



**Interaction &  
Communication**

**Academy Trust**

# **Family Leave Policy**

Date Published	July 2021
Approved Date	May 2021
Review Cycle	Annual
Review Date	July 2022

## Content

<b>1. Introduction</b>	4
<b>2. Guide to Maternity Provisions</b>	4
2.1 Right to time off for Ante-Natal Care	4
2.2 Time off for IVF appointments	5
2.3 The Expected Date of Childbirth	5
2.4 Pension and Annual Leave	5
2.5 School closure arrangements	6
2.6 Maternity leave and pay	7
2.7 Commencement/Entitlement	8
2.8 Maternity Pay	9
2.9 Statutory Maternity Pay (SMP)	9
2.10 Maternity Allowance	9
2.11 Occupational Maternity Pay (OMP)	9
<b>3. Contact during maternity leave</b>	12
3.1 Keeping in Touch Days (KIT)	12
<b>4. Returning to Work</b>	13
4.1 Right to Return	13
4.2 Exercise of the Right to Return	13
<b>5. Resignation/Leaving</b>	14
5.1 End of Contract during Maternity Leave	14
5.2 Contagious or infectious diseases	14
5.3 Miscarriage	14
5.4 Still Birth	14
5.5 Protection against Unfair Treatment or Dismissal	14
<b>6. Health and Safety</b>	15
6.1 Risk Assessment	15
6.2 Removal of Staff from Risk	16
6.3 Offers of Suitable Alternative Work	16
6.4 Entitlements during Medical Leave of Absence	16
6.5 New and Nursing Mothers	17
<b>7. Paternity/Nominated Carer's Leave</b>	17
7.1 Statutory Paternity Leave	17
7.2 Paternity Pay	18
7.3 Adoption Leave and Pay	18
7.4 Pre-Adoption Leave	19
7.5 Adoption Leave	19
7.6 Adoption Pay	20
7.7 Adoptive Paternity Leave and Pay	21
7.8 Surrogacy	21
<b>8. Parental Leave</b>	21
8.1 Qualifying Conditions	22
8.2 Requests for Parental Leave	22
8.3 Returning to Work	23
<b>9. Family Bereavement Leave</b>	23
9.1 Pay During Bereavement	23
9.2 Parental Bereavement Leave	24
9.3 Parental Bereavement Pay	24
9.4 Taking Statutory Parental Bereavement Leave	24
9.5 Giving Notice to Take Leave	24



9.6	Taking Leave in the First 8 Weeks	25
9.7	Taking Leave After the First 8 Weeks	25
9.8	Claiming Statutory Parental Bereavement Pay	25
9.9	If you Need Time Off	25
9.10	What you should tell the school	26
9.11	Leave and Pay	26
9.12	Returning to work	26

## 1.0 Introduction

- 1.1 This policy applies to all Interaction and Communication Academy Trust (ICAT) based staff.
- 1.2 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 i.e. parental and shared parental leave provisions, please see the ICAT Shared Parental Leave Policy for further information. It also recognises the importance of supporting employees with family friendly approaches to working, to enable them to achieve a greater work-life balance.
- 1.3 This policy is intended to provide a summary of employees' entitlements to maternity, paternity, adoption, and parental leave. This model policy has been provided as a Trust level resource for ICAT and does not form part of an employee's terms and conditions of employment. If you require further information or have specific queries, please contact the ICAT Central Team.
- 1.4 The rights as described in this policy apply to all employees, including those on temporary contracts. They also apply to full-time and part-time employees; irrelevant of the number of hours they work but are subject to length of service.

## 2.0 Guide to Maternity Provisions

### 2.1 Right to time off for Ante-Natal Care

- 2.1.1 All pregnant employees are entitled to paid time off in order to keep appointments for antenatal care, made on the advice of a registered medical practitioner, midwife or health visitor. Antenatal care includes:
  - 2.1.1.1 Appointments with the GP or registered Midwife.
  - 2.1.1.2 Hospital appointments for scans or tests.
  - 2.1.1.3 Other appointments made on the recommendation of the GP or registered Midwife.
- 2.1.2 Relaxation and Parent Craft classes.
- 2.1.3 Employees are asked to inform their line manager as far in advance as possible, of the date and time of any appointment and the best estimate of the length of absence from work including travelling time if significant. It would also be helpful in many cases if they could try to arrange appointments at the beginning or the end of the day, although the school recognises this may not always be possible.
- 2.1.4 Except for the first appointment, if requested by the school the employee must be prepared to show a certificate from a registered practitioner, midwife or health visitor confirming that she is pregnant and an appointment card including text message or email confirmation, or some other document,

showing that an appointment has been made, prior to the appointment taking place.

2.1.5 The time taken to attend such appointments within an employee's working hours for that day (including reasonable travelling time) will be paid at the usual rate provided the employee has complied with the above requirements.

2.1.6 Partners of pregnant employees are entitled to time off work to come with you to 2 antenatal appointments. This time off is usually unpaid and is for a maximum of 6.5 hours for each appointment.

## 2.2 Time off for IVF appointments

2.2.1 Employees do not have the right to paid time off for medical appointments and should refer to the school's processes to request a leave of absence. However, when an employee becomes pregnant, they are entitled to the same time off for ante-natal care as outlined above.

2.2.2 It is good practice (though not a legal requirement) to treat sympathetically any request for time off for IVF or other fertility treatment, ICAT will continue to be a wellbeing focused Trust and will aim to be as supportive as possible throughout the IVF process. This could include allowing those staff that work all year round to take annual leave. Term time staff can discuss potential alternative options with their line manager about time off needed during IVF treatment, line managers may agree to:

- flexible working
- paid time off, unpaid time off or holiday

2.2.3 If the IVF was unsuccessful a mother is still protected by law against pregnancy discrimination for 2 weeks after finding out an embryo transfer was unsuccessful.

## 2.3 The Expected Date of Childbirth

2.3.1 The employee's midwife will provide a certificate stating the expected week of childbirth (MAT B1). This is normally issued after the 21st week of pregnancy. This certificate is required in order to claim Statutory Maternity Leave and Pay, if eligible.

2.3.2 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 employees are absent from work with a pregnancy-related illness during the 4 weeks before the baby is due, or if an employee gives birth, their maternity leave will commence the following day.

## 2.4 Pension and Annual Leave

- 2.4.1 The contract of employment continues during maternity leave. The employee will continue to receive all contractual benefits for the full maternity leave period.

For Teachers:

- 2.4.2 **Pension:** Any period when receiving pay during maternity leave (SMP or OMP) is regarded as pensionable service. When pay stops, the employee may not pay into the pension scheme. However, teachers may choose to protect their pension by buying additional pension to compensate. Employees should contact Teachers' Pensions for more information. (Please note continuity of service will not be affected). Payment for keeping-in-touch days will also be pensionable.
- 2.4.3 **Annual Leave:** Teachers have a statutory right to paid annual leave amounting to 28 days (5.6 weeks). However, in most cases, periods of the school closure before and after the maternity leave period will more than equal the 28-day annual leave entitlement.
- 2.4.4 Please note: this is not an additional entitlement to annual leave on top of the current school closure arrangements.

For Support Staff:

- 2.4.5 **Pension:** Any period when receiving pay during maternity leave (SMP or OMP) is regarded as pensionable service. Employees can either opt to pay pension contributions for any period of unpaid maternity leave so that it then counts as a period of service or not pay any outstanding contributions and the unpaid period will not count for pension purposes (whichever option is chosen, continuity of service will not be broken). If the employee wishes to pay additional contributions, they should notify payroll within 30 days of the date of return to work, or the date of ceasing employment, whichever is the earliest. Payment for keeping-in-touch days will also be pensionable.
- 2.4.6 **Annual Leave:** Support staff who work term time have a statutory right to paid annual leave amounting to 28 days (5.6 weeks). For support staff who work on a term time only basis, in most cases, periods of the school closure before and after the maternity leave period will more than equal the 28-day annual leave entitlement.
- 2.4.7 Please note: this is not an additional entitlement to annual leave on top of the current.

2.5 School closure arrangements.

- 2.5.1 Support staff who work all year round will continue to accrue their normal annual leave entitlement throughout both ordinary and additional maternity leave. Time off in lieu will 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. Any leave entitlement so accrued must still be taken in the leave year which it appertains. Common practice is to take any outstanding annual leave at the beginning or the end of the maternity leave period depending where this falls in relation to the annual leave year. Employees should discuss their annual leave entitlement fully with their Line Manager to ensure that they have the opportunity to take their entitlement either before commencing maternity leave or immediately prior to their return to work. 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. If the employee has taken more paid annual leave than they are entitled to at the date of resignation, then the overpaid portion must be repaid.

All staff:

- 2.5.2 A woman resuming work after maternity leave is entitled to benefit from any general improvements to the rate of pay (or other T&Cs) which may have been introduced while she has been away. For teaching staff, the period of absence on maternity leave counts towards the service required to establish a "year of employment" for the purpose of incremental progression on the Main Pay Scale. A teacher who has passed through the threshold will not be disadvantaged in making progress within the Upper Pay Spine (UPS) whilst on maternity leave. Progression on the UPS should be based on guidance as set out in the School Teachers' Pay and Conditions Document. Please consult your HR Advisor for further guidance.

2.6 Maternity Leave and Pay

2.6.1 Maternity Leave

- 2.6.2 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' maternity leave and Additional Maternity Leave (AML) which is made up of a further 26 weeks' maternity leave.

- 2.6.3 An employee must notify the school at least 15 weeks, or as soon as reasonably practicable, before she intends to start her leave:

2.6.3.1 That she is pregnant.

2.6.3.2 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;

2.6.3.3 When she intends to start her maternity leave

- 2.6.4 The employee will be required to notify the school 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 School at least 28 days in

advance (support staff) or 21 days in advance (Teaching staff) - unless it is not reasonably practicable.

- 2.6.5 There is a requirement on the school respond to an employee's notification of her leave plans within 28 days. The school will need to write to the employee setting out the date on which she is expected to return to work. Unless notified otherwise, Line managers should assume that the employee will be taking their full entitlement of maternity leave.
- 2.6.6 It is also the responsibility of the school to carry out a written risk assessment with the employee, when the employee has notified that she is pregnant.
- 2.6.7 Periods of pregnancy-related sickness absence shall be paid in accordance with your contract of employment in the same manner as any other sickness absence. Periods of pregnancy-related sickness absence from the start of your pregnancy until the end of your maternity leave will be recorded separately from other sickness records and will be disregarded in any future employment-related decisions. If you are absent due to sickness for a pregnancy-related reason during the four weeks before your Expected Week of Childbirth, your maternity leave will start automatically.

## 2.7 Commencement/Entitlement

- 2.7.1 Maternity leave should not commence any earlier than the 11th week before the EWC. However, it may be earlier in the following circumstances:
- 2.7.1.1 If the baby is born before the maternity leave is due to commence, then maternity leave starts automatically on the day after the birth.
- 2.7.2 Women may work after the 11th week before the EWC. A woman may remain at work up to the birth of her child, unless she is certified as medically unfit to do so. Maternity leave may be commenced earlier in the following circumstances:
- 2.7.3 When an employee's absence from work for an illness which is partly or wholly due to her pregnancy after the beginning of the 4th week before the EWC, her maternity leave will automatically commence.
- 2.7.4 In accordance with statutory requirements, an employee entitled to maternity leave shall not work, nor be permitted by the schoolwork, during the period of two weeks which commence with the day on which childbirth occurs.
- 2.7.5 Maternity Support Leave (for Support Staff employed under Green Book Conditions only). Maternity support leave of 5 days with pay shall be granted to the child's father or the partner or nominated carer of an expectant mother at or around the time of birth. A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth.

## 2.8 Maternity Pay

2.8.1 Maternity pay comprises SMP and OMP. Employees with 26 weeks' continuous service at the end of the 15th week before the EWC may be entitled to 39 weeks' SMP and employees with one year's continuous service at the 11th week before the EWC may be entitled to 39 weeks of SMP in addition to OMP.

## 2.9 Statutory Maternity Pay (SMP)

2.9.1 Women are entitled to SMP if they have been continuously employed by the school for 26 weeks up to and including the 15th week before the baby is due. If they are not eligible for SMP, they may be eligible to claim Maternity Allowance from Job Centre Plus.

2.9.2 Any employee who is entitled to receive Statutory Maternity Pay (SMP), will receive it for a maximum of 39 continuous weeks with the remaining 13 weeks' leave being unpaid.

2.9.3 SMP is paid whether or not the employee intends to return to work for the school, providing she is still working for the school at the 15th week before the EWC. Where staff members are entitled to Occupational Maternity Pay, SMP is offset against OMP for the first 6 weeks of payment.

2.9.4 For employees who inform the school that they do not intend to return to work, payments during the subsequent 33 weeks shall be the employee's entitlement to SMP.

2.9.5 SMP cannot start earlier than the start of the maternity leave period (i.e. the 11th week before the EWC, apart from in exceptional circumstances SMP is not paid where the employee 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.

## 2.10 Maternity Allowance

2.10.1 Women with at least one year's continuous service at the beginning of the 11th week before the EWC but less than 26 weeks with the Trust by the end of the qualifying week will be entitled to OMP but not SMP. However, dependent on their National Insurance contributions they may be entitled to state Maternity Allowance (MA).

## 2.11 Occupational Maternity Pay (OMP)

2.11.1 OMP payments made to the employee during Maternity Leave are made on the understanding that the employee will return to work either at the school or within the Trust for a period of at least 3 months after the maternity leave period. The provisions for teaching staff and support staff differ and are paid in accordance with statutory conditions, as outlined in the Burgundy Book (for teaching staff) and Green Book (for support staff).

2.11.2 Teachers: Payment of OMP to the teacher shall be made on the condition that she will return to her job for a period of at least 13 weeks from the date of return (this includes periods of the school holidays). This period would extend,

on a pro rata basis, if the employee was returning to work on fewer hours than they worked prior to maternity leave. Should the teacher not be available for work or decide not to return to her job for the required period, she shall refund the OMP payments made during her maternity other than those made during the first six weeks of leave. Payments made by the way of SMP are not refundable.

- 2.11.3 Support Staff: payment of OMP to support staff shall be made on the understanding that she will return to the Trust's employment for a period of at least 3 calendar months, whether this be on a full-time, part-time or job share basis. Should the employee not be available for work or decide not to return to her job within the Trust, she shall refund the whole amount of half pay. Payments made to the employee by way of SMP are not refundable.

Teaching Staff:

	First 4 weeks	Next 2 weeks	Next 12 weeks	Next 21 weeks	Next 13 weeks
At least 1 year's continuous service at the 11 <sup>th</sup> week before EWC with the Trust and <i>at least 26 weeks'</i> continuous service with the school by the end of the 15 <sup>th</sup> week before EWC	Full pay (inclusive of SMP)	90% of a week's pay (inclusive of SMP)	Half pay plus SMP (capped at normal salary)	SMP	No pay
At least 1 year's continuous service at the beginning of the 11 <sup>th</sup> week before EWC with the Trust but <i>less than 26 weeks'</i> continuous service with the school by the end of the 15 <sup>th</sup> week before EWC	Full pay (inclusive of SMP)	90% of a week's pay (inclusive of SMP)	Half pay plus MA if eligible (capped at normal salary)	MA if eligible	No Pay

	First 4 weeks	Next 2 weeks	Next 12 weeks	Next 21 weeks	Next 13 weeks
Less than 1 year's continuous service at the beginning of the 11 <sup>th</sup> week before the EWC with the Trust and <i>at least 26 weeks'</i> continuous employment with the Trusts	Higher Rate SMP (6 weeks)	Lower Rate SMP (33 weeks)		No Pay	
Less than 1 year's continuous service at the beginning of the 11 <sup>th</sup> week before the EWC with the Trust and <i>less than 26 weeks'</i> continuous employment by the end of the 15 <sup>th</sup> week before EWC	Statutory Maternity Allowance (MA) may be payable, dependent on National insurance contributions.  (Maximum 52 weeks leave)				

## Support Staff:

	First 6 weeks	Next 12 weeks	Next 21 weeks	Next 13 weeks
At least 1 year's continuous service at the beginning of the 11 <sup>th</sup> week before the EWC (and intends to return)	90% of a week's pay (offset against SMP or MA)	Standard rate of SMP (if eligible) plus half pay (capped at normal salary)	Standard rate of SMP (if eligible)	No Pay
At least 26 weeks' continuous service at the end of the 15 <sup>th</sup> week before the EWC	90% of a week's pay (offset against SMP or MA)	Standard rate of SMP (if eligible)		No Pay

	First 6 weeks	Next 12 weeks	Next 21 weeks	Next 13 weeks
Less than 26 weeks' continuous service at the beginning of the 11 <sup>th</sup> week before EWC	Statutory Maternity Allowance (MA) may be payable, dependent on National insurance contributions.  (Maximum 52 weeks' leave)			

### 3.0 Contact During Maternity Leave

3.0.1 It is good practice for employees and Line Managers to maintain reasonable contact during an employee's absence so that she will remain informed of developments and changes within the school which will support her return to work. The mechanisms by which she wishes to do this, and the extent to which she wants to be informed, should be discussed with her Line Manager prior to the commencement of maternity leave. This contact will normally be minimal and should neither be excessive or intrusive. This does not constitute "work" and would not count towards the KIT 10-day period (see below).

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

3.1.1 Keeping-in-touch days can also enable an employee and the Line Manager to keep in touch during the maternity leave period to ease the return to work. Following agreement with her Line Manager, the employee can undertake 10 days' work during her maternity leave without bringing her maternity period to an end.

3.1.2 For these purposes, 'work' is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch such as conferences, team meetings, training etc.

3.1.3 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.

3.2.4 Working for any part of a day will count as one day towards the 10 KIT days; however employees will only be paid for the hours worked, at their contractual rate of pay (offset against SMP where payable).

3.1.5 Any work done during maternity leave must be by agreement. School will not insist that an employee carries out any work and the employee is protected from suffering a detriment or being dismissed for refusing to do so.

3.1.6 An employee cannot insist on being given any work to do.

3.1.7 Employees still qualify for SMP on up to 10 KIT days. If the employee exceeds the 10 days by only one day, the full week of SMP will be forfeited (where applicable).

## 4.0 Returning to Work

### 4.1 Right to Return

- 4.1.1 Subject to (4.2), the employee is entitled to return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her had she not been absent. "Job" for this purpose, means the nature of the work which she is employed to do, and the capacity and place in which she is so employed. If the employee takes more than 26 weeks' leave (Additional Maternity Leave) they are also entitled to return to the same job on the same terms and conditions unless this is not reasonably practicable and there have been significant changes within school. Employees can be offered suitable alternative work on terms and conditions no less favourable than the original job.
- 4.1.2 Where it is not practicable by reason of redundancy for the School to permit her to return to work in her job as defined in (4.1), the employee shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable and appropriate to the circumstances and that the capacity and place in which she is to be employed and her terms and conditions of employment are not substantially less favourable to her than if she had been able to return to the job in which she was originally employed.

### 4.2 Exercise of the Right to Return

- 4.2.1 At the end of the Maternity Period employees taking the full year's maternity leave entitlement are not required to give any further notification of returning to work, provided they intend to return on the date notified to the school.
- 4.2.2 Before the end of the Maternity Period employees wishing to return before the end of the maternity leave period should notify their line manager in writing, at least 21 days before the day on which she proposes to return if this is before the end of the Additional Maternity Leave period. Where the notice given is less than 21 days, to the line manager the school can delay the return until 21 days' notice has been received, or until the end of the 52-week maternity leave period (as notified) if this is earlier than 21 days.
- 4.2.3 Teachers: Where a teacher has not completed one year's continuous service by the beginning of the 11th week before the EWC with the Trust, she must give her line manager at least 8 weeks' notice in writing, of her proposed return date. Where the notice given is less than eight weeks, the school can delay the return until 8 weeks' notice has been received, or until the end of the 52-week maternity leave period (as notified) if that is earlier than 8 weeks.
- 4.2.4 Prevented from returning to work - Where an employee is unable to return on the expected day due to sickness, the absence will be covered by the occupational and statutory sick pay schemes in the normal way.
- 4.2.5 For an employee where, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect her to

return on the due date, she may instead return when work resumes, or as soon as reasonably practicable thereafter.

## **5.0 Resignation/Leaving**

5.0.1 Where an employee, during her period of maternity leave decides not to return to work, contractual notice must be given to the school. Contractual notice must also be given where an employee wishes to resign before her maternity leave commences, however it may be possible to determine a mutually agreeable termination date.

### 5.1 End of Contract during Maternity Leave

5.1.1 Should an employee's contract expiry date occur during her period of maternity leave; the school must comply with the normal fixed term contract termination process. The reason for non-renewal must not be maternity related.

### 5.2 Contagious or infectious diseases

5.2.1 Advice will be taken from the Royal College of Obstetricians and Gynaecologists (RCOG) regarding any contagious or infectious diseases that could impact on the health of a pregnant employee or their unborn child and/or occupational health if the employee is advised to absent themselves from school because of the risk they will be granted full pay.

### 5.3 Miscarriage

5.3.1 In the unfortunate event of miscarriage before or during the 24th week of pregnancy an employee will not be able to claim statutory or contractual maternity benefits. Normal sick pay entitlements will apply for any resulting sickness absence in accordance with normal procedures and Compassionate Leave may also be granted.

### 5.4 Still Birth

5.4.1 In the tragic circumstances of a still birth, which is defined as occurring after 24 weeks of pregnancy or of neo natal death, employees will be entitled to the same maternity leave and pay as if the pregnancy had reached full term. The return-to-work notification remains unchanged i.e. 21 days of proposed return to work.

### 5.5 Protection against Unfair Treatment or Dismissal

5.5.1 Pregnant employees 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.

5.5.2 The redundancy protection period covers pregnant women and new mothers on maternity leave, this protection starts as soon an employee makes their employer aware of their pregnancy this can be orally or in writing. Part of this protection includes;

- 5.5.2.1 Six months' protection when an employee has returned from maternity leave or adoption leave.
- 5.5.2.2 Employees are protected from dismissal regardless of hours/service:
- 5.5.2.3 If the principal reason for the dismissal is pregnancy or any reason connected with pregnancy.
- 5.5.2.4 If dismissed during maternity leave and the principal reason is the birth or any reason connected with having given birth.
- 5.5.2.5 If dismissed and the reason is because the employee took maternity leave.
- 5.5.2.6 If principal reason concerns health and safety issues, is pregnancy related, and the employee is unable to do her job.
- 5.5.3 It will be automatically unfair to select an employee for redundancy for pregnancy, childbirth, or maternity related reasons. Where there is a genuine and necessary reason, the school will carry out a fair procedure as outlined below and as per the locally agreed Redundancy Policy and Procedure:
- 5.5.3.1 Selection criteria should be objective, non-discriminatory, and applied fairly.
- 5.5.3.2 When carrying out consultation, this should include any employee who is on maternity leave. They should be given information about proposed redundancies in the same way and at the same time as other employees where reasonably practicable to do so. Where there are practical difficulties, other arrangements should be made i.e. rearrange meetings or conduct them at the employee's home.
- 5.5.3.3 Reasonable steps must be taken to find alternative employment for employees who may otherwise have been dismissed by reason of redundancy. An employee on maternity leave should be offered a suitable alternative vacancy (where one exists) before another employee. This is applicable to employees during periods of ordinary and additional maternity leave in addition to adoption and additional paternity leave. If a suitable alternative vacancy is offered and the employee unreasonably turns it down, the dismissal will be fair, and the employee would lose the right to a statutory redundancy payment.
- 5.5.3.4 Where there is no suitable vacancy, the employee's employment would be terminated by reason of redundancy and will be entitled to a redundancy payment (where qualifying conditions are met), relevant notice period, and written reasons for dismissal.

## **6.0 Health and Safety**

- 6.0.1 The school has a legal obligation to protect the health and safety at work of all staff and others, including new, breast feeding, and expectant mothers.

### **6.1 Risk Assessment**

- 6.1.1 An employee should inform her line manager that she is pregnant. A risk assessment of her working area and practices should then be carried out.

Each individual expectant mother will require a specific assessment that will need to be reviewed as the pregnancy progresses. (Further guidance can be found in the HSE booklet, New and Expectant Mothers at Work: A guide for employers).

- 6.1.2 Managers are responsible for ensuring that when carrying out risk assessments for workplaces and workstations etc. particular attention is paid to those risks that could affect the health or safety of new, breast feeding or expectant mothers or their babies. All reasonably practicable measures should be taken to prevent exposure to risks, through removal of hazards or implementation of controls.
- 6.1.3 If a woman believes there is a risk to her health or safety, or to that of her baby, which has not been considered in the risk assessment, she must bring the risk to the attention of her Line Manager.

## 6.2 Removal of Staff from Risk

- 6.2.1 If despite taking all reasonably practical measures, there is still a risk that could jeopardise the health or safety of a new, breast feeding or expectant mother or her baby then steps must be taken to remove the individual from that risk. This must be done as soon as the line manager has been informed that an individual is pregnant. The steps to remove an individual from a risk are as follows:-

To temporarily adjust the individual's working conditions and/or hours of work; or if it is not reasonable to do so, or would not avoid the risk:

Offer her suitable alternative work if any is available; or if that is not feasible:

Grant a Medical Leave of Absence from work for as long as necessary to protect her safety or health or that of her child.

## 6.3 Offers of Suitable Alternative Work

- 6.3.1 Where an employee is offered suitable alternative work, the work must be:
- Both suitable and appropriate for her to do in the circumstances; and
- On terms and conditions no less favourable than her normal terms and conditions.

## 6.4 Entitlements during Medical Leave of Absence

- 6.4.1 A woman on medical leave of absence is entitled to be paid remuneration at her full normal rate for as long as the suspension continues. The only exception to this is where she unreasonably refuses an offer of suitable (risk assessed) alternative work, in which case no remuneration is payable for the period during which the offer applies. During the period of medical leave of absence, continuity of employment, pension rights and length of service payments are protected.

## 6.5 New and Nursing Mothers

- 6.5.1 The school will make Facilities for breastfeeding and expressing available to workers who are pregnant or breastfeeding. Employees should discuss this with their line manager. The Workplace Regulations (1992) requires employers to provide suitable 'rest' facilities for workers who are pregnant or breastfeeding. Although it is not a legal requirement, the Health and Safety Executive (HSE) encourages employers to provide a healthy and safe environment for nursing mothers to express and store milk. This could be provided in the suitable rest facilities.

## **7.0 Paternity/Nominated Carer's Leave**

- 7.0.1 Statutory Paternity Leave and Paternity Pay is available to fathers and the partners of mothers of children. The provisions apply whether the employee's service is full-time or part-time (irrespective of the number of hours), or is permanent or temporary, subject to the conditions of the scheme being met.
- 7.0.2 Employees (male or female) who are acting as the "prime or nominated carer" for the mother/child may request nominated carers' leave. They are subject to the same provisions as applied to employees requesting Paternity Leave.
- 7.0.3 The entitlement is an allowance of up to two weeks' leave (subject to eligibility as outlined below).
- 7.0.4 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.

### 7.1 Statutory Paternity Leave

- 7.1.1 To qualify, employees must:

7.1.1.1 Be the child's father (or adopter) or the spouse or partner, same or opposite sex, of the child's mother.

7.1.1.2 Have or expect to have responsibility for the child's upbringing.

7.1.1.3 Have been continuously employed for at least 26 weeks ending with the 15th week before the EWC; or the end of the week they are notified of being matched with a child (if adopting from the UK); or from the date the child enters Great Britain (if adopting from overseas); and

7.1.1.4 Employees must tell the school in writing no later than the 15th week before the baby is due of their intention to take Statutory Paternity Leave. For adoption notification should be within 7 days of being matched with a child.

7.1.2 Employees eligible for the statutory scheme have the right to choose to take one or two consecutive weeks' leave (not odd days). It cannot be taken before the birth (or placement) of the child and must be taken within 8 weeks of the birth (or placement). If the baby is born prematurely, the leave can be taken between the birth and eight weeks after the birth.

- 7.1.3 The employee must provide written evidence to their line manager from either the GP, hospital, or adoption agency. This should show the expected date of confinement/child placement.
- 7.1.4 In order to apply for Nominated Carer's Leave, the employee must provide their line manager with a copy of the MAT B1 along with a letter from the mother confirming they are the nominated person of choice. Employees must comply with notification requirements as below.
- 7.1.5 An employee must notify the school by the end of the 15th week before EWC, or as soon as reasonably practicable, that he/she intends to take paternity leave. The Inland Revenue Form 'SC3 – Becoming a Parent' (for births) or 'SC4 – Becoming an Adoptive Parent' (for adoptions) can be used to give notice of leave and to apply for Statutory Paternity Pay (SPP). The notice must specify the length of leave to be taken and the date the employee wishes the leave to commence.
- 7.1.6 If the employee wishes to change the start date, they must give 28 days' notice, in writing if requested by the Trust.
- 7.1.7 In the tragic circumstances of a still birth, which is defined as occurring after 24 weeks of pregnancy or of neo natal death, employees will be entitled to the same paternity leave and pay as if the pregnancy had reached full term.

## 7.2 Paternity Pay

- 7.2.1 If an employee is entitled to Statutory Paternity Pay and Leave, it will be paid at the weekly rate of Statutory Paternity Pay, or 90% of the employee's weekly earnings, whichever is the lowest.
- 7.2.2 If an employee who has met the above criterion has taken some paternity leave but then leaves the Trust's employment before the beginning of the 11th week, and at the date of leaving, has less than one year's continuous service then they will be required to repay the cost of the paternity pay received.

## 7.3 Adoption Leave and Pay

- 7.3.1 Statutory Adoption Leave is available to parents to prepare for adoption or to care for a newly placed adoptive child. Either one of the couple may take the equivalent of statutory maternity leave and pay, and the other, the equivalent of statutory paternity pay and leave.
- 7.3.2 In recognition that single people may adopt children the provision for adoption leave will also apply to single employees. The employee will be subject to all other entitlements and conditions of the appropriate maternity scheme, including the obligation to return to work for a minimum of three months in order to retain the adoptive leave pay.
- 7.3.3 In cases where both parents are employed by the Trust, and assuming that both parents are eligible, the total leave entitlement (i.e. the post confinement leave aggregated with the two working weeks' adoptive

paternity leave) can be combined and shared between the two employees at their discretion.

#### 7.4 Pre-Adoption Leave

7.4.1 There is no statutory right to paid time off for pre-adoption leave. Employees who are adopters or partners of adopters would, in the first instance, be expected to arrange meetings and interviews outside of the working day or during the school closure periods/annual leave. However, it is recognised that this is not always practical and as such, employees will be given reasonable paid time off.

7.4.2 Employees are asked to inform their line manager as far in advance as possible, of the date and time of an appointment/meeting and the best estimate of the length of absence from work, including travelling time if significant. It would also be helpful in many cases if they could try to arrange appointments at the beginning or the end of the day, although the Trust recognises this may not always be possible.

7.4.3 Employees must be prepared to show proof of appointment/ meeting/ interview.

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

7.4.5 If the employee is adopting a child from overseas, any visits to see the child pre-adoption should be taken during the school closure periods or by using normal annual leave arrangements. Time off for this reason will not be granted.

#### 7.5 Adoption Leave

7.5.1 An employee adopting a child is to be allowed comparable leave and pay arrangements as applies to other employees who are eligible through the relevant maternity/paternity policy. Accordingly, an employee who satisfies the full criteria and conditions of the maternity scheme specific to his/her conditions of service will be entitled to:

7.5.1.1 All employees are entitled to ordinary adoption leave of 26 weeks duration.

7.5.1.2 Employees who have 26 weeks' continuous service ending with the week in which they are notified of being matched with a child for adoption are entitled to a further 26 weeks of additional adoption leave, a total of 52 weeks' adoption leave.

7.5.1.3 Both ordinary and additional adoption leave is to be taken in one block within a twelve-month period from the date of placement unless otherwise agreed with the Trust.

7.5.1.3 Be subject to all other entitlements and conditions of their maternity scheme.

- 7.5.2 Adoption leave will begin on the placement date or up to 14 days before the placement date. Where employees choose to begin leave on the placement date and they are at work on that date, leave begins the following day.
- 7.5.3 The employee will be required to notify the Trust of his/her intention to take adoption leave. Correspondence must be sent from the adoption agency confirming the adoption/placement and the employee should inform the Trust no more than 7 days after the date of being told by the adoption agency that they have been matched with a child in writing, or as soon as is reasonably practicable, that they will be absent from work due to adoption and whether they intend to return to work.
- 7.5.4 There is a requirement for the Trust to respond to an employee's notification of his/her leave plans within 28 days. And will need to write to the employee, setting out the date on which they are expected 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 the Trust and unless otherwise notified, to their line manager should assume that the employee will be taking his/her full entitlement to adoption leave.
- 7.5.5 Adoption Support Leave (for Support Staff employed under Green Book Conditions only). Adoption support leave of 5 days with pay shall be granted to the partner or nominated carer of the primary adopter at or around the time of placement. A nominated carer is the person nominated by the primary adopter to assist in the care of the child and to provide support to the primary adopter at or around the time of the placement.
- 7.6 Adoption Pay
- 7.6.1 Payments for employees who have less than one year's continuous service at the beginning of the 11th week before the week of the baby/child's placement shall be the employees' entitlement to Statutory Adoption Pay (SAP).
- 7.6.2 Statutory Adoption Pay will be paid for 39 weeks, or if earlier, until the date the employee returns to work, or for eight weeks after the end of the week the placement is disrupted, e.g. child stops living with adopter.
- 7.6.3 The contract of employment continues during Adoption Leave. The employee receives all contractual benefits during the full period of Adoption Leave.
- 7.6.4 Employees are subject to all other entitlements and conditions of their appropriate Maternity Scheme, including the obligation to return to either his/her 'job' within the Trust's employment for a period of at least three months in order to retain the occupational pay element.
- 7.6.5 An employee shall not be entitled to Statutory Adoption Pay (SAP) in the case of:

7.6.5.1 Private adoption (Private adoption refers to any adoption not arranged by an agency or organisation i.e. when the adoptive parents find a birth mother or baby or child privately).

7.6.5.2 The adoption of a stepchild by a stepparent.

7.6.5.3 The adoption of a foster child by a foster parent.

7.6.5.4 Those who become parents through arrangements with a surrogate mother.

## 7.7 Adoptive Paternity Leave and Pay

7.7.1 Statutory Paternity Leave for Adoption is absence from work for the purpose of caring for a newly placed adoptive child or to support the main adopter. The Paternity Leave provisions set out in this policy will apply to employees who:

- are the adoptive parent
- the spouse or partner of the primary adopter,
- will have responsibility for the child's upbringing,
- have been continuously employed for at least 26 weeks ending with the week the child's adopter is notified of the match
- have given notice and evidence to their line manager.

## 7.8 Surrogacy

7.8.1 In a surrogacy situation, statutory arrangements state that employees may be entitled to adoption pay (if they meet criteria including giving correct notice of the birth and verified proof of adoption / surrogacy).

7.8.2 If employees are not eligible for adoption pay, employees will instead be entitled to unpaid parental leave upon becoming a parent, providing that:

7.8.2.1 They intend to apply for a parental order when the child is living with them (where one parent is genetically related) or adopt the child (where there is no genetic relationship).

7.8.2.2 They meet the qualifying conditions outlined in Section 6.

7.8.2.3 The father of a child born through surrogacy arrangements (provided he is registered as the father) and fulfils eligibility criteria, will be eligible to take paternity leave.

7.8.3 Female employees acting as surrogates are entitled to full maternity leave, pay and provisions as any other pregnant employee.

## 8.0 **Parental Leave**

8.0.1 The right to parental leave offers qualifying parents the right to take a period of unpaid time off work to look after a child or to make arrangements for the child's welfare. Parents can also use it to spend more time with their children.

8.0.2 Employees are entitled to a total of 18 weeks' leave for each qualifying child up to the age of 18. Parental leave is for each child therefore if an employee has twins the leave is doubled.

8.0.3 Employees can take a maximum of 4 weeks per year per child, which can be taken in blocks or multiples of one week (except in the case of parents of children with disabilities who can take leave in blocks or multiples of one day).

## 8.1 Qualifying Conditions

8.1.1 Parents (or adopters) of children up to age 18 may have the right to parental leave. To qualify, employees must:

8.1.1.1 Have one year's continuous service; and

8.1.1.2 Be named on the child's birth or adoption certificate.

8.1.2 If employees are separated from the spouse or partner and don't live with their child (or children) they maintain the right to parental leave if they keep formal parental responsibility for the child (or children). Foster parents do not have the right to parental leave but may be able to request a flexible working pattern (see separate guidance).

8.1.3 Parental Leave is an individual right and cannot be transferred between parents.

## 8.2 Requests for Parental Leave

8.2.1 Employees wishing to request a period of Parental Leave, must give their line manager at least 21 days' notice. This request should be put in writing, stating the dates on which the leave is to begin and end.

8.2.2 The Trust 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 or adoption papers etc.

8.2.3 The Trust can postpone the leave for up to six months where the school/Trust would be particularly disrupted if the leave was taken at the time requested, but it cannot be postponed so that the leave ends after the child's 18th birthday.

8.2.4 However, the Trust will notify the employee of the decision, including the reason for postponement and alternative dates (up to 6 months ahead) during which the parental leave can be taken within 7 days of the original request.

8.2.5 An employee may elect to take a period of Parental Leave from the date of childbirth or from the date of adoption, in which case the Trust cannot delay the date of the leave. The employee must give 21 days' notice before the EWC, or 21 days before the week in which adoption placement is to occur.

8.2.6 If a woman wishes to take a period of Parental Leave immediately following her maternity leave, she should also ensure that she makes the request to the Trust giving at least 21 days' notice.

### 8.3 Returning to Work

- 8.3.1 At the end of the Parental Leave period, the employee is entitled to return to the same job as before if the leave was for a period of 4 weeks or less. The employee is also entitled to benefit from any improvements to the rate of pay (or other employment terms and conditions) which may have been introduced while he/she has been away.
- 8.3.2 If the Parental Leave period was more than 4 weeks, the employee is entitled to return to the same job, or if it is not reasonably practicable, a similar job which has the same or better status, terms, and conditions as the previous job.

## **9.0 Family Bereavement Leave**

- 9.0.1 Any employee has the right to time off if:
- 9.0.2 A 'dependent' dies, for example their partner, parent, child, or someone else who relied on them
- 9.0.3 Their child is stillborn or dies under the age of 18.
- 9.0.4 The law does not say how much time can be taken off if a dependent dies. It simply says the amount should be 'reasonable'. This time off is for dealing with unexpected issues and emergencies involving the dependent, including leave to arrange or attend a funeral.
- 9.0.5 From 6 April 2020, employees have a right to 2 weeks off if their child dies under the age of 18 or are stillborn after 24 weeks of pregnancy. This is called 'parental bereavement leave'.
- 9.0.6 Employees and workers might also be eligible for 'parental bereavement pay'. Anyone classed as an employee also has the right to unpaid time off if their child (a 'dependent') dies under the age of 18.
- 9.0.7 When a child dies both parents are entitled to 2 weeks parental bereavement leave after they finish their maternity or paternity leave.

### 9.1 Pay During Bereavement

- 9.1.1 There is no legal right to paid time off for bereavement, unless someone is eligible for parental bereavement pay when a child dies. The Trust may at its discretion choose to offer pay during bereavement. The Trust may call this 'compassionate', 'bereavement' or 'special' paid leave
- 9.1.2 If the employee takes the time off as sick leave or holiday, they should get their usual sick pay or holiday pay.
- 9.1.3 Eligible parents have a right to 2 weeks Statutory Parental Bereavement Leave if they're an employee Statutory Parental Bereavement Pay. Statutory' means the legal minimum the school must give. This right will apply to the:
- Biological parent
  - Adoptive parent if the child was living with them

- Person who lived with the child and had responsibility for them, for at least 4 weeks before they died 'intended parent' – due to become the legal parent through surrogacy
- Partner of the child's parent, if they live with the child and the child's parent in an enduring family relationship

## 9.2 Parental Bereavement Leave

9.2.1 Parents have a right to take Statutory Parental Bereavement Leave if:

They're classed as an employee

Their child dies under the age of 18 or is stillborn after 24 weeks' pregnancy

9.2.2 Employees have this right from the day they start their job.

9.2.3 Statutory Parental Bereavement Leave can be taken in the 56 weeks following their child's death.

9.2.4 If more than 1 child dies, the employee is entitled to 2 weeks' Statutory Parental Bereavement Leave for each child.

## 9.3 Parental Bereavement Pay

9.3.1 Employees and workers are entitled to 2 weeks' Statutory Parental Bereavement Pay if:

9.3.1.1 Their child dies under the age of 18 or is stillborn after 24 weeks of pregnancy

9.3.1.2 They were employed when their child died

9.3.1.3 They'd worked for the School for at least 26 weeks, on the Saturday before the child's death they earn on average at least £120 per week, before tax

9.3.1.4 Statutory Parental Bereavement Pay is the minimum amount school must pay eligible staff.

9.3.2 Eligible employees and workers will get one of the following, whichever is lower:

9.3.2.1 £151.20 a week 90% of their average weekly earnings

## 9.4 Taking Statutory Parental Bereavement Leave

9.4.1 An employee can choose to take either 1- or 2-weeks' leave.

9.4.2 If an employee takes 2 weeks, this can be taken in one go, or as 2 separate weeks. For example, they could take 1 week immediately after the death, and take the other week later on.

9.4.3 The leave must end within 56 weeks of the child's death. The date of the child's death is the first day of the 56 weeks.

## 9.5 Giving Notice to Take Leave

9.5.1 An employee must tell the school (give 'notice') to use Statutory Parental Bereavement Leave.

9.5.2 To give notice, the employee must tell the school when they want the leave to start, whether they want to take 1 or 2 weeks leave and the date their child died

#### 9.6 Taking Leave in the First 8 Weeks

9.6.1 If it's within 8 weeks (56 days) of their child dying, an employee can start their leave as soon as they give notice.

9.6.2 They must tell the school before they start their leave. This can be on the first day of leave as long it's before they're due to start work. For example, if they've started work and give notice to start their leave straight away, Statutory Parental Bereavement Leave must start the following day.

9.6.3 They can also cancel the leave, as long as they tell school before their leave starts. This can be on the day their leave is due to start, as long it's before they're usually due to start work. Any cancelled leave can be taken later by giving notice again.

#### 9.7 Taking Leave After the First 8 Weeks

9.7.1 If leave will be taken more than 8 weeks (56 days) since their child died, the employee must give the Trust 1 weeks' notice to take the leave if they want to cancel the leave. Any cancelled leave can be taken later by giving notice again.

#### 9.8 Claiming Statutory Parental Bereavement Pay

9.8.1 Employees and workers must ask school in writing (give 'notice') to receive Statutory Parental Bereavement Pay.

They must confirm:

- Their name
- Their entitlement to Statutory Parental Bereavement Pay
- The start and end dates of the leave they want to claim the pay for
- The date of Their child's death
- Their relationship with the child

9.8.2 Notice must be given within 28 days of starting leave. If someone takes the 2 weeks off separately, they must give notice in writing for each week.

9.8.3 Employees can give notice for their leave and pay in one document.

9.8.4 If someone close to you dies, you might need to take time off work unexpectedly. Depending on the circumstances, you might need time off immediately decide to continue to work take time off later on

#### 9.9 If you Need Time Off

9.9.1 It's best to let School know as soon as you can if you need to take time off.

9.9.2 You should try to follow the school's usual process for informing management If you feel unable to contact them, you could ask someone else to do it for you. For example, a family member or close friend.

### 9.10 What you should tell the school

9.10.1 It's a good idea to let school know how you'd like to be in contact while you're off, for example if phone or email is best, and how often you want to be in touch if you want others at work to know, and if they can contact you if you need any information or support from the school.

9.10.2 It's up to you how much you tell school about the death, and whether you want others at work to know. It might be difficult to know how long you will need off work at first. Keeping in touch with school can help to plan your return to work when you're ready

### 9.11 Leave and Pay

9.11.1 Check your contract to see if further leave or pay for bereavement is offered. If you're not sure what you're entitled to, check with your manager or ICAT Central Team.

### 9.12 Returning to work

9.12.1 It's a good idea to talk to school before you return to work to discuss:

- When you think you will be ready to return
- Anything you're concerned about when you return
- If the death has changed anything that might affect your work, for example if you now have more caring responsibilities outside of work and want to discuss flexible working options.