should discuss their annual leave entitlement with their Principal to ensure that they have the opportunity to take their annual leave either before commencing Maternity Leave or immediately prior to their return to work. Employees should be aware that normal provisions regarding the carry-over of annual leave will apply. An employee should be encouraged to plan to take any annual leave either before she starts Maternity Leave or when she comes back. Annual leave cannot be carried over and could be lost if the holiday year ends whilst the employee is on Maternity Leave. Where an employee is planning not to return to work, she should be encouraged to plan to take any annual leave entitlement that she may be due, before commencing Maternity Leave.

Support Staff who work term time only under the Working Time (Amendment) Regulations 2007 from April 2009 only have a statutory right to paid annual leave amounting to 28 days (5.6 weeks).

Please note this is not an additional entitlement to annual leave on top of the current College closure arrangements.

Whilst on Maternity Leave and when resuming work after Maternity Leave the employee is entitled to benefit from any general improvements to the rate of pay (or other terms and conditions) which may have been introduced. For teaching staff this has implications for progression within the pay range. A teacher will not be disadvantaged in making progress within the pay range whilst on Maternity Leave. Progression should be based on guidance as set out in the School Teachers' Pay and Conditions Document and the Pay Policy. **Maternity Leave**

All women are entitled to 52 weeks' Maternity Leave regardless of the number of hours worked or length of service. This is made up of two elements known as Ordinary Maternity Leave (OML) which is the first 26 weeks of Maternity Leave and Additional Maternity Leave (AML) which is made up of a further 26 weeks Maternity Leave.

An employee must notify her employer at least 15 weeks, or as soon as reasonably practicable, before she intends to start her Leave:

- that she is pregnant;
- when the Expected Week of Childbirth (EWC) will be and provide a MATB1, which will be issued by her midwife after the 21st week of pregnancy;
- when she intends to start her Maternity Leave

The employee will be required to notify her employer of her intention to take Maternity Leave by the 15th week before her EWC unless this is not reasonably practicable. A woman will be able to change her mind about when she starts her Leave providing she tells her employer at least 28 days in advance (unless is this not reasonably practicable). Provisions contained within the Burgundy Book state that a teacher must notify her employer at least 21 days before she wishes to commence Maternity Leave (Section 5, paragraph 2).

There is a requirement on employers to respond to an employee's notification of her Leave plans within 28 days. An employer will need to write to the employee setting out the date on which she is expected to return to work. Unless notified otherwise, the Principal should assume that the employee will be taking their full entitlement to Maternity Leave.

Maternity Leave should not commence any earlier than the 11th week before the Expected Week of Childbirth (EWC). However, it may be earlier in the following circumstances:

- Maternity Leave will automatically start from the beginning of an employee's absence from work for a pregnancy-related illness during the 4 weeks before the start of the EWC, regardless of when she has said she wants to start her Maternity Leave.
- If the baby is born before the Maternity Leave is due to commence, then Maternity Leave starts automatically on the day after the birth

The employee must make an assessment of any health risk to herself or/and the expected baby in determining the start of her Maternity Leave.

An employee does not need to give her employer advanced notice if she intends to access her full entitlement to Ordinary and Additional Maternity Leave. However, if the employee intends to return before the end of her full entitlement she must give 8 weeks' notice, in writing, of her proposed return date for support staff. Under the Burgundy Book (paragraph 7.1 of Section 5) teachers must give 21 days' notice in writing if they wish to return before the end of their full entitlement.

In the case of support staff, the employer has the right to postpone any request to return to work earlier than planned, until they have had the 8 weeks' notice required (as long as this is not postponed beyond the 52 week Maternity Leave period).

Women who do not wish to return to work after the birth of their baby may resign from their post in accordance with the normal resignation procedures. Where a teacher with at least one year's continuous service at the 11th week before the expected week of childbirth, does not wish to return to work, she may resign for maternity reasons, giving at least 14 weeks' prior notice of the expected date of childbirth. Employment will terminate at a date 11 weeks prior to the expected week of confinement or at a later date if the employee wishes to continue beyond this date and is medically fit to do so. Salary will normally cease on the last working day unless the employee has continued working up to the end of the notional term or the day preceding the resumption of the college term, whichever is the earlier. The employee will still be entitled to Statutory Maternity Pay (SMP).

Alternatively, a teacher may resign from her post prior to the 11th week before expected childbirth, in the normal way at the end of a college term, irrespective of the fact that she is pregnant.

Maternity Pay

There are two key entitlements:

- Entitlement to Statutory Maternity Pay (SMP)
- Entitlement to Occupational Maternity Pay (OMP)

The entitlements are summarised in the Guidance

Statutory Maternity Pay (SMP)

All women are entitled to either SMP (which is offset against any Occupational Maternity Pay) or they may claim Maternity Allowance from the Benefits Agency (where their earnings are below the minimum earnings limit).

Any employee who has been continuously employed for 26 weeks up to and including the 15th week before the baby is due, is entitled to receive Statutory Maternity Pay (SMP) for a maximum of 39 continuous weeks with the remaining 13 weeks Leave being unpaid.

SMP is paid whether or not the employee intends to return to work for her employer, providing she is still working for the employer at the 15th week before the EWC. Where staff are entitled to Occupational Maternity Pay, SMP is offset against OMP.

SMP cannot start earlier than the start of the Maternity Leave period (i.e. the 11th week before the EWC apart from in the exceptional circumstances listed in above). SMP is not paid where the employee goes outside the EU during the maternity period, where she does any paid work after the birth in the paid maternity period

(excluding keeping-in-touch days) or if she is in legal custody at any time during the maternity pay period.

Maternity Allowance

Women who do not qualify for SMP may be entitled to Maternity Allowance (MA). Entitlement to MA is based on a woman's employment and earnings in the 66 weeks ending with the week before the expected week of childbirth. Further information can be obtained from Department of Work and Pensions (DWP).

Occupational Maternity Pay – Teaching Staff

Teachers employed in line with the Burgundy Book conditions of service, with the required service will be entitled to the full statutory entitlements and the full entitlement. For the statutory entitlement the qualifying dates are the beginning of the 15th week before the date of EWC, but the 11th week before the EWC for the Burgundy Book entitlements.

The entitlements are summarised in the Guidance.

OMP payments made to the employee during Maternity Leave are made on the understanding that the employee will return to work either at the College for a period of at least 3 months after the Maternity Leave period. This period would extend, on a pro rata basis, if the employee was to return working fewer hours than they worked prior to Maternity Leave. In the event of the employee not being available, or being unable, to return to her job for the required period, she shall refund the OMP payments made during her Maternity Leave other than those made during the first 6 weeks of Leave. Payments made by the way of SMP are not refundable. However, should the employee be made compulsorily redundant during her period of Maternity Leave, no refund would be payable.

2.5 Keeping-in-touch Days

Keeping-in-touch (KIT) days can also enable an employee and the Principal to keep in touch during the Maternity Leave period to ease the return to work. Following agreement with the Principal, the employee can work for up to 10 days during her Maternity Leave period without bringing her Maternity Leave period to an end. For these purposes, 'work' may include any activity undertaken to assist her keeping-in-touch with the workplace such as conferences, team meetings, training etc. The provisions apply to the entire period of her Maternity Leave, except during the first 2 weeks after childbirth which is a period of compulsory Maternity Leave.

Any work done during Maternity Leave must be by agreement and neither the employee, nor the Principal can insist on it. It is also important to note that even if she only agrees to work for a few hours on each occasion, it will still be counted as 'days' under the maternity scheme. The employee should submit a claim form for any KIT days worked.

Employees will be paid at their contractual rate of pay (which will include SMP where payable) for any hours worked during keeping-in-touch days.

2.6 Protection against Unfair Treatment or Dismissal

Pregnant staff must not be treated any less favourably than any other staff and must not be dismissed from employment or selected for redundancy in preference to other comparable staff, for reasons of pregnancy.

3. Shared Parental Leave Introduction

Mothers or those adopting a child have the option to bring their Maternity/Adoption Leave to an end early and convert the remainder of the leave into Shared Parental Leave. Shared Parental Leave can be taken by either of the baby's parent in periods of a week or multiples of a week.

The mother and father (or the mother's spouse, civil partner or partner), are entitled to share Shared Parental Leave. However, the mother cannot return to work before the end of the first 2 weeks following the birth. Shared Parental Leave cannot be taken after the baby's first birthday. They can share the Leave if both are eligible and in doing so may choose to take the Leave at the same time or separately.

Eligibility

To be eligible for Shared Parental Leave the employee:

- must have at least 26 weeks' continuous employment at the 15th week before the expected week of childbirth, and remain in that employment until at least the week before he or she starts any period of Shared Parental Leave.
- their partner must also meet an "employment and earnings test" under which:
  - he or she must have been an employed or self-employed earner in Great Britain for a total of at least 26 weeks in the period of 66 weeks leading up to the expected week of childbirth, and
  - he or she must have earned an average of £30 a week in 13 of those weeks.

The partner may be the birth father of the child, or the mother's spouse, civil partner or partner. The partner can be the same or different sex, but must share the main responsibility for the child at the date of birth.

Notification

Employees who qualify for Shared Parental Leave must notify their employers of their intention to take it at least eight weeks before they intend the Leave to start. Notification must be accompanied by a declaration from both the employee and his or her partner.

When an employee gives notice of entitlement to take Shared Parental Leave, his or her employer may request evidence within 14 days beginning with the date on which that notice was given:

- A copy of the child's birth certificate
- The name and address of the partner's employer

When the partner gives a notice for Shared Parental Leave, his/her employer may (within 14 days beginning with the date on which that notice was given) request:

- A copy of the child's birth certificate, and/or
- The name and address of the other parent/spouse/civil partner/partner's employer

If the birth certificate has yet to be issued, the employee must instead provide a signed declaration, which states the date and location of the child's birth, within 14 days of the child being born.

Taking Shared Parental Leave

If employees have asked for a single continuous period of Leave, they are entitled to take it. If they have asked for separate periods of Leave, (must be in weekly blocks and no more than 3 separate blocks) the employer can:

- Agree to the requested pattern of Leave
- Refuse the request
- Refuse the request but propose alternative dates

Employees can split Shared Parental Leave into up to 3 separate blocks, even if they are not sharing it with a partner. If the employer agrees, the employee may be allowed to split a block of leave into shorter periods of at least a week. For example, they might ask to work every other week during a 12-week block, using a total of 6 weeks of their Shared Parental Leave.

Employers cannot turn down a request for a block of Leave if the employee is eligible and gives the correct notice. Employers do not have to agree to the employee breaking the block of Leave into shorter periods.

If an agreement between employer and employee cannot be reached within 14 days, employees can withdraw their request, or take the Leave requested as a single continuous period. An employee can give up to three notices of their intention to take Leave.

If a notice is withdrawn because a Leave pattern cannot be agreed between employee and employer, it does not count towards this limit. This also applies to a variation to the original Leave request. A written notice to vary the period of Leave may:

- Vary the start date or end date of Shared Parental Leave provided that the notice is given at least 8 weeks before both the date varied and the new date
- Vary the Leave to request that a continuous period of Leave become discontinuous and vice versa
- Vary (including cancel) the amount of Leave requested provided that the notice is given at least 8 weeks before any period of Leave varied by the notice is due to commence.

There is a requirement on employers to respond to an employee's notification of his/her Leave plans within 28 days. An employer will need to write to the employee setting out the date on which on which he/she is expected to return to work.

Unless notified otherwise, the Principal should assume that the employee will be taking statutory Shared Parental Leave.

Statutory Shared Parental Pay

If the individual or their partner ends their maternity or adoption leave and pay (or Maternity Allowance) early (NB the mother must take the first 2 weeks for recovery), then they can:

- Take the rest of the 52 weeks of maternity or adoption leave as Shared Parental Leave (SPL)
- Take the rest of the 39 weeks of maternity or adoption pay (or Maternity Allowance) as Statutory Shared Parental Pay (ShPP)

ShPP is paid at the rate of £151.20 a week or 90% of average weekly earnings, whichever is lower. (This is the same as Statutory Maternity Pay (SMP) except that during the first 6 weeks SMP is paid at 90% of earnings (with no maximum).

Right to Return after Shared Parental Leave

If the employee returns to work after a period of Shared Parental Leave, which when added to any other statutory Leave taken by the employee in relation to the child amounts to a total of 26 weeks or less, the employee is entitled to return to the job in which the employee was employed before the period of Leave.

If the employee returns after Shared Parental Leave which:

a. when added to any other statutory leave taken by the employee in relation to the child amounts to more than 26 weeks; or

b. was the last of two or more consecutive periods of relevant statutory leave which included a period of Parental Leave of more than four weeks, a period of Additional Maternity Leave, or a period of Additional Adoption Leave, the employee is entitled to return from Leave to the to the job in which they were employed before the period of Leave, or, if it is not reasonably practicable for the employer to allow them to return to that post, to another job which is both suitable and appropriate for the employee to do in the circumstances.

Keeping-In-Touch Days (Shared Parental Leave)

The number of Shared Parental Leave keeping-in-touch days will be 20, with both the mother and the partner (if Shared Parental Leave is taken) entitled to them. This is in addition to the 10 keeping-in-touch days already available for Maternity or Adoption Leave.

4. Adoption Leave Introduction

This section is intended to provide a summary of employees' entitlements to Adoption Leave. It is not a comprehensive summary of employees' legal rights and in any case of a dispute on interpretation, the wording used in legislation, Conditions of Service Handbooks and in Local Agreements will take precedence. If further information is required, please contact HR. The following provisions do not apply to those staff formally adopting the child of a partner.

Pre-Adoption Leave

All staff who legally adopt a child may take reasonable time off, with pay, to attend pre-adoption interviews, visits, and for court appearances.

Qualifying Conditions

Since April 2003 there has been a legal right to Adoption Leave and, where employees qualify, for pay during this Leave.

All staff who have been continuously employed for a period of 26 weeks by the week in which they are notified that they have been matched with a child may take paid Adoption Leave when adopting a child, see Guidance for details of Adoption Leave and Pay.

Correspondence must be sent from the adoption agency confirming the adoption,

and the employee should inform the Principal in writing as soon as is reasonably practicable that they will be absent from work due to adoption and whether they intend to return to work.

The employer will have 28 days in which to respond. They will need to write out to the employee, setting out the date on which they expect the individual to return to work if the full entitlement to Adoption Leave is taken. Adopters who intend to return to work at the end of their full Adoption Leave will not have to give any further notification to their employer.

The contract of employment continues during Adoption Leave.

Pensions and Annual Leave

For Teachers:
Pension: Any period when receiving pay during Adoption Leave is regarded as pensionable service. However, when pay stops, the employee may not pay into the pension scheme. It may be possible to pay for additional pension and employees should contact HR for further information.

Annual Leave: those principles defined in Section 2 Maternity Leave and Pay also apply to those teachers taking Adoption Leave.

For Support Staff:
Pension: Absence on paid or unpaid Adoption Leave is pensionable. Employees can continue to pay full pension contributions on adoption pay whether the pay element is at 9/10ths full pay or half pay. Payment for keeping-in-touch days will also be pensionable. On returning to work following a period of unpaid Adoption Leave the employee will be given the option of repaying their pension contributions for that period. These deductions can be made from his/her pay on return to work by arrangement with the payroll provider.

Annual Leave: Support staff who work all year round will continue to accrue annual leave during the whole of their Adoption Leave. Time off in lieu does accrue in respect of Bank Holidays. Any time taken as Adoption Leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Periods of Adoption Leave will also count towards length of continuous service. Employees should discuss their annual leave entitlement fully with the Principal to ensure that they have the opportunity to take their annual leave either before commencing Adoption Leave or immediately prior to the return to work. Employees should be aware that normal provisions regarding the carryover of annual leave will apply. If they are not returning to work then employees should plan to take any annual leave entitlement that they may be due, before commencing Adoption Leave.

Support Staff who work term time only under the Working Time (Amendment) Regulations 2007 from April 2009 only have a statutory right to paid annual leave amounting to 28 days (5.6 weeks).

Please note this is not an additional entitlement to annual leave on top of the current college closure arrangements.

Attending Ante-Natal and Child Care Clinics

All employees can request up to 5 absences to attend ante-natal and child care clinics. For each absence a period of up to ½ day can be paid.

Returning to Work
Employees may be considering the possibility of varying their working arrangements when they return from Adoption Leave and should do this in line with the Flexible Working Policy

An employee does not need to give their employer advanced notice if they intend to access their full entitlement to Ordinary and Additional Adoption Leave. However, if the employee intends to return before the end of their full entitlement they must give 8 weeks' notice in writing, of their proposed return date. The employer has the right to postpone any request to return to work earlier than planned, until they have had the 8 weeks' notice required (as long as this is not postponed beyond the 52 week Maternity Leave period). Employees have the following legal rights:

a) **To definitely return to work** – Employees have the following legal rights when returning to work following a period of Adoption Leave:

- If returning during or at the end of the first 26 weeks (Ordinary Adoption Leave) they are entitled to return to the same job on the same terms and conditions that they had before going on Leave, unless this is not reasonably practicable by reason of redundancy.
- If they take more than 26 weeks Leave (Additional Adoption Leave) they are also entitled to return to the same job on the same terms and conditions unless this is not reasonably practicable by reason of redundancy. If, however there is some reason other than redundancy why it is not reasonably practicable for the employee to return to their original job, they are entitled to be offered suitable alternative work on terms and conditions no less favourable than the original job.

Employees may decide that their previous working arrangements no longer suit their circumstances and may wish to discuss other alternative forms of working with the Principal. These may include flexible working options such as reduced hours, job share, or the option of taking some unpaid Parental Leave. If the employee wishes to make a request for varying their working arrangements, they will need to formally put this in writing to the Principal, giving as long a period of notice as possible so that suitable arrangements can be made if required. Whilst the employee has the right to request to vary their working arrangements there is no guarantee that their request can be granted, the decision is driven by the needs of the College.

To qualify for Occupational Adoption Benefits, it must be the employee's intention to return to work at the College for a minimum period of 3 months. This period would extend, on a pro rata basis, if the employee was to return working less hours than they worked prior to Adoption Leave. In the event of the employee not being available, or being unable, to return to work for the required period, he/she shall refund the Occupational Adoption payments made during the Adoption Leave other than those made during the first 6 weeks of Leave.
However, should the employee be made compulsorily redundant during the period of Adoption Leave, no refund would be payable.

An employee does not need to give their employer advanced notice if they intend to access their full entitlement to ordinary and additional Adoption Leave. However, if the employee intends to return before the end of their full entitlement they must give 8 weeks' notice in writing, of their proposed return date. The employer has the right to postpone any request to return to work earlier than planned, until they have had the 8 weeks' notice required (as long as this is not postponed beyond the 52 week Adoption Leave period).

b) **to defer the decision until after the adopted child is placed** - if the employee is unsure about whether or not to return to work they can elect not to receive Occupational Adoption Pay. If they decide at a later date to return to work, then any remaining entitlements will be paid to them following the completion of 3 months (or pro rata) service.

c) **to definitely leave work** - i.e. resign, which should be confirmed in writing if this is their chosen option.

If an employee resigns from their post without having returned to work for the requisite period of time they shall be required to refund the Occupational Adoption payments made during their Adoption Leave other than those made during the first 6 weeks of Leave.

Adoption Leave and Pay

All employees with 26 weeks' continuous service (by the week in which they are notified that they have been matched with a child) are entitled to 52 weeks Adoption Leave. (For support staff, the maximum is 54 weeks if the employee opts to take 2 additional weeks off before the actual date of the child's placement). Employees with 26 weeks' continuous service, who intend returning to work after adoption, will be entitled to 39 weeks paid Leave at the rates outlined below, where these are enhanced above the statutory minimum:

- 6 weeks at 9/10 pay offset by Statutory Adoption Pay (SAP)
- 20 weeks at half pay plus SAP (standard rate) capped at the normal rate of pay
- 13 weeks SAP (standard rate)

Employees with 26 weeks' continuous service who adopt are not intending to return to work should refer to the Guidance for details of the Adoption Pay entitlement.

Where two employees of the College are adopting together, only one adopter may take paid adoption leave. The employee not taking this may be eligible for Paternity Leave or Shared Parental Leave (please refer to Section 5 (Birth Leave) and Section 3 (Shared Parental Leave).

Leave may start from the date of the child's placement or from a fixed date which can be 14 days before the expected date of placement. Only one period of Leave will be available irrespective of whether more than one child is placed for adoption. If the child's placement ends during the Adoption Leave period, the adopter will be able to continue Adoption Leave for up to 8 weeks after the end of the placement.

Notification and claiming the entitlement

Adopters should notify the Principal of their intention to take Adoption Lave within 7 days of being notified of a match by their adoption agency. This must be evidenced by production of a matching certificate within at least 28 days of the date they expect Statutory Adoption payments to commence.

It is requested that Adopters inform the Principal and HR at the earliest possible opportunity of their intention to commence an adoption process in order that the College can provide the appropriate support to the employee and make the necessary arrangements within College.

Keeping-in-Touch Days

Keeping-in-touch days can enable an employee and their Principal to keep in touch during the Adoption Leave to ease the employee's return to work. Following agreement with the Principal employees can work for up to 10 days during the Adoption Leave period without bringing the Adoption Leave period to an end. For these purposes, 'work' may include any activity undertaken to assist them in keeping-in-touch with the workplace, such as conferences, team meetings, training etc. The provisions apply to the entire period of the Adoption Leave.

Any work done during Adoption Leave must be by agreement and neither the employee nor the Principal can insist on it. It is also important to note that even if the employee only agrees to work for a few hours on each occasion it will still be counted as 'days' under the adoption scheme. The employee should submit a claim form for any KIT days worked

Employees will be paid at their contractual rate of pay (which will include SAP where payable) for any hours worked during keeping-in-touch days.

5. Birth Leave (including rights to Paternity Leave)

Introduction

This section is intended to provide a summary of employees' entitlements to Birth Leave. It is not a comprehensive summary of employees' legal rights and in any case of dispute on interpretation, the wording used in legislation, Conditions of Service Handbooks and in Local Agreements will take precedence. If further information is required, please contact HR.

Birth Leave covers staff who are entitled to Paternity Leave, and is seen as leave which enables the father (or person of mother's choice) to give much needed practical and emotional support at or around the time of the birth.

Since April 2003 there has been a legal right to Paternity Leave and, where employees qualify, for pay during this Leave. The College exceeds these statutory provisions as they do not require an employee to have 26 weeks' continuous service to qualify for payments to be made during approved absence.

Qualifying for Birth/ Paternity Leave

- **Is the employee the biological father, spouse or partner?**

  In order to claim their entitlement to Paternity Leave the employee will need to provide a copy of the MATB1 and a Special Leave request form. This should be submitted at least 15 weeks before the baby is due.

- **Is the employee the nominated person of the mother's choice?**

  In order to apply for Birth Leave they will need to provide a copy of the MAT B1 or birth certificate along with a letter from the mother confirming they are the nominated person.

Attending Ante-Natal and Child Care Clinics

Up to 5 absences can be requested to attend ante-natal and/or child care clinics. For each absence a period of up to ½ day can be paid. **Attending the Birth**

One day's absence can be requested to attend the child's birth if this falls on a working day. Any requirements beyond this (e.g. arising from complications during birth) would have to be considered under special leave provisions.

Birth/Paternity Leave

An employee is entitled to a maximum of two calendar weeks Birth or Paternity Leave. This must be taken within 8 weeks of the birth. The Leave can be taken as one whole week, or two whole weeks consecutively (the Leave cannot be taken as two separate weeks).

Birth/ Paternity Leave Pay

. An employee is entitled to 2 weeks' paternity pay as follows:

- Teachers are entitled to 2 weeks paid Leave at their normal rate of pay.
- Support Staff are entitled to 2 weeks paid Leave at their normal rate of pay.

Notice of Absences

Whilst it is appreciated that employees cannot always determine in advance the precise time the absence will occur, employees should recognise that the Principal is required to make cover arrangements, and so they should endeavour to give the Principal the required amount of notice. Paternity Leave can start on any day of the week (but not before the baby is born). It has to finish within 56 days of the baby's birth. If the baby is born before the week it was due, it must finish within 56 days of the first day of that week.

6. Parental Leave Introduction

The right to Parental Leave is contained in the Maternity and Parental Leave etc. Regulations 1999, made under the Employment Rights Act, as amended by the Employment Relations Act 1999. It gives the parents the right to take a period of time off work to look after a child or make arrangements for the child's welfare. Parents can use it to spend more time with their children. The Leave is unpaid.

The contract of employment continues during Parental Leave. The employee will continue to receive contractual benefits throughout the first 4 weeks of Parental Leave, thereafter they are entitled as follows:

For Teachers:

Pension: As the period of Parental Leave is without pay, the employee may not pay into the pension scheme, during their period of Leave. However, it may be possible to pay for additional pension and employees should contact HR for further information.

For Support Staff:

Pension: Absence on Parental Leave is pensionable. On returning to work following a period of unpaid Parental Leave the employee will be given the option of repaying their pension contributions for that period. These deductions can be made from their pay on return to work by arrangement with the employee and the payroll provider.

Annual Leave: Support staff who work all year round, as opposed to term time only, will continue to accrue annual leave during the whole of their Parental Leave. Time off in lieu does accrue in respect of Bank Holidays which fall during the first 4 weeks only. Any time taken as Parental Leave will count towards qualifying service for the purpose of additional annual leave based on length of continuous service. Periods of Parental Leave will also count towards length of continuous service. Employees should discuss their annual leave entitlement fully with the Principal to ensure that they have the opportunity to take their annual leave either before commencing

Parental Leave or immediately prior to the return to work. Employees should be aware that normal provisions regarding the carry-over of annual leave, will apply.

An employee returning to work after Parental Leave is entitled to benefit from any general improvements to the rate of pay (or other terms and conditions) which may have been introduced while he/she has been away. For teaching staff this has implications for pay progression.

Qualifying Conditions

• Parents, including adoptive parents, can take the Leave up until the child's 18th birthday).

Length of Leave

Staff are entitled to a total of 18 weeks leave for each qualifying child. Parental Leave is for each child therefore if an employee has twins the leave is doubled.

Applying for Parental Leave

The procedures for taking Leave are as follows:

- Leave must be taken in blocks or multiples of one week, except for the parents of disabled pupils who can take Leave in blocks or multiples of one day. • A maximum of four weeks' Parental Leave can be taken in a year in respect of any individual child.
- A request must be made to employer giving 21 days' notice of the start date of the Parental Leave
- The employer can postpone the Leave for up to six months where the business would be particularly disrupted if the Leave was taken at the time requested.
- Leave cannot be postponed when the employee gives notice to take it immediately after the time a child is born or placed with the family for adoption.

Evidence of Entitlement to Parental Leave

An employer can ask to see evidence to confirm that the employee is the parent or the person legally responsible for the child, evidence might take the form of information contained in the child's birth certificate, adoption papers etc. The employer's request must be reasonable.

The Right to Return after Parental Leave

At the end of Parental Leave an individual is guaranteed the right to return to the same job as before, if the Leave was for a period of 4 weeks or less. If the Leave was for a longer period the individual is entitled to return to the same job, or if that is not reasonable practicable, a similar job which has the same or better status, terms and conditions as the old job.

When Parental Leave follows Maternity Leave, the general rule is that a woman is entitled to return to the same job as she had before the Leave. If this is not reasonably practicable, a woman is entitled to return to a job which has the same or better status, terms and conditions as the old job.