



**Shaw  
Education  
Trust**

# **Flexible Working & Family Friendly Policy**

Procedure Originator:	Jo Collingwood
Approved By:	C-Suite
Queries to:	Regional People Team
Review Interval:	Every 3 years (subject to legislation changes)

## **Introducing the Flexible Working & Family Friendly Policy**

The purpose of this policy is to provide details of entitlements to flexible working and details of leave and pay for the following circumstances: maternity leave, paternity leave, adoption, parental leave (including shared parental leave and shared parental pay).

Any reference to the 'employer' refers to the Shaw Education Trust. The 'appropriate level of authority' should be determined according to the employer's decision-making structure or delegated action framework.

The policy and procedure apply to all employees (Teaching and Support Employees), regardless of length of service, but does not form part of the contract of employment and can be varied from time to time in consultation with the recognised trade unions.

Where employees have enhanced contractual terms through TUPE, the enhanced terms will continue to apply.

This policy does not apply once an employee has left the employment of Shaw Education Trust.

### **Being fair and equal**

This policy will be applied fairly and with appropriate regard to the Equality Act 2010. An employee will not be treated less favourably because they are pregnant, absent on maternity, adoption, paternity, parental leave or for any other reason connected with pregnancy or maternity.

Shaw Education Trust is committed to providing equality of opportunity in employment and to developing work practices and policies that support work-life balance. We recognise that, in addition to helping balance work and personal lives, flexible working can raise colleague morale, reduce absenteeism and improve our use and retention of employees.

This policy gives eligible employees an opportunity to submit requests for flexible working. Shaw Education Trust ensures that no employee who makes a request for flexible working or any family related leave will be subjected to any detriment or lose any career development opportunities as a result.

## Applying for Flexible Working

Shaw Education Trust will attempt and explore all avenues, subject to business needs, to accommodate requests for flexible working, whether this is for a change in working hours, number of days or place of work.

Employees have the right to request flexible working from day one of their employment with Shaw Education Trust, any requests must be considered by the Trust/Academy. Employees are entitled to make **two** flexible working requests in any 12-month period.

Flexible working can relate to:

- Working hours or pattern including:
  - Part time working
  - Term time working
  - Compressed hours
  - Adjusting start and finish times
  
- Work location including:
  - Remote working
  - Satellite office
  - Hybrid base/remote working

## How to make a request

All requests should:

- Be submitted in writing formally through the SET flexible working request form, to request a Flexible Working Request for please contact HR Shared Services ([hrsupport@shaw-education.org.uk](mailto:hrsupport@shaw-education.org.uk) )
- Be addressed to your principal or line manager if part of the Shaw Education Trust Central Team
- Set out the change requested.
- Set out the reason for the request.
- When you would like the change to start
- The date of any previous flexible working requests submitted.

Once a request has been received, your Line Manager and a colleague from the People/HR team will set up a meeting to discuss your request before making a decision.

At this meeting, there will be an opportunity to discuss the reasons you want to change, how any problems with making the change might be dealt with and any alternative options to be considered if the change is not possible.

You will be entitled to be accompanied by a fellow employee or trade union representative to assist in making any representations that may be appropriate.

Your application may be refused on one or more of several grounds, these being that the proposed changes will result in:

- A burden of additional cost
- A detrimental effect on ability to meet organisational needs
- An inability to re-organise work among existing colleagues
- An inability to recruit additional employees
- A detrimental effect on quality of teaching & learning or other school-based provision
- An insufficiency of work during the periods you propose to work
- A planned structural change
- Any other ground allowed by employment law

Where a flexible working request has been refused, the manager will explain the reasons for the refusal in writing and, where possible, may make an offer of an alternative arrangement. Discussions may then take place to try to agree a way forward. If no agreement is reached then your terms and conditions will remain unchanged, subject to your right to appeal the decision.

Employees are entitled to make **two** flexible working requests in any 12-month period and the decision should take place within 2 months of the date the Flexible Working Request being submitted (including any appeal)

### **Right to Appeal**

Employees have the right to appeal if they feel the decision made was wrongly or unfairly and must be submitted within 10 working days of receiving the decision.

An appeal must:

- Be in writing formally through the Flexible Working Appeal form.
- Explain why they feel the decision made was unfair or wrong
- Share any information that may have been missed or not available when the decision was made.
- Share evidence of the request not being handled reasonably if this is the basis of the appeal
- What they would like as a resolution

- Be sent to the person named in the outcome letter within **10** working days of the date on which you received the written rejection of your request.

The nominated Appeal Chair will arrange for a meeting to take place within **10** working days of receipt of your appeal. The meeting will be held at a convenient time for all those attending and, as at the meeting that considered your request, you may be accompanied by a workplace colleague or Trade Union representative. A person of the appropriate level and experience will be appointed to hear the appeal.

You will be informed in writing of the decision within **10** working days of the date of the appeal meeting. Any change in working arrangements which results from this process will be confirmed to you in writing.

This policy will not prevent managers agreeing to ad hoc arrangements from time to time. However, any such arrangement will not amount to a variation in your terms and conditions of employment unless specifically agreed to the contrary and confirmed in writing. Shaw Education Trust may terminate any such ad hoc agreement at any time and require you to revert to your agreed working arrangements.

As there will inevitably be a limit to the amount of flexibility Shaw Education Trust can provide without detriment to its interests, employees must accept that the fact that a particular working arrangement has been granted to one employee does not oblige Shaw Education to grant it to another.

## **Maternity Leave**

### **Notifying us you are pregnant.**

An employee who becomes pregnant should notify their Line Manager in writing by the end of the 14<sup>th</sup> week of pregnancy before their Estimated Week of Confinement (EWC) of the following:

- That they are pregnant
- The expected week of childbirth (Determined by the midwife).
- The date that maternity leave is scheduled to begin. (This cannot be earlier than the beginning of the 11<sup>th</sup> week before the EWC).

If the employee qualifies for SMP, the MATB1 must be submitted to HR Shared Services as soon as possible after being issued. The employee

should also advise whether they intend to return to work following their maternity leave.

## Maternity Leave Entitlement

To be eligible for maternity leave an employee is legally required to formally notify the employer of specific information. All employees who are pregnant are entitled to take up to 26 weeks Ordinary Maternity Leave (OML) and up to 26 weeks Additional Maternity Leave (AML), totalling 52 weeks of continuous leave. This is regardless of the number of hours worked or their length of service. AML begins on the day after OML ends.

The scheme also provides for 39 weeks of Statutory Maternity pay (SMP) for all employees with at least 26 weeks continuous service at the 14<sup>th</sup> week before the expected week of childbirth and who are in receipt of average earnings equal to the lower earnings limit for National Insurance. For the policy 'childbirth' means the birth of a living child or a stillborn child after 24 weeks of pregnancy.

Immediately after childbirth there is a minimum period of compulsory maternity leave that an employee must take, this is two weeks from the date of childbirth. OML can start at any time after the beginning of the 11<sup>th</sup> week before the employee's expected week of childbirth (unless their child is born prematurely before that date in which case it will start earlier). Maternity leave will start on whichever date is the earlier of:

- The employee's chosen start date
- The day after the employee has given birth
- The day after any day on which the employee is absent for a pregnancy-related reason after the beginning of the four weeks before the expected week of childbirth

An employee's maternity leave can only be started by a pregnancy-related reason from the beginning of the 4<sup>th</sup> week before the expected week of childbirth. If an employee is absent with a pregnancy-related reason during this period, their maternity leave will start following the first day on which they are absent. Maternity pay, if entitled to it, will also start on this day and continue for 39 weeks.

## Maternity Leave

The **Maternity Leave Notification form** must be sent to HR Shared Services along with the MATB1 certificate as soon as it is provided by the Doctor or Midwife. If the employee qualifies for SMP the MATB1 must be submitted before the birth or no more than 3 weeks after the birth. It is ideal to submit the notification and MATB1 as soon as possible after

issue. The employee should also advise whether they intend to return to work following their maternity leave.

Upon the submission of the notification and MATB1, the Line Manager will confirm receipt of the notification (within 28 calendar days) and details in relation to entitlements to maternity pay and maternity leave.

### **Changing your maternity leave dates?**

It is possible to change the date the maternity leave commences, providing the employee gives 21 days' notice in writing before the original date or the new date the employee wishes to commence the maternity leave, whichever is the earlier.

If an employee has a premature delivery and it is not possible to provide notice of a change of maternity leave commencement, then maternity will begin the day after the employee has given birth.

### **Falling ill whilst pregnant**

The employee should notify the Line Manager and HR Shared Services as soon as practicably possible that they are absent with a pregnancy related illness. If the absence begins after the beginning of the 4<sup>th</sup> week before the EWC, maternity leave will automatically commence.

Employees who are unwell due to pregnancy should still follow the Managing Attendance Procedures, (e.g., reporting for sick, maintaining contact, submitting FIT notes etc.) in order that absence is recorded and managed appropriately.

### **Time off for Antenatal Care**

All employees who are pregnant are entitled to reasonable paid time off to attend appointments for antenatal care made on the advice of a registered medical practitioner, registered midwife or registered health visitor.

Employees should request time off for appointments according to their usual procedure in their setting. The employee should specify what time they will be leaving work/returning.

Where an employee can make an appointment outside of ordinary working hours, then they should try to do so.

### **Maternity Pay**



Statutory Maternity Pay (SMP) is part of the parental leave provision in the UK. If you are eligible for it, SMP is paid for up to 39 weeks from when you start your maternity leave.

The rate of SMP is set by the government and usually changes in April each year. You can find out the current amount by visiting [www.gov.uk/maternity-pay-leave/pay](http://www.gov.uk/maternity-pay-leave/pay)

To be eligible to receive SMP during maternity leave an employee must:

- Be pregnant and have reached or have given birth before reaching the start of the 11th week before the expected week of childbirth (EWC)
- Have been continuously employed by the Trust for at least 26 weeks by the end of the 15th week before the EWC
- Have average weekly earnings, for the 8-week period ending with their qualifying week, of not less than the Lower Earnings Limit (LEL)
- Is no longer carrying out work activity for the employer.
- Have supplied their MATB1 before the birth of their child or no more than 3 weeks after the birth.
- Provided their Line Manager and HR with 28 days' notice of when they wish for their statutory maternity pay to start.

Occupational Maternity Pay (OMP) is an enhanced payment that is made to eligible employees as a top up to SMP. In order to qualify for OMP you must have at least 1 years' service at the start of the 11<sup>th</sup> week before the EWC. You will also need to have average weekly earnings, for the 8-week period ending with their qualifying week, of not less than the Lower Earnings Limit.

*Maternity pay entitlements are detailed in Appendix 1.*

Where an employee is not eligible/does not meet the criteria for SMP they may be entitled to Maternity Allowance. An employee will need to apply for Maternity Allowance on a MA1 form (Dept. for Work and Pensions) and depending on circumstances will qualify for a payment, maternity grant or tax credits/benefits. It is important that notification is made to HR Shared Services in a timely manner so that an employee can understand the benefits open to them.

In order to retain the Occupational Maternity, Pay (OMP) the employee must return to work for:

- **Support Employees** – 3 months after their maternity leave has finished.
- **Teachers** – 13 weeks after their maternity leave has finished. (This may include periods of school closure).

If the employee does not return to work as above, they must re-pay any OMP received which is more than SMP as determined by the Trust.

### **Still Birth**

If an employee's pregnancy results in a still birth or termination before 24 weeks of the gestation period, the employee will not be entitled to receive SMP. At this point the Manager should seek HR advice in relation to sick pay as per the Managing Attendance Policy.

If an employee's pregnancy results in a still birth after 24 weeks of the gestation period, the employee is entitled to a minimum of two weeks paid bereavement leave and this right will exist irrespective of how long they have worked for their employer (Jack's Law). The employee will qualify for full maternity benefits and leave in accordance with their continued service.

HR advice should still be sought in relation to support for the employee.

### **Breast Feeding**

Health and Safety legislation places a duty of care on employers to ensure that the breast-feeding child does not suffer any adverse effects because of the mother working. Employees who wish to breast-feed upon return to work should notify their line manager as soon as practicable and discuss their personal requirements prior to their return to work.

Where practicable, managers will arrange the following support to the breast-feeding employee.

- A Risk Assessment of work activities make reasonable adjustments and keep the assessment under review
- Organise appropriate work patterns/hours or paid breaks to ensure the required time is allocated for breast-feeding or expressing milk
- Allocate a room where milk can be expressed which will be; warm, clean, private, have suitable furniture, hand washing facilities close by, storage facilities and a dedicated refrigerator where possible

Where it is not practicable to provide support in the workplace, time off with pay will be provided to enable any employee to access the support required.

### **Keeping in Touch (KIT) days - Maternity and Adoption Leave**

Employees can work up to 10 days during their maternity or adoption leave. These days are called 'keeping in touch days' (KIT). KIT days are optional and both the employee and Trust/Academy need to agree to them. KIT days should be requested using the ***KIT Day Notification Form*** and sent to HR Shared Services without delay.

It is required that the employee agrees in advance KIT days to be worked or requested to be worked and payment will be made in accordance with contractual daily rates of pay. The employee's rights are not affected by taking/working keeping in touch days.

If you work a KIT Day, you will be paid at your contractual daily rate of pay. If a KIT Day falls during your paid period of Maternity/Adoption Leave, you will have your Maternity/Adoption pay topped up to your contractual hourly rate. This means that payment for KIT days will not exceed your usual days' pay. Payments for KIT days will be subject to the usual deductions, including Tax, National Insurance, and pension, as appropriate.

Any KIT days worked will not extend the Maternity/Adoption Leave period nor will the leave period be ended.

### **Rights for Adoption Leave**

All employees are entitled to 52 weeks statutory Adoption Leave made up of 26 weeks Ordinary Adoption Leave (OAL) and 26 weeks Additional Adoption Leave (AAL). This entitlement is regardless of the number of hours worked or length of service. (This is not to be confused with Special Guardianship which is referred to separately).

Only one person in a couple may take adoption leave, the other partner would get paternity leave instead.

The Adoption Leave provisions apply to all employees where an approved agency notifies the individual of a match with a child. This provision also applies in a situation where a child is adopted from overseas.

The main adopter must take at least two weeks of adoption leave following the placement of a child.

All employees seeking to adopt regardless of length of service will be entitled to reasonable paid time off for progressing their adoption application and vetting. A maximum of five paid days should be sufficient in most cases.

Adoption Leave may start on any day of the week. Only one period of leave is available irrespective of whether more than one child is placed.

Adoption Leave can start either from the date of the child's placement (whether it is earlier or later than expected) or from a fixed date which can be up to 14 days before the expected week of placement.

If a child's placement ends during the adoption leave period, the employee will be able to continue with the adoption leave for up to 8 weeks after the end of the placement. If a further placement is later arranged the employee will need to apply for another period of adoption leave.

*Adoption Pay entitlements are detailed in Appendix 1.*

## **Notifying us to take Adoption Leave**

If you intend to take adoption leave you should notify Shaw Education Trust of this within seven days of being notified that you have been matched with a child for adoption (or as soon as is reasonably practicable).

You must submit the SET Adoption Leave Notification Form which sets out:

- The date when the child is expected to be placed with you
- The date when you want to start your adoption leave

As with maternity leave, you can change your mind about the start date provided Shaw Education Trust is given at least 28 days' notice – or as much notice as is reasonably practicable.

Shaw Education Trust is entitled to require proof of the adoption, this usually takes the form of a matching certificate provided by the agency placing the child.

Adoption leave is the same in duration as that of maternity leave and will last for 52 weeks unless you choose to return early or take advantage of shared parental leave. You may choose to start the leave from the date when the child is placed with you, or at any time in the preceding two weeks.

If, for any reason, the placement is brought to an end – for example because the match turns out to be unsuitable – then adoption leave will continue for 8 weeks beyond the end of the placement. After that period, you will be expected to return to work as normal.

## Pay entitlement for Adoption Leave

Statutory Adoption Pay (SAP) is payable for 39 weeks from the first day of employment. It is paid at a fixed rate set by the government, which is reviewed annually, or 90% of average weekly earnings (whichever is the lower)

To qualify for Statutory Adoption Pay (SAP) the employee must have average weekly earnings at or above the Lower Earnings Limit (LEL) for National Insurance.

SAP is a statutory entitlement for those who have completed at least 26 weeks' continuous service with the employer by the week that they are matched with a child and who have average earnings above the LEL in the 8-week period prior to the Matching Week.

An employee must provide proof of an adoption to be eligible for Adoption Pay. This proof will need to include the following information:

- The employee's name and address
- The name and address of the adoption agency
- Evidence of the match date, evidenced from the Matching Certificate
- Confirmation of the date of placement, which can be provided via a letter from the Adoption agency
- The relevant UK authority's 'official notification' confirming that the employee can adopt (oversees adoptions only)
- Evidence of the date that the child arrived in the UK (oversees adoptions)

Adoption pay is treated as income and is therefore subject to deductions for Income Tax, National Insurance and pensions (where applicable).

Entitlement to SAP will remain for 8 weeks if the placement is disrupted after it has started or if the child does not survive.

Occupational Adoption Pay (OAP) is an enhanced payment that is made to eligible employees as a top up to SAP. In order to qualify for OAP you must have at least 1 year service at the start of the 11<sup>th</sup> week before the EWC. You will also need to have average weekly earnings, for the 8-week period ending with their qualifying week, of not less than the Lower Earnings Limit.

Payment of SAP is not conditional on the employee returning to work following their Adoption Leave.

In order to retain the OAP the employee must return to work for:

- **Support Employees** – 3 months after their adoption leave has finished
- **Teachers** – 13 weeks after their adoption leave has finished. (This may include periods of school closure)

### Special Guardianship

A Special Guardianship Order gives a special guardian, legal parental responsibility for a child normally until they are 18 years old. However, the order does not remove parental responsibility from the child's birth parents. Employees who have been granted this order have no entitlement to Adoption Leave.

Employees will be entitled to other benefits that those with parental responsibilities receive for example parental leave, right to request flexible working etc.

### Surrogacy

An employee and their partner may be eligible for adoption pay and leave and paternity pay and leave if a surrogate is used.

Every pregnant employee has the right to 52 weeks' maternity leave and to return to their job after this. What a surrogate does after the child is born does not affect their right to maternity leave.

### Shared Parental Leave (SHPL)

Shared Parental Leave (SHPL) enables eligible parents to choose how to share the care of their child during the first year after the birth or adoption. Its purpose is to give parents flexibility in considering how best to care for and bond with their child. All eligible employees have a statutory right to take SHPL. There may also be an entitlement to Shared Parental Pay (SHPP).

SHPL can only be used by two people:

- The mother /main adopter and
- One of the following:
  - a) The father of the child (in the case of birth) or
  - b) The spouse, partner of the child's mother/main adopter.

Both people must share the main responsibility for the care of the child at the time of the birth/placement for adoption.

Additionally, an employee seeking to take SHPL must satisfy each of the following criteria:

- The parent /main adopter must have ended or given notice to end (curtail) their maternity /adoption leave early
- Must still be working for the Trust at the start of each period of SHPL
- Must pass the 'continuity of employment test' requiring them to have a minimum 26 weeks' service at the end of the 15<sup>th</sup> week before the child's expected due date/matching date
- The parent /main adopter must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the child's expected due date/matching date, to have worked for at least 26 weeks and earned an average of at least £123 per week
- The employee must correctly notify the Trust of their entitlement and provide evidence as required

Eligible employees may be entitled to take up to 52 weeks SHPL during their child's first year in the family. The number of weeks available is calculated using the mother's/main adopters' entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If an individual reduces their maternity/adoption leave entitlement, then they and/or their partner may opt-in to the SHPL system and take remaining weeks as SHPL.

SHPL can commence as follows:

- A parent/main adopter can take SHPL after they have taken the legally required two weeks of maternity/adoption leave immediately following the birth/placement of a child
- The spouse/partner of the mother or main adopter can take SHPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as this entitlement is lost once an employee has taken a period of SHPL)

Where a mother/main adopter gives notice to curtail their maternity/adoption entitlement then the mother/main adopter's spouse/partner can take leave while the mother/main adopter is still using their maternity/adoption entitlements or after their leave has ended.

SHPL will generally commence on the colleague's chosen start date specified in their Shared Parental Leave request form or in any subsequent variation notice.

SHPL must end no later than one year after the birth/placement of the child. Any SHPL not taken by the first birthday or first anniversary of placement for adoption is lost.

## **Applying for Shared Parental Leave**

An employee considering taking SHPL is encouraged to contact their Line Manager to arrange an informal discussion as early as possible to talk about plans and potential entitlement.

If as an employee, you qualify for SHPL you will need to give your Line Manager at least 8 weeks' written notice of the intended leave dates via completion of the Shared Parental Leave application form.

An employee may submit notifications for up to 3 separate blocks of SHPL instead of taking it all at once, even if you are not sharing the leave with the partner. The blocks may be booked in up to 3 separate applications.

If a partner is also eligible for SHPL, you may take up to three blocks of leave each. You may take leave at different times or both at the same time. SHPL must be taken in blocks of at least one week at a time. For employees who work part-time and irregular days it is important that blocks of SHPL are decided and agreed in advance.

An employee must tell their Line Manager/HR about plans for leave, whilst these plans can change later it is required that any changes are reported to the Trust/Academy at least 8 weeks' notice before you begin or want to begin a block of leave.

An employee has the right to take a continuous block of leave notified in a single notification, provided it does not exceed the total number of SHPL weeks available to them and the employee has provided the relevant notice and evidence in-line with this policy.

Employees may request a discontinuous block of SHPL e.g. 3 weeks SHPL and 2 weeks working followed by 3 weeks of SHPL. However, discontinuous leave can only be taken with the employer's agreement and the employee and employer must have a discussion period of 14 calendar days to talk about the request.

An employee cannot request discontinuous leave to reduce hours in their normal working pattern.



Where discontinuous leave is requested, the Manager will carefully consider on a case-by-case basis the following issues for the employee and the Trust/Academy:

- Essential dates where leave must take place.
- Leave needs of partner
- Desire for and availability of childcare options
- Important events/days planned.
- Any challenging/busy periods coming up e.g., exams.
- How the role will be covered
- Staffing issues during the period

A response to a request for SHPL will be provided within 14 calendar days after the leave request was made.

If a request for discontinuous leave is not agreed, then the total amount of leave in the request must be taken as one continuous block starting on the first leave date in the original notification. Alternatively, the employee withdraws their request and submits a new request within 19 days from when the original notification was given.

Agreeing one discontinuous leave pattern will not set a precedent or create the right for another employee to be granted the same or similar pattern of SHPL. Equally acting in a fair, consistent, and non-discriminatory way when dealing with requests will be applied.

Where an employee wants to vary or cancel an agreed SHPL pattern they must notify the Trust/Academy in writing at least 8 weeks before. A variation or cancellation will usually count as a notification and therefore reduce the employees right to book/vary leave. Where a baby is born early or if the Trust/Academy request the change and the employee is agreeable, this will not count as a further request. Any variations will be confirmed in writing.

### **Shared Parental Leave in Touch Days (SPLIT)**

An employee can agree to work for the Trust/Academy (or attend training etc.) for up to 20 days during SHPL without bringing their period of SHPL to an end or impacting on their right to claim SHPP for that week. These are known as Shared Parental Leave in Touch (SPLIT) days. The Trust/Academy has no right to require the employee to carry out the work and is under no obligation to offer the employee work during the SHPL. If a SPLIT day is worked during a week when the employee is receiving SHPP, this will be 'topped up' so that the employee receives full pay for the day in question. Any SPLIT days worked must not extend the period of SHPL. SPLIT days

should be requested in writing and this must be passed to the relevant person for payroll input.

### **Shared Parental Pay (SHPP)**

Employees may be entitled to take up to 37 weeks SHPP while taking SHPL. The number of weeks available will depend on the amount by which the mother/main adopter reduces their maternity/adoption pay period. SHPP may be payable during some or all of SHPL, depending on the length and timing of the leave.

In addition to meeting the eligibility requirements for SHPL an employee seeking to claim SHPP must further satisfy each of the following criteria:

- The mother/main adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have curtailed their maternity/adoption pay period or maternity allowance period.
- The employee must intend to care for the child during the week in which SHPP is payable.
- The employee must have average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the child's expected due date/matching date of not less than the lower earnings limit in force for national insurance contributions.
- The employee must remain in continuous employment until the first week that SHPP has begun.
- The employee must give proper notification as per the policy.

When an employee is entitled to SHPP they must, at least 8 weeks before receiving any SHPP notify the Trust/Academy in writing that they are entitled to SHPP and sign the declarations contained within the Shared Parental Leave Application form.

SHPP will be paid at a rate set by the Government for the relevant tax year. Details can be found at <https://www.gov.uk/shared-parental-leave-and-pay>

### **Holiday Entitlement (during Maternity, Adoption and Shared Parental Leave)**

Employees are entitled to accrue contractual leave during maternity/adoption or SHPL leave. Depending on the timing in relation to

the annual leave year they may take annual leave before the leave commences or alternatively bring maternity/adoption/SHPL forward so that annual leave can fit into the annual leave year. If an employee is unable to take annual leave before the start of their maternity/adoption/SHPL leave due to an earlier date/birth or where maternity/adoption leave overlaps with an annual leave year an exception may be given to carry over the allowance that they would otherwise lose in the next year under the terms of the annual leave policy.

Contractual holiday includes entitlements to bank holiday/discretionary days in-line with an employee's contractual terms.

For full year support employees, annual leave accrues during leave, and can be taken all or in part before returning to work. Contractual holiday pay will occur when maternity/adoption/shared parental pay has ceased. When leave spans two annual leave periods, the whole of the accrued leave should be transferred to the new leave year.

For term time only employees including teachers, your leave is expected to be taken during periods of school closure and payment for your leave entitlement is included in your salary. If, as a result of your leave, you do not receive your correct proportion of holiday pay entitlement, you should make enquiries with your HR Advisor. If you are a teacher you are entitled to 28 days (pro rata) annual leave entitlement, inclusive of Bank Holidays, under the Working Time Regulations. This is taken within the school closure periods. A teacher or term-time worker who takes maternity leave must be able to take the 28 days' statutory annual leave at a time outside of her leave period. No part of the maternity/adoption/shared parental leave can be treated as annual leave.

Your annual leave entitlement is offset by any period of school closure that has taken place in the leave year in question, i.e. both before and after the leave period.

## **Returning to work**

It will be assumed that the employee is returning to work at the end of their maternity/adoption/shared parental leave period, on the date

previously notified. If the employee intends to return early, they must provide at least 8 weeks' notice.

An employee is entitled to return to the job in which they were employed unless that is not practicable, in which case they have the right to return to a job that is both suitable and appropriate. It may be that a colleague returning to work during, rather than at the start of, an academic year will be asked to undertake a role which may differ from their substantive role until the end of the academic year. This will be both suitable and appropriate.

If the colleague no longer wishes to return to work they will need to provide written notice of their resignation in accordance with their contract.

### **Paternity Leave/Maternity Support Leave**

Paternity leave is available to employees if you are either the biological father of the child or the partner of the child's mother (including same sex partners) or you and your partner are adopting a child.

Maternity support leave will be granted to an employee who is the nominated carer of an expectant mother at or around the time of the 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.

To be eligible for paternity leave/maternity support leave you must:

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

Be either:

- The biological father of the child or the mother's husband/partner
- The main adopter's spouse/partner
- The nominated carer of the expectant mother
- Have worked continuously for Shaw Education Trust for 26 weeks ending with the 15<sup>th</sup> week before the baby is due or in the case of adoption, for 26 weeks ending with the week in which you have been notified that you have been matched with a child

Employees will take Paternity Leave/Maternity Support Leave as one or two consecutive weeks' leave and will not be able to take it as 'odd days'.

Employees may choose to start their leave from the date of the child's birth (whether this is earlier or later than expected), or from another date as long as it is after the birth.

In the case of an adoption, from the date the child is placed with the employee or from another date as long as it is after the date the child has been placed.

An employee can start their leave on any day of the week on or following the child's birth or when a child is placed with you for adoption, but it must:

- Be completed within 56 days of the actual birth or placement of the child, or
- If the child is born early, within the period from the actual birth up to 56 days after the expected week of childbirth

Only one period of leave is available irrespective of whether more than one child is born/adopted.

### **Paid Paternity/Maternity Support Leave**

Paternity/Maternity Support Leave is intended to help you take time off to care for your child or support the mother/main adopter. To qualify for paid paternity/maternity support leave you must be able to declare that:

- You are the baby's biological/adoptive parent, or
- You are married to or are the partner of the mother or child's main adopter in the case of adoption, or
- You are the nominated carer of the expectant mother

You should have also worked continuously for the Trust for at least 26 weeks leading into the 15<sup>th</sup> week before the baby is due or in the case of adoption at least 26 weeks by the week in which the adopter is notified and the child has been placed for adoption **and** earn at least the lower earnings limit (LEL) for National Insurance Contributions for the 8-week period ending with the qualifying week.

If you do not qualify or are not eligible for Statutory Paternity Pay (SPP) you may be entitled to receive an income support allowance direct from the Department of Work and Pensions. HR/Payroll will provide you with an SPP1 form which you will need to complete and send directly to Department of Work and Pensions.

For Support employees subject to eligibility requirements above, you will be entitled to:

- Week 1 and Week 2 – full pay (offset against any entitlement to SPP during this period)

For Teachers, subject to the eligibility requirements above, you will be entitled to statutory paternity pay at a fixed flat rate per week (or 90% of your average weekly earnings whichever is the lesser) for one or two weeks.

Before the 15<sup>th</sup> week before the baby is expected or in the case of adoption within 7 days or being notified that a child has been matched, unless it is reasonably practicable, you must inform your Line Manager in writing of the following:

- That you intend to take paternity leave the week the baby is due/or in the case of adoption the week the child is expected to be placed for adoption and the date when you were notified that you were matched with a child for adoption
- Whether you wish to take 1 or 2 weeks leave
- When you want the leave to start

You will also need to produce a copy of the mothers MATB1 (Maternity Certificate) to support your application.

An employee may change their mind about the start date of leave provided 28 days written notice is given and providing that the change is reasonably practicable. Where you have chosen to take your leave on a predetermined date, but the child has not arrived by that date, you can choose another date. You must give notice of the change as soon as is reasonably practicable.

### **Parental Leave (Unpaid)**

Parental leave allows parents to take unpaid time off work, which is planned in advance, to look after or make arrangements for the child's welfare. Both mothers and fathers can take parental leave. You do not have to be living with the child to qualify for parental leave.

Parental leave is available for all parents who have a minimum of 1 year's continuous service.

Parental leave is unpaid. An employee is entitled to 18 weeks' leave for each child and adopted child, up to their 18th birthday. The limit on how much parental leave each parent can take in a year is 4 weeks for each child (unless the employer agrees otherwise).

You must take parental leave as whole week's rather than individual days, unless your employer agrees otherwise or if your child is disabled. You don't have to take all the leave at once.

A 'week' equals the length of time an employee normally works over 7 days or on an average working week if your working week varies. An

employee maintains their employment rights (such as right to pay, holidays and returning to a job) are protected during parental leave.

Employees should seek advice from their pension provider in order to determine how parental leave may impact on their pension rights in the long term or how they will be able to buy back service.

The Trust/Academy will consider applications for unpaid parental leave in consultation with the employee and the demands on service. Consideration will be given in relation to:

- The level and demand of work necessary to be completed at the time you have requested absence and whether it would impact on employees/students
- Whether significant numbers of employees from the section/unit are absent from work already
- Whether the absence would unduly harm the Trust/Academy
- Whether it is possible to backfill your position reasonably under the circumstances without any detriment to employees/students and/or the Academy/Trust

After you have submitted a request your Line Manager will consider the request in conjunction with HR advice and arrange a meeting to discuss your request. No decision will be taken until the circumstances have been discussed with you in private and in advance of the leave dates requested.

Written confirmation/decline will be given to you no later than 7 days after your notice to take leave was made. Where leave has been declined the written notification will detail the reasons for such decline or potential postponement offering you new dates of parental leave. The length of postponed parental leave offered to you will be equivalent to your original request.

Parental leave will not be postponed/declined where the employee wishes to take this immediately upon the birth of their child or the child being placed for adoption.

## **Applying for Parental Leave**

Applications for parental leave must be made to your Line Manager in writing using the Parental Leave Application Form and providing a minimum of 21 days' notice before the period of leave is required.

Notice may be waived in extenuating circumstances with the agreement of your Line Manager/HR.

Records of all parental leave will be maintained throughout an employee's service with the Trust. You may request details of your parental leave records at any time from your Line Manager/HR.



## Appendix 1 - SET MATERNITY/ADOPTION PAY PROVISIONS

**SMP** Statutory Maternity Pay

**OMP** Occupational Maternity Pay

**MA** Maternity Allowance

**SAP** Statutory Adoption Pay

**OAP** Occupational Adoption Pay

Continuous service with SET at the 15 <sup>th</sup> week before EWC or matching week	Continuous service with one or more LAs at the start of the 11 <sup>th</sup> week before EWC or matching week	TEACHING STAFF Maternity/Adoption pay Entitlement	SUPPORT STAFF Maternity/Adoption pay Entitlement
At least 26 weeks	At least 1 year	39 weeks as follows: - 4 weeks @full pay - 2 weeks @ 9/10ths of a week's pay <b>Plus either;</b> - 12 weeks @half pay + SMP/SAP* - 21 weeks @ SMP/SAP <b>OR</b> - 33 weeks @SMP/SAP if they do not intend to return to work	39 weeks as follows: - 6 weeks @ 9/10ths of a weeks pay <b>Plus either;</b> - 12 weeks @half pay + SMP/SAP* - 21 weeks @ SMP/SAP <b>OR</b> - 33 weeks @SMP/SAP if they do not intend to return to work
Less than 26 weeks	At least 1 year	18 weeks OMP/OAP as follows: - 4 weeks @ full pay - 2 weeks @ 9/10ths of a weeks' pay - 12 weeks at half pay	18 weeks OMP/OAP as follows: - 6 weeks at 9/10ths of a weeks' pay - 12 weeks at half pay
At least 26 weeks	Less than 1 year	39 weeks SMP/SAP as follows: - 6 weeks at 9/10ths of a weeks pay - 33 weeks' SMP/SAP	39 weeks SMP/SAP as follows: - 6 weeks at 9/10ths of a weeks pay - 33 weeks' SMP/SAP
Less than 26 weeks	Less than 1 year	No OMP/OAP or SMP/SAP Maternity/Adoption allowance if eligible	No OMP/OAP or SMP/SAP Maternity/Adoption allowance if eligible

### IMPORTANT NOTES

- SMP/SAP is paid at a fixed flat rate, which is reviewed annually or 90% of average weekly earnings, whichever is the lesser
- Any entitlements to enhanced OMP/OAP will be offset against any entitlement to SMP/SAP
- The 12 weeks half pay in addition to SMP/SAP cannot exceed a normal weeks' pay
- Once the above entitlements are exhausted any Additional Maternity/Adoption Leave entitlement is unpaid



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**Act with  
integrity**

**Be  
innovative**

**Be best  
in class**

**Be  
accountable**