



Adoption, Maternity, Paternity, Shared Parental and Parental Policy and Procedure

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Author/owner: Board of Trustees

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NB. 'Trustees' means the Directors referred to in the Trust's Articles of Association

History of most recent policy changes

Version	Date	Page	Change	Origin of Change e.g. TU request, Change in legislation
V1.0	April 2021		New policy introduced for the Tarka Learning Partnership Central Trust Team and Schools within the Trust	Requirement for central policy to advise all TLP staff about entitlements (statutory and contractual) to leave for family purposes (excluding reasons of special leave).

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1.0 Policy statement

The Tarka Learning Partnership policy on Adoption, Maternity, Paternity and Parental leave sets out the right so staff employed by the Trust to leave and pay for these reasons. The policy is in accordance with national, local and statutory conditions of service.

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.

A member of staff will not be discriminated against on grounds of pregnancy or maternity in the areas of training, selection, promotion, job security or in any other terms and conditions of employment.

Staff will not be discriminated against or victimised should they raise a question, concern or grievance relating to the application of this policy.

Employees will not be excluded from communication and consultation because of absence due to pregnancy or childbirth.

Staff will not be dismissed for a reason connected with pregnancy, childbirth or related leave.

These provisions apply equally to full time and part time workers, regardless of hours worked or length of service.

2.0 Scope

This procedure applies to all teaching and support staff in Tarka Learning Partnership schools as well as the Trust central team. The application of this policy will be fair, equitable, objective and will not discriminate either directly or indirectly on the grounds of an employee's gender, age, disability, gender re-assignment, marital or civil partnership status, pregnancy, maternity status, race (including colour, nationality and ethnic or national origins), religion or belief, sex and sexual orientation.

An employee working within a school but employed on another organisation's terms and conditions of employment should refer to their appropriate policy/procedure.

This policy does not apply to casual workers, agency personnel or volunteers.

There are sections of this policy which apply to support staff only and others to teaching staff only. These sections are clearly marked.

MATERNITY

3.0 Maternity Leave Entitlement

All pregnant employees are entitled to take up to 26 weeks Ordinary Maternity Leave and up to 26 weeks Additional Maternity Leave, making a total of 52 weeks continuous leave. This is regardless of the number of hours they work or their length of service. Additional Maternity Leave begins on the day after Ordinary Maternity Leave ends.

The scheme also provides for 39 weeks statutory maternity pay (SMP) for all women with at least 26 weeks continuous service at the 15th week before the expected week of Childbirth (EWC) and who are in receipt of average earnings equal to the lower earnings limit for National Insurance. For the purpose of this 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 and before which they may not return to work. The period of compulsory maternity leave lasts for two weeks from the date of childbirth. Ordinary Maternity Leave can start at any time after the beginning of the 11th 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 colleague's chosen start date; the day after the employee gives birth; or
- 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 triggered by pregnancy-related reason from the beginning of the 4th 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 on the day following the first day on which they were absent. Their SMP, if entitled, will also start on this day and run for 39 weeks.

4.0 Notification of pregnancy and commencement of maternity leave

To be eligible for maternity leave a member of staff is legally required to formally notify the employer of certain information. Accordingly, on becoming pregnant an employee should notify their manager or Head Teacher in writing by the end of the 15th week before their EWC or as soon as is reasonably practicable of the following:

- that they are pregnant
- of the expected week of childbirth (EWC)
- of the date their maternity leave will begin. This cannot be earlier than the beginning of the 11th week before the expected week of childbirth.

The manager should advise the School Business Manager/Administrator responsible for Payroll who will input the details onto iTrent. Notifications will then be sent to the employee regarding their entitlements outlining the information they need.

The manager, or more senior person who is appropriately trained, should carry out the Pregnancy Risk Assessment with the pregnant employee.

All pregnant employees must also provide a MATB1 certificate as soon as provided by their Doctor or Midwife. If the employee qualifies for statutory maternity pay the MATB1 must be submitted before the

birth or no more than 3 weeks after the birth. The employee should give the certificate to their manager or Head Teacher and a copy given to the School Business Manager or Administrator who is responsible for payroll.

If a performance appraisal is due whilst the employee will be on maternity leave, the manager should agree with the employee to either carry this out before they starts their leave or upon their return.

Employees should discuss the management of their annual leave with their manager at the earliest opportunity so that they are able to take their annual leave around the needs of the school or service.

Maternity leave will commence on the planned, or subsequently amended date, unless childbirth occurs sooner than the intended start date in which case the period of maternity leave will commence on the day after the day of childbirth. If this is the case, the manager must inform the School Business Manager or Administrator responsible for payroll who will change the date on iTrent.

5.0 Notice period for changing maternity leave date

It may be possible for a pregnant employee to change the date their leave commences provided they give 21 days' notice before the original date or the new date they wish their leave to commence, whichever is the earlier. The request to change must be reasonable and practical for the school and the cover arrangements which have been put in place.

6.0 Pregnancy related illness

The employee should notify their manager or Head Teacher as soon as is practicably possible that they are absent with a pregnancy related illness. If the absence begins after the beginning of the fourth week before expected week of childbirth, maternity leave will automatically commence.

7.0 Time off for antenatal care

All pregnant staff members are entitled to paid time off to keep appointments for antenatal care made on the advice of a registered medical practitioner, registered midwife or registered health visitor. Antenatal care is not restricted to medical examinations, for example it could include relaxation classes and parent craft classes as long as these are advised by a registered medical practitioner, registered midwife or registered health visitor. Employees must also be prepared to show their manager or Head Teacher an appointment card or document showing details of the appointment. A manager or Head Teacher should allow reasonable time off for this. Where the employee is able to arrange antenatal appointments outside of working hours, they should try to do so.

Employees have the right to unpaid leave to accompany their partner, with whom they are having a child, to attend up to two ante-natal appointments.

8.0 Still birth

If the pregnancy results in a still birth or termination before 24 weeks of pregnancy, the employee is not entitled to receive SMP, however, they may be entitled to sick pay if they satisfy the qualifying conditions.

If the pregnancy results in a stillbirth after 24 weeks the staff member will qualify for full maternity benefits and leave and Parental Bereavement Leave (see the Tarka Learning Partnership Special Leave policy).

9.0 Maternity Pay

Entitlement to maternity pay is based on the employee's length of continuous local government service.

Employees may be eligible for one or more of the following payments –

- **Statutory Maternity Pay (SMP)** - An employee is eligible for SMP providing they meet certain criteria. The School Business Manager/Administrator will advise the employee of the entitlement. SMP payments are higher rate SMP (90% of average weekly earnings) for the first six weeks, then flat rate SMP for the next 33 weeks or 9/10ths average weekly earnings if this is less. SMP rates usually change in April each year therefore current rates are available from the Directgov website.
- **Maternity Allowance (MA)** - Where the employee is not eligible for SMP they may be able to claim MA from the Department for Work and Pensions. Payroll will send the employee a claim form to complete. MA payments are flat rate for 39 weeks. Current rates are available from the Directgov website.
- **Contractual Maternity Pay (CMP)** - This will depend on the employee's length of service.

If an employee has declared that they will be returning to work following the birth, they must return to the work for the Tarka Learning Partnership for a period of time in order to 'protect' their Contractual Maternity Pay (CMP).

The period for which the employee must return is 3 months and for teachers 13 weeks, regardless of the number of hours worked. Contractual maternity payments are made at the normal pay interval (less normal deductions) or withheld until the employee returns to work, when the amount is paid as a lump sum (less normal deductions).

If an employee decides not to return to work (i.e. resigns) or the contract ends for a reason other than redundancy whilst on maternity leave, CMP ceases when the employment ends. The employee is required to repay the half pay elements of CMP (12 weeks) paid up to and including the last day of employment if they do not return to work for the Tarka Learning Partnership. Payroll will notify the employee of the amount.

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

The employee will not have to refund SMP/MA payments.

If the employee is made redundant during maternity leave any maternity pay should be topped up to the equivalent of full pay during the notice period (section 88 of the Employment Rights Act

1999).

Support staff who have less than 26 weeks of continuous service

Employees with less than 26 weeks' continuous service at 15th week before the EWC will not be entitled to contractual or statutory maternity pay but will receive 1 weeks' pay, although Maternity Allowance may be payable. They are entitled to 26 weeks of OML and 26 weeks of AML.

Support staff who have between 26 weeks and one year's service

Employees who have more than 26 weeks' service but less than 1 year at the 15th week before the EWC will receive 1 weeks' pay (inclusive of SMP) and 5 weeks of SMP at 90% of average weekly pay (inclusive of SMP) followed by 33 weeks of SMP only and the remaining 13 weeks of AML will be unpaid.

Support staff who have more a year of service

Employees who have more than a year of service at the beginning of the 11th week before the EWC will be entitled to 6 weeks at 90% of a weeks salary (inclusive of SMP), 12 weeks at half pay plus SMP or 90% of the average weekly pay whichever is the lower (provided the half pay plus SMP does not exceed full pay), 21 weeks at SMP and then the remaining 13 weeks of AML will be unpaid.

Teaching staff who have less than 26 weeks of continuous service

Employees who have less than 26 weeks' continuous service with the Tarka Learning Partnership at the 15th week before the EWC and less than one years' service as a teacher with more one or more Local Education Authority (LEA) school at the beginning of the 11th week before the EWC will not be entitled to any contractual or statutory maternity pay, although they may be entitled to Maternity Allowance. They are entitled to 26 weeks of OML and 26 weeks of AML.

Teaching staff who have less than 26 weeks of continuous service with the Tarka Learning Partnership and have less than 1 years' service with an LEA school

A teacher with less than 26 weeks' service with the Tarka Learning Partnership at the end of the 15th week before the EWC and less than 1 years' service with an LEA school at the beginning of the 11th week before the EWC will be entitled to 6 weeks of SMP equal to 90% of a weeks salary, followed by 33 weeks of SMP only. The remaining 13 weeks of AML will be unpaid.

Teaching staff who have less than 26 weeks of continuous service with the Tarka Learning Partnership but have at least 1 years' continuous service with one or more LEA school

Any teacher with less than 26 weeks' service with the Tarka Learning Partnership at the end of the 15th week before the EWC but more than 1 years' service with one or more LEA school will be entitled to 4 weeks of full pay, inclusive of SMP, the next 2 weeks will be at 90% of full pay, inclusive of SMP and the next 12 weeks will be half pay plus SMP (providing the half pay plus SMP does not exceed full pay). The following 21 weeks will be SMP and then the remaining 13 weeks of AML will be unpaid.

10. Contact during maternity leave

The employee's manager will maintain contact with employees during their maternity leave period to discuss issues such as return to work and will keep employees informed of vacancies, any significant

workplace developments and training opportunities.

Contact will not constitute 'work' and would not therefore count towards the 10 days 'keeping in touch' days and neither would contact bring the maternity leave period to an end.

11. Working during maternity/"Keeping in Touch Days"

Keeping in Touch days (KIT days) should be claimed by the employee at their normal hourly rate for the hours they are working on any of these Keeping In Touch days. Any payment will be off set against either CMP or SMP or both and an employee will not lose any SMP or CMP for working up to 10 days.

An employee can do 10 days' work during their maternity leave without bringing their maternity leave to an end. Working for part of a day will count as one day. (Only hours worked will be paid).

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 with the workplace.

A manager cannot insist that an employee carries out any work and equally an employee cannot insist on being given any work to do.

The maternity leave of an employee will not be extended due to the fact that they have carried out some work during this period.

A member of staff cannot carry out any work during the first two weeks following the birth of the child.

12. Pension contributions during maternity leave

Support staff

- During any period of paid maternity leave, employees who are members of the Local Government Pension Scheme (LGPS) will pay basic pension contributions on the pay actually received but the Tarka Learning Partnership will pay pension contributions on the pay the employee would have received had they been at work (Assumed Pensionable Pay (APP)). The service will count as normal for pension purposes, i.e. as if the employee had been at work.
- During any period of unpaid additional Maternity Leave, pension will not accrue, unless the employee elects to pay Additional Pension Contributions (APC) by buying the 'lost' pension.
- If an employee elects to buy the 'lost' pension by paying an APC within 30 days of returning to work, the employer must pay 2/3rds of the total cost with the remaining 1/3rd being paid by the employee. If the election is not made within the 30 day period then the employee will pay the full cost, unless the employer chooses to contribute towards the cost.
- If the employee wishes to buy the 'lost' pension they need to read the employee factsheet entitled "Buying Lost Pension for an Absence" which is available on the Peninsula Pension website.

- Where an employee works on a Keeping in Touch Day, both the employee and the employer will pay contributions based on the pay the employee receives for that day and it will count in full for pension purposes

Teachers

- During the period of paid maternity leave, pension contributions will be paid and deducted from the teacher's pay in the usual manner.
- Any unpaid period will not be pensionable/reckonable.
- Further details are available on the Teachers' Pensions website

13. Right to return to work

Following maternity leave, employees have the right to return to work.

'Return to work' means to the job to which the employee was employed under their original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to them if they had not been absent. 'Job' for this purpose, means the nature of the work that they are employed to do and the capacity and place in which they are so employed.

Where it is not practicable by reason of redundancy for the Tarka Learning Partnership to permit the employee to return to work in their job, the employee shall be entitled to be offered a suitable alternative vacancy where one exists. The duties in that post should be suitable for the employee and appropriate to the circumstances. Also, the capacity and place in which they are to be employed and the terms and conditions of employment should not be substantially less favourable to them than if they had been able to return to the job in which they were originally employed. Suitable alternative employment as described above may also be offered if exceptional circumstances other than redundancy (e.g. a general reorganisation), which would have occurred if the employee had not been absent, necessitate a change in the job in which they were employed prior to their absence.

14. Returning to work after maternity leave

The employee cannot return to work in the two weeks following the day of childbirth. This is Compulsory Maternity Leave.

Return at the end of Ordinary Maternity Leave – If the employee chooses to return when the ordinary maternity leave period ends after 26 weeks, they do not have to give specific notice, although they should confirm to their line manager the date they wish to return so that arrangements can be made.

Return during Ordinary Maternity Leave – If the employee chooses to return before the 26 weeks have elapsed, they must give, in writing, if requested, at least 21 days' notice before their planned return. Where the notice given is less than 21 days the employer may postpone the return to ensure 21 days' notice but not beyond the end of the maternity leave period.

Return at the end of Additional Maternity Leave – If the employee chooses to return when the additional maternity leave period ends, they do not have to give specific notice as an assumption will be made prior to maternity leave that this will be the return date.

Return during Additional Maternity Leave – If the employee chooses to return before the 52 weeks have elapsed they must give, in writing if requested, at least 21 days' notice before their return. Where the notice given is less than 21 days, the employer may postpone the return to ensure 21 days' notice but not beyond the end of the maternity leave period.

Altering an early return date – If an employee changes their mind about the date they intend to return, where they have already notified an early return date, they must give a 21 days' notice before the new date, and at least a 21 days before the original early return date.

Return to work and sickness absence – If the employee is unable to return to work on the expected date due to sickness, the employee has still exercised their right to return by complying with the notification procedure. They will then commence a period of sickness absence, and be treated as any other employee who is absent due to sickness, including the payment of sick pay.

The manager and employee should calculate any entitlement to public/extra statutory holidays that occurred during the maternity leave period and make arrangements for the taking of any substitute days.

The line manager, or more senior person who has been appropriately trained, and the employee should review the Health and Safety Risk Assessment.

15. Returning to work and breastfeeding

The Tarka Learning Partnership recognises the need to support employees to continue breastfeeding after returning to work

Employees who plan or need to express breastmilk during working hours should approach their manager prior to returning to work to discuss an appropriate arrangement through supportive discussion whilst completing a risk assessment with their line manager;

A manager should support breastfeeding employees on return to work by providing an enabling environment for those who are breastfeeding.

Specific measures include the following:

- Allowing lactation breaks (one 30-minute break every four hours) for expression of breastmilk for at least six months after childbirth, and to adopt a flexible approach thereafter.
- Provide somewhere for hand washing which does not involve a public toilet. This can be a kitchen area.
- Provide a private space with a comfortable chair and an electric outlet for operating the breast pump. This can be through the use of screens if buildings do not allow for separate rooms.
- Provide refrigerating facilities for safe storage of expressed breastmilk. There is an expectation that the employee will ensure that this would be clearly marked and placed in a separate box within the fridge to prevent colleagues from opening the storage system.
- All other staff members are requested to support their colleagues to breastfeed by adopting a positive and accepting attitude.

- Consider if needed flexible approaches to enable the continuation of breastfeeding when a baby will not take milk from a bottle. This might involve the baby's carer attending the offices, at the cost of the mother, for the 30 minute break every four hours, to allow the mother to breastfeed. This would need a separate risk assessment undertaking.

16. Flexible working requests

An employee returning to work may make a request to work flexibly, as set out in the Tarka Learning Partnership's Flexible Working Policy.

Types of flexible work patterns include the consideration of flexi-time, part-time working, job share as well as other flexible working arrangements.

17. Choosing not to return to work

The employee must give normal notice of resignation if they do not intend to return to work after their maternity leave.

The employee will have received a lower rate of maternity pay or will have to pay back any half pay received, as part of contractual maternity pay. Payroll will notify the employee of their particular circumstances.

The last day of maternity leave will be the last day of service, unless the employee has given written notice that they wish to resign on an earlier date.

The manager will need to liaise with the School Business Manager/Administrator to ensure that the relevant paperwork is completed, confirming the end of the employee's employment.

18. Annual leave, public holidays and maternity

Support staff who work 52 weeks of the year

Maternity leave does not affect annual leave entitlement, i.e. when taking maternity leave the employee will still be entitled to their full annual leave allowance within the year(s) in which the maternity leave falls.

If an employee's maternity leave spans two annual leave years, they will be able to carry forward their contractual entitlement into the new leave year. However, the manager should be proactive about managing the amount of leave that the employee will have, and discuss the options available as early as possible (see procedure). These options could be to:

- take annual leave before the start of the maternity leave;
- start the maternity leave earlier than anticipated and fit in the annual leave before returning to work;
- return before the end of the maternity leave so that the remaining leave can be taken before the end of the annual leave year;
- take annual leave at the end of maternity leave, fitting it in before returning to work.

During maternity leave annual leave will accrue in the same way as it did before the absence began. If the employee returns to work on a reduced hours basis, on the date of return to work the annual leave will begin to be calculated at the new pro-rata rate.

If the employee decides not to return to work, annual leave will accrue up to the final date of service.

If during the maternity leave period the employee subsequently decides not to return to work and too much annual leave has been taken then there will be a requirement to pay back some of the annual leave taken in advance.

Teachers and support staff who take their holidays during school closure periods

- The leave year for teachers, for the purpose of establishing annual leave entitlement, whilst on maternity leave is 1 September to 31 August.
- The leave year for support staff on NJC terms and conditions, for the purpose of establishing annual leave entitlement, whilst on maternity leave is 1 April to 31 March.

Following the introduction of the Working Time (Amendment) Regulations 2007, which came into effect on 1 October 2007, the statutory leave entitlement has increased to 28 days (5.6 weeks), pro rata for those working part time. This is not an additional entitlement to annual leave on top of the current school closure arrangements.

Employees on maternity leave are entitled to the statutory annual leave under the Working Time Regulations. Employees who take maternity leave must be able to take the statutory annual leave at a time outside of their maternity leave. Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question i.e. both before and after the maternity leave period.

On return from maternity leave, employees must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate leave in that leave year. Where the return from maternity leave is so close to the end of the leave year that there is not enough time to take the entire annual leave entitlement, employees must be allowed to carry over any balance of leave to the following leave year. Employees can be required to take this during the remaining periods of school closure after the statutory annual leave for that leave year has been accommodated.

It will not be possible for employees to obtain payment in lieu of untaken annual leave instead of taking leave during the leave year. However, payment in lieu may be necessary, if the employee does not return to their job following maternity leave. Payment will be made in accordance with the Working Time Regulations and is not pensionable.

Public and extra statutory holiday entitlement during maternity leave – support staff

Full time employees - During both periods of Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML), an employee is entitled to accrue public holiday entitlement as those public holidays and extra statutory days fall, with a substitute day of paid leave being provided at another time.

Part time employees - During both periods of OML and AML an employee is entitled to accrue pro-rata public holiday and extra statutory day entitlement, as those days fall, and will be given substitute paid

leave at another time. E.g., where an employee works three days per week, they will receive an entitlement to 3/5ths of the total number of public holiday and extra statutory days that fall during their whole maternity leave period.-

19. Return to local government service following a resignation or break for maternity reasons (support staff only)

Where an employee returns to local government service following a break for maternity reasons, or reasons concerned with caring for children or other dependants they will be entitled to have previous service taken into account in respect of the following provisions provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened:

- Sickness provisions
- Maternity provisions
- Adoption provisions
- Period of notice to terminate employment

For the purpose of the calculation of entitlement to annual leave, the eight years' time limit does not apply, provided that no permanent paid full-time employment has intervened.

The calculation of continuous service for rights against unfair dismissal or redundancy payments are not included within this contractual provision.

If an employee chooses to return to an employer which follows the National Joint Council for Local Government Services; National Agreement on Pay and Conditions of Service, they will be asked to complete and sign a form confirming their service and that no permanent paid full time employment has intervened.

ADOPTION

20. Principles of adoption leave

The adoption leave provisions apply to all employees where an approved agency notifies them of a match with a child and provides a basic right to a minimum of 26 weeks Ordinary Adoption Leave irrespective of hours worked or length of service. Additional Adoption Leave, amounting to a further 26 weeks is also available. This policy also covers situations where a child is adopted from overseas.

Employees are free to exercise their rights to time off before adoption placement, adoption leave, and adoption pay if eligible, and the right to return to work.

Where a couple are jointly adopting, requests by the other adoptive parent, if they are employed by the Tarka Learning Partnership for flexible working arrangements around or after the time of the adoption placement, would be treated sympathetically but paid adoption leave would only be granted to one parent.

21. Adoption leave eligibility

Adoption leave and pay is available to employees who adopt a child.

As paid adoption leave is only for one of the adoptive parents, the partner of an individual who adopts or the other member of a couple who are adopting jointly, may be entitled to paternity leave and pay or take Shared Parental Leave.

The entitlements do not apply to step family adoption or for fostering a child.

22. Right to time off before adoption placement

Prospective adoptive parents have the right to take time off work to meet the child that they are set to adopt before the adoption placement begins or for any other purpose connected with the adoption. Employees with 1 year's continuous service may take up to 5 days paid leave for visits prior to the placement, which may include one court appearance following placement, related to the adoption order. An employee is not entitled to take time off under this provision unless the appointment has been arranged by – or at the request of – the adoption agency.

Where the length of service is less than 1 year, the primary adopter may take time off to attend up to 5 appointments. Each of those appointments may last up to 6.5 hours.

Employees with less than 1 year's length of service have the right to be paid at their normal hourly rate for the number of hours that the employee is actually absent (up to 6.5 hours) on no more than 5 occasions.

The primary adopter's partner (where their partner is adopting the child jointly) is permitted to attend up to 2 appointments, but on an unpaid basis. These appointments are subject to the same time restrictions (maximum 6.5 hours). The relevant appointments must be arranged at the request of the adoption agency.

An employee (or employee's partner) is not entitled to take time off under this provision after the date of the child's placement.

The school may request that the employee (or employee's partner) produce a document showing the date and time of the appointment. This may be provided in electronic form.

There is no increase to these provisions in cases where more than one child is to be or is expected to be placed with an employee.

23. Adopting a child from overseas

To qualify for adoption leave and pay, an employee who adopts from overseas must have received written official notification issued by or behalf of a relevant UK authority which confirms that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

To receive adoption leave, and pay if eligible, the employee must submit the following evidence to the school:

- a copy of the official notification at least 28 days before he/she wishes to claim Statutory Adoption Pay (SAP). This form is a SC6 form.
- further evidence of the date of entry, such as a plane ticket or copies of entry clearance documents, within 28 days of the child entering the UK.

24. Adoption leave entitlements

An employee is entitled to take 26 weeks of **Ordinary Adoption Leave (OAL)** followed immediately by 26 weeks **Additional Adoption Leave (AAL)**. An employee's maximum entitlement is thus to take up to 52 weeks' adoption leave.

A foster parent only qualifies for these entitlements if the child that he/she has fostered is then matched with him/her for adoption by a UK adoption agency. Adoption via a court does not count. The child is then actually placed with him/her for adoption. The adoption leave only relates to the actual placement for adoption – any period of foster caring does not count.

Only one period of adoption leave and pay can be taken in the case of multiple adoptions i.e. where more than one child is adopted as part of the same arrangement.

In some cases more than one child may be placed with the adopter under separate arrangements within the period of adoption leave for the first child. This can happen where two or more siblings are adopted from the same family.

When a 2nd child is placed with the adopter, the employee will only be entitled to a further period of Contractual/Statutory Adoption Pay (SAP and CAP) and Adoption Leave where each child has been placed under separate adoption arrangements. If a separate Matching Certificate is issued this would be considered as a separate arrangement.

Entitlement to a further period of adoption leave and up to a further 39 weeks of CAP/SAP will commence from the date the second child is placed with the adopter.

Where the two periods of CAP/SAP and adoption leave overlap, payment of the first period of CAP/SAP will continue, regardless of the commencement of the second period of payment. However, the total amount of CAP may be reduced if payment of this means that they receive more than their normal rate of pay at any one time.

SAP is calculated using the "relevant period", which is an 8 week period immediately prior to the matching week. Therefore the amount of CAP/SAP payable to the adopter for the 2nd period of adoption leave will be affected by the salary they are receiving during the 8 week period immediately prior to the 2nd matching date. If they are in the unpaid period of the first Adoption leave, they may not qualify for SAP for the second adoption leave.

The first period of adoption leave will stop from the date when the second period of leave starts. The 2nd period of leave will be made up of 26 weeks OAL and 26 weeks AAL.

The employee can choose to start their adoption leave either from the date of the child's placement, or a fixed date up to 14 days earlier. For overseas adoptions, the employee may choose to start their adoption leave either from the date the child enters the UK, or a fixed date no later than 28 days after the date the child enters the UK.

To be eligible for adoption leave, the employee must meet the specific notification requirements set out in this policy.

Adoption leave can begin on any day of the week and the adoptive parent may choose to take less than their full entitlement.

One week's adoption leave will be equal to the duration of the period for which the employee is normally required to work in one week under their contract of employment.

The adoptive parent will be able to change their mind about the date on which they want their leave to start providing they provide notification at least 28 days in advance of the start of their leave (unless this is not reasonably practicable).

If the child's placement ends during the adoption leave period, providing more than 8 weeks of leave remain, the employee will be able to continue adoption leave for up to 8 weeks after the child stopped living with him/her.

25. Adoption Pay

Entitlement to adoption pay is based on the employee's length of continuous local government service.

Employees may be eligible for one or more of the following payments –

- **Statutory Adoption Pay (SAP)** - An employee is eligible for SAP providing they meet certain criteria. The School Business Manager/Administrator will advise the employee of the entitlement. SAP payments are higher rate SAP (90% of average weekly earnings) for the first six weeks, then flat rate SAP for the next 33 weeks or 9/10ths average weekly earnings if this is less. SAP rates usually change

in April each year therefore current rates are available from the Directgov website.

- **Contractual Adoption Pay (CAP)** - This will depend on the employee's length of service.

If an employee has declared that they will be returning to work following the placement, they must return to the work for the Tarka Learning Partnership for a period of time in order to 'protect' their Contractual Adoption Pay (CAP).

If an employee is not eligible to Statutory Adoption Pay the Tarka Learning Partnership will give the employee a SAP1 form which gives the explanation why the employee is not eligible for SAP. The employee may be able to claim other support allowances from the Department for Work and Pensions but will need this form in order to do so.

The period for which the employee must return is 3 months and for teachers 13 weeks, regardless of the number of hours worked. Contractual adoption payments are made at the normal pay interval (less normal deductions) or withheld until the employee returns to work, when the amount is paid as a lump sum (less normal deductions).

If an employee decides not to return to work (i.e. resigns) or the contract ends for a reason other than redundancy whilst on adoption leave, CAP ceases when the employment ends. The employee is required to repay the half pay elements of CAP (12 weeks) paid up to and including the last day of employment if they do not return to work for the Tarka Learning Partnership. Payroll will notify the employee of the amount.

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

The employee will not have to refund SAP payments.

If the employee is made redundant during adoption leave any adoption pay should be topped up to the equivalent of full pay during the notice period (section 88 of the Employment Rights Act 1999).

Support staff who have less than 26 weeks of continuous service

Employees with less than 26 weeks' continuous service when notified of a match, will not be entitled to contractual or statutory adoption pay but will receive 1 weeks' pay. They are entitled to 26 weeks of OAL and 26 weeks of AAL.

Support staff who have between 26 weeks and one year's service

Employees who have more than 26 weeks' service but less than 1 year when they are informed of a match will receive 1 weeks' pay (inclusive of SAP) and 5 weeks of SAP at 90% of average weekly pay (inclusive of SAP) followed by 33 weeks of SAP only and the remaining 13 weeks of AAL will be unpaid.

Support staff who have more a year of service

Employees who have more than a year of service when notified of a match will be entitled to 6 weeks at 90% of a weeks' salary (inclusive of SAP), 12 weeks at half pay plus SAP or 90% of the average weekly pay whichever is the lower (provided the half pay plus SAP does not exceed full pay), 21 weeks at SAP and

then the remaining 13 weeks of AAL will be unpaid.

Teaching staff who have less than 26 weeks of continuous service

Employees who have less than 26 weeks' continuous service with the Tarka Learning Partnership when notified of a match and less than one years' service as a teacher with more one or more Local Education Authority (LEA) school when matched with a child will not be entitled to any contractual or statutory adoption pay. They are entitled to 26 weeks of OAL and 26 weeks of AAL.

Teaching staff who have less than 26 weeks of continuous service with the Tarka Learning Partnership and have less than 1 years' service with an LEA school

A teacher with less than 26 weeks' service with the Tarka Learning Partnership when matched with a child and less than 1 years' service with an LEA school when matched will be entitled to 6 weeks of SAP equal to 90% of a weeks' salary, followed by 33 weeks of SAP only. The remaining 13 weeks of AAL will be unpaid.

Teaching staff who have less than 26 weeks of continuous service with the Tarka Learning Partnership but have at least 1 years' continuous service with one or more LEA school

Any teacher with less than 26 weeks' service with the Tarka Learning Partnership when matched with a child but more than 1 years' service with one or more LEA school will be entitled to 4 weeks of full pay, inclusive of SAP, the next 2 weeks will be at 90% of full pay, inclusive of SAP and the next 12 weeks will be half pay plus SAP (providing the half pay plus SAP does not exceed full pay). The following 21 weeks will be SAP and then the remaining 13 weeks of AAL will be unpaid.

26. Contact during adoption leave

The employee's manager will maintain contact with employees during their adoption leave period to discuss issues such as return to work and will keep employees informed of vacancies, any significant workplace developments and training opportunities.

Contact will not constitute 'work' and would not therefore count towards the 10 days 'keeping in touch' days and neither would contact bring the adoption leave period to an end.

27. Working during adoption leave/"Keeping In Touch" days

Keeping in Touch days (KIT days) should be claimed by the employee at their normal hourly rate for the hours they are working on any of these Keeping In Touch days. Any payment will be off set against either CAP or SAP or both and an employee will not lose any SAP or CAP for working up to 10 days.

An employee can do 10 days' work during their adoption leave without bringing their adoption leave to an end. Working for part of a day will count as one day. (Only hours worked will be paid).

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 with the workplace.

A manager cannot insist that an employee carries out any work and equally an employee cannot insist on being given any work to do.

The adoption leave of an employee will not be extended due to the fact that they have carried out some work during this period.

28. Pension contributions during adoption leave

Support staff

- During any period of paid adoption leave, employees who are members of the Local Government Pension Scheme (LGPS) will pay basic pension contributions on the pay actually received but the Tarka Learning Partnership will pay pension contributions on the pay the employee would have received had they been at work (Assumed Pensionable Pay (APP)). The service will count as normal for pension purposes, i.e. as if the employee had been at work.
- During any period of unpaid additional Adoption Leave, pension will not accrue, unless the employee elects to pay Additional Pension Contributions (APC) by buying the 'lost' pension.
- If an employee elects to buy the 'lost' pension by paying an APC within 30 days of returning to work, the employer must pay 2/3rds of the total cost with the remaining 1/3rd being paid by the employee. If the election is not made within the 30 day period then the employee will pay the full cost, unless the employer chooses to contribute towards the cost.
- If the employee wishes to buy the 'lost' pension they need to read the employee factsheet entitled "Buying Lost Pension for an Absence" which is available on the Peninsula Pension website.
- Where an employee works on a Keeping in Touch Day, both the employee and the employer will pay contributions based on the pay the employee receives for that day and it will count in full for pension purposes

Teachers

- During the period of paid adoption leave, pension contributions will be paid and deducted from the teacher's pay in the usual manner.
- Any unpaid period will not be pensionable/reckonable.
- Further details are available on the Teachers' Pensions website

29. Right to return to work

Following adoption leave, employees have the right to return to work.

'Return to work' means to the job to which the employee was employed under their original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to them if they had not been absent. 'Job' for this purpose, means the nature of the work that they are employed to do and the capacity and place in which they are so employed.

Where it is not practicable by reason of redundancy for the Tarka Learning Partnership to permit the employee to return to work in their job, the employee shall be entitled to be offered a suitable alternative vacancy where one exists. The duties in that post should be suitable for the employee and appropriate to the circumstances. Also, the capacity and place in which they are to be employed and the terms and conditions of employment should not be substantially less favourable to them than if they had been able to return to the job in which they were originally employed. Suitable alternative employment as described above may also be offered if exceptional circumstances other than redundancy (e.g. a general reorganisation), which would have occurred if the employee had not been absent, necessitate a change in the job in which they were employed prior to their absence.

30. Returning to work after adoption leave

Return at the end of Ordinary Adoption Leave – If the employee chooses to return when the ordinary adoption leave period ends after 26 weeks, they do not have to give specific notice, although they should confirm to their line manager the date they wish to return so that arrangements can be made.

Return during Ordinary Adoption Leave – If the employee chooses to return before the 26 weeks have elapsed, they must give, in writing, if requested, at least 21 days' notice before their planned return. Where the notice given is less than 21 days the employer may postpone the return to ensure 21 days' notice but not beyond the end of the adoption leave period.

Return at the end of Additional Adoption Leave – If the employee chooses to return when the additional adoption leave period ends, they do not have to give specific notice as an assumption will be made prior to adoption leave that this will be the return date.

Return during Additional Adoption Leave – If the employee chooses to return before the 52 weeks have elapsed they must give, in writing if requested, at least 21 days' notice before their return. Where the notice given is less than 21 days, the employer may postpone the return to ensure 21 days' notice but not beyond the end of the adoption leave period.

Altering an early return date – If an employee changes their mind about the date they intend to return, where they have already notified an early return date, they must give a 21 days' notice before the new date, and at least a 21 days before the original early return date.

Return to work and sickness absence – If the employee is unable to return to work on the expected date due to sickness, the employee has still exercised their right to return by complying with the notification procedure. They will then commence a period of sickness absence, and be treated as any other employee who is absent due to sickness, including the payment of sick pay.

The manager and employee should calculate any entitlement to public/extra statutory holidays that occurred during the adoption leave period and make arrangements for the taking of any substitute days.

31. Flexible working requests

An employee returning to work may make a request to work flexibly, as set out in the Tarka Learning Partnership's Flexible Working Policy.

Types of flexible work patterns include the consideration of flexi-time, part-time working, job share as well as other flexible working arrangements.

32. Choosing not to return to work

The employee must give normal notice of resignation if they do not intend to return to work after their adoption leave.

The employee will have received a lower rate of adoption pay or will have to pay back any half pay

received, as part of contractual adoption pay. Payroll will notify the employee of their particular circumstances.

The last day of adoption leave will be the last day of service, unless the employee has given written notice that they wish to resign on an earlier date.

The manager will need to liaise with the School Business Manager/Administrator to ensure that the relevant paperwork is completed, confirming the end of the employee's employment.

33. Annual leave, public holiday and adoption

Support staff who work 52 weeks of the year

Adoption leave does not affect annual leave entitlement, i.e. when taking adoption leave the employee will still be entitled to their full annual leave allowance within the year(s) in which the adoption leave falls.

If an employee's adoption leave spans two annual leave years, they will be able to carry forward their contractual entitlement into the new leave year. However, the manager should be proactive about managing the amount of leave that the employee will have, and discuss the options available as early as possible (see procedure). These options could be to:

- take annual leave before the start of the adoption leave;
- start the adoption leave earlier than anticipated and fit in the annual leave before returning to work;
- return before the end of the adoption leave so that the remaining leave can be taken before the end of the annual leave year;
- take annual leave at the end of adoption leave, fitting it in before returning to work.

During adoption leave annual leave will accrue in the same way as it did before the absence began. If the employee returns to work on a reduced hours basis, on the date of return to work the annual leave will begin to be calculated at the new pro-rata rate.

If the employee decides not to return to work, annual leave will accrue up to the final date of service.

If during the adoption leave period the employee subsequently decides not to return to work and too much annual leave has been taken then there will be a requirement to pay back some of the annual leave taken in advance.

Teachers and support staff who take their holidays during school closure periods

- The leave year for teachers, for the purpose of establishing annual leave entitlement, whilst on adoption leave is 1 September to 31 August.
- The leave year for support staff on NJC terms and conditions, for the purpose of establishing annual leave entitlement, whilst on adoption leave is 1 April to 31 March.

Following the introduction of the Working Time (Amendment) Regulations 2007, which came into effect on 1 October 2007, the statutory leave entitlement has increased to 28 days (5.6 weeks), pro rata for those working part time. This is not an additional entitlement to annual leave on top of the current school closure arrangements.

Employees on adoption leave are entitled to the statutory annual leave under the Working Time Regulations. Employees who take adoption leave must be able to take the statutory annual leave at a time outside of their adoption leave. Annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question i.e. both before and after the adoption leave period.

On return from adoption leave, employees must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate leave in that leave year. Where the return from adoption leave is so close to the end of the leave year that there is not enough time to take the entire annual leave entitlement, employees must be allowed to carry over any balance of leave to the following leave year. Employees can be required to take this during the remaining periods of school closure after the statutory annual leave for that leave year has been accommodated.

It will not be possible for employees to obtain payment in lieu of untaken annual leave instead of taking leave during the leave year. However, payment in lieu may be necessary, if the employee does not return to their job following adoption leave. Payment will be made in accordance with the Working Time Regulations and is not pensionable.

Public and extra statutory holiday entitlement during adoption leave – support staff

Full time employees - During both periods of Ordinary Adoption Leave (OAL) and Additional Adoption Leave (AAL), an employee is entitled to accrue public holiday entitlement as those public holidays and extra statutory days fall, with a substitute day of paid leave being provided at another time.

Part time employees - During both periods of OAL and AAL an employee is entitled to accrue pro-rata public holiday and extra statutory day entitlement, as those days fall, and will be given substitute paid leave at another time. E.g., where an employee works three days per week, they will receive an entitlement to 3/5ths of the total number of public holiday and extra statutory days that fall during their whole adoption leave period.

34. Return to Local Government service following a resignation or break for adoption reasons (support staff only)

Where an employee returns to local government service following a break for adoption reasons, or reasons concerned with caring for children or other dependants they will be entitled to have previous service taken into account in respect of the following provisions provided that the break in service does not exceed eight years and that no permanent paid full time employment has intervened:

- Sickness provisions
- Maternity provisions
- Adoption provisions
- Period of notice to terminate employment

For the purpose of the calculation of entitlement to annual leave, the eight years' time limit does not apply, provided that no permanent paid full-time employment has intervened.

The calculation of continuous service for rights against unfair dismissal or redundancy payments are not included within this contractual provision.

If an employee chooses to return to an employer which follows the National Joint Council for Local

Government Services; National Agreement on Pay and Conditions of Service, they will be asked to complete and sign a form confirming their service and that no permanent paid full time employment has intervened.

SHARED PARENTAL LEAVE

35. Shared Parental Leave Policy Principles

This policy sets out the rights of employees to Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) which enables eligible parents to share a mother's remaining maternity or an adopter's leave and pay.

Employees can start SPL if they're eligible and they or their partner end their maternity or adoption leave or pay early. The remaining leave will be available as SPL. The remaining pay may be available as ShPP.

Unlike maternity/adoption leave, eligible employees can stop and start their SPL and return to work between periods of leave with each eligible parent able to submit three notices booking periods of leave.

Where both parents meet the eligibility criteria SPL can be taken by both parties at the same time or at separate times or a mixture of both.

A mother/adopter can share their SPL with only one other person.

All leave must be taken in the first 52 weeks after birth/adoption, otherwise it will be lost.

Shared Parental leave should not be confused with ordinary parental leave which is unaffected. It should also not be confused with Ordinary Statutory Paternity Leave.

36. Eligibility

If a partner does not meet the eligibility criteria to receive SPL, but the mother/adopter does, then the mother/adopter can take SPL on their own.

Where both parties propose to share SPL there is a two stage test for eligibility for SPL: an employee must be eligible in his or her own right and the employee's partner must also meet certain eligibility requirements.

<p>An employee who is the mother / adopter must meet the following criteria to be eligible for SPL:</p>	<p>In addition, the partner must:</p>
<ul style="list-style-type: none"> • Must have 26 weeks continuous service by the end of the 15th week before the due date (or date they are matched with their adopted child) and remains in continuous employment up to the week before any SPL is taken. • Be entitled to Statutory Maternity /Adoption Leave or pay or Maternity Allowance. • Must share primary responsibility for the child with the other parent at the time of the birth/adoption. • Must have curtailed or given notice to curtail SML or SAL. 	<ul style="list-style-type: none"> • Have been employed or self-employed during at least 26 weeks of the 66 weeks before the expected week of childbirth/adoption; • Have specific minimum weekly earnings* in 13 of those 66 weeks, and; • Share responsibility for the care of the child.
<p>An employee who is the father of the child or the partner of the child's mother / adopter must meet the following criteria to be eligible for SPL:</p>	<p>In addition, the child's mother/adopter must:</p>
<ul style="list-style-type: none"> • Must have 26 weeks continuous service by the end of the 15th week before the due date (or date they are matched with their adopted child) and remains in continuous employment up to the week before any SPL is taken. • Must share primary responsibility for the child with the other parent at the time of the birth/adoption. 	<ul style="list-style-type: none"> • Have been employed or self-employed during at least 26 weeks of the 66 weeks before the expected week of childbirth/adoption; • Have specific minimum weekly earnings* in 13 of those 66 weeks. • Share responsibility for the care of the child. • Be entitled to statutory maternity/adoption leave, statutory maternity/adoption pay or maternity allowance in respect of the child.

* *minimum weekly earnings amounts can be found on the directgov. Website*

For ShPP purposes, in addition to the above, both parties must also satisfy the following criteria:

- Have average weekly earnings at or above than the lower earnings limit for National Insurance during the 8 week period up to and including the end of the 15th week before the child's due date/matching date.
- Intend to care for the child during each week in which ShPP is paid.

If an employee is not eligible then their request will be refused.

37. Entitlement

If an employee is eligible and they or their partner end maternity or adoption leave and pay (or Maternity Allowance) early, then they can:

- Share up to a maximum of 50 weeks as SPL.
- Share up to a maximum of 37 weeks as ShPP.

The first two weeks following birth or adoption are reserved for the mother/adopter.

SPL must be taken in blocks of at least one week. The pattern of leave must be requested and agreed with the manager or Head Teacher, giving 8 weeks' notice.

Requests to take SPL in one continuous block will be approved unless alternative dates are agreed, as long as the employee does not exceed the number of weeks available to them through SPL and they meet the eligibility and notice requirements.

Requests to take SPL as a number of discontinuous blocks of leave is subject to agreement and may be either approved, refused or different dates suggested.

A maximum of three requests for leave per pregnancy/adoption can be submitted provided that they are submitted 8 weeks before the date that the leave is due to start.

Statutory Shared Parental Pay (ShPP) will be paid to employees who have chosen to move onto shared parental leave. This will be at the standard rate or at 90% of the employee's average weekly earnings, whichever is the lower. The current rate of ShPP can be found on the Directgov website

Details of entitlement can be obtained by using the following calculator: www.gov.uk/pay-leave-for-parents

38. Starting Shared Parental Leave

For SPL to start, **the mother or adopter must do one of the following:**

- End their maternity or adoption leave by returning to work;
- Submit a maternity/adoption '**curtailment notice**' to bring forward the date their ordinary or additional maternity/adoption leave will end at a future point.

The mother/adopter must give the school at least 8 weeks' notice to end their maternity/adoption pay or 8 weeks' notice to Jobcentre Plus to end their Maternity Allowance in order to take SPL.

SPL can start for the partner while the mother or adopter is still on maternity or adoption leave if he/she's given notice to end her leave.

Even though the partner can take SPL immediately following the birth/placement of the child, they may choose first to exhaust any Maternity/Adoption Support Leave entitlements. The father/partner cannot take Maternity/Adoption Support Leave or pay once they have taken SPL or ShPP.

39. Notification requirement to take SPL and ShPP

There are three types of notices required:

Notice of entitlement and intention	Curtailment notice	Period of Leave notice
Given by mother/adopter and partner	Given by mother/adopter	Given by mother/adopter and/or partner
Confirms eligibility	End SML/SMP or SAL/SAP	States when they would like to take leave

To move from maternity/adoption leave to SPL the employee must give '**notice of entitlement and**

intention' to take SPL and ShPP. There are two different forms available, depending upon whether the employee is the mother/adopter or the partner. This notice may be submitted at the same time as the maternity/adoption curtailment notice or at a later date. The employee must complete the notice form, giving at least 8 weeks' notice. (The forms are available on the Gov.uk website).

Payroll, within 14 days of the SPL entitlement and intention notification being received, may request the following additional information:

- the name and address of the partner's employer (where the employee's partner is no longer employed or is self-employed their contact details must be given instead)
- in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth)
- in the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption

In order to be entitled to SPL, the employee must produce this information within 14 days of the request with the exception of the birth certificate if they are notifying their intention to use SPL prior to their baby being born.

The employee must give written notice of the leave they intend to take by way of a **'Period of Leave Notice'**.

If the employee has already decided the pattern of SPL they wish to request then they can provide their **'curtailment notice'**, and relevant **'notice of entitlement and intention'** to take SPL and ShPP and **'period of leave notice'** at the same time.

40. Cancelling the decision to end maternity or adoption leave

The mother or adopter may be able to change their decision to end maternity or adoption leave early if both the planned end date hasn't passed and /or they haven't already returned to work.

One of the following must also apply:

- (i) It is discovered during the 8 week notice period that neither partner is eligible for either SPL or ShPP
- (ii) The employee's partner has died
- (iii) It is less than 6 weeks after the birth and the mother gave notice before the birth.

An employee who revokes their maternity/adoption leave curtailment notice within 6 weeks of the birth will be able to opt into SPL at a later date with the same partner, either by returning to work and then giving notice of entitlement to SPL or by giving another notice to curtail the maternity/adoption leave.

If a mother or adopter revokes their notice as in circumstances above, (i) and (ii) there is no further opportunity to opt into SPL at a later date for the same child.

41. Requesting Shared Parental Leave

An employee considering taking SPL is encouraged to discuss their entitlement with the School Business Manager/Administrator as early as possible to talk about their plans and how they currently expect to use their SPL entitlement. It could be that these discussions take place before any formal notices are given.

An employee must give notice to take the leave by way of a **'Period of Leave Notice'** and submit a **'notice of entitlement and intention'**, in writing, at least 8 weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

The employee has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either:

- (a) A single period of weeks of leave; or
- (b) Two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

SPL can only be taken in complete weeks but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

For both continuous and discontinuous leave requests it is important to consider how reliant a parent is on the proposed pattern the other parent/partner is seeking to agree. Where both parents are taking continuous leave, this consideration is minimal because the request must be accepted. However, where the care of the child is dependent on one or both parents/partners agreeing discontinued leave arrangements and one is refused, one or both parents/partners may need to withdraw their notification and make new amended ones.

42. Continuous leave notifications

A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).

If notice is given for a continuous period of SPL, the employee is entitled to take it. The request cannot be refused.

Discontinuous leave notifications

A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

All requests for discontinuous leave will be considered, however they may not be agreed.

Where there is concern over accommodating the notification, the manager or Head Teacher will meet with the employee to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee, school and Tarka Learning Partnership.

The manager or Head Teacher will consider a discontinuous leave notification on a case by case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

Upon receiving a request for discontinuous leave the manager or Head Teacher might consider the following when making their decision:

- What impact will the leave arrangements have on the school and pupils and could this be mitigated?
- Are there important events/days planned which must be covered during the leave period?
- Are there busy/challenging periods during the leave requested?
- Would any modification to the leave reduce the impact on the school and pupils and might the employee be agreeable to this?
- How will the role be covered while the employee is absent?
- Will there be significant staffing issues during the leave period requested?
- What will be the impact on the pupils during this period of leave? Can this be managed?

43. Responding to a Shared Parental Leave notification

There is a 14 day discussion period from receipt of the **'period of leave notice'** where the manager or Head Teacher and employee may discuss the leave notification and consider alternative arrangements if appropriate.

The request may be granted in full or in part: for example, the manager or Head Teacher may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee does withdraw the request it will not count as one of the three notices to book leave. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than 8 weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

Where a request is refused, the manager or Head Teacher should within 14 days of the notification being given, confirm the following in writing:

- Proposed alternative dates for the employee to consider;
- A confirmation of the refusal;

Clear information on what options are now available to the employee (detailed in the third paragraph in this section).

44. Variations to arranged Shared Parental Leave

The employee is permitted to vary or cancel an agreed period of SPL, provided that they advise their manager or Head Teacher in writing at least 8 weeks before the date of any variation. Any new start date cannot be sooner than from the date of the variation request.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one.

However, a change as a result of a child being born early, or as a result of the manager or Head Teacher requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing.

If an employee has already used up their three notifications then the manager or Head Teacher is under no obligation to agree to vary/cancel the leave but they will consider the request and decide whether it is reasonably practicable to grant it.

45. Terms and conditions during Shared Parental Leave

During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary.

Pension

Teachers:

- During the period of paid maternity leave, pension contributions will be paid and deducted from the teacher's pay in the usual manner.
- Any unpaid period will not be pensionable / reckonable.
- Contact Teachers' Pensions for more information on Maternity/Paternity which is also available online at www.teacherspensions.co.uk

Support staff:

- During any period of paid or unpaid SPL, employees who are members of the Local Government Pension Scheme (LGPS) will pay basic pension contributions on the pay actually received but the employer will pay pension contributions on the pay the employee would have received had she/he been at work (Assumed Pensionable Pay (APP)). The service will count as normal for pension purposes, i.e. as if the employee had been at work.
- During any period of unpaid SPL, pension will not accrue, unless the employee elects to pay Additional Pension Contributions (APC) by buying the 'lost' pension.
- If an employee elects to buy the 'lost' pension by paying an APC within 30 days of returning to work, the employer must pay 2/3rds of the total cost with the remaining 1/3rd being paid by the employee. If the election is not made within the 30 day period then the employee will pay the full cost, unless the employer chooses to contribute towards the cost.
- If the employee wishes to buy the 'lost' pension they need to contact Peninsula Pensions by paying Additional Pension Contributions (APC) which can be found on the Peninsula Pensions website, which explains how to calculate the cost and then what the process is. See www.peninsulapensions.org.uk

- Where an employee works on a Shared Parental Leave In Touch (SPLIT) Day, both the employee and the employer will pay contributions based on the pay the employee receives for that day and it will count in full for pension purposes.

Annual Leave

SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not left untaken at the end of the employee's holiday year.

46. Contact during Shared Parental Leave

Before an employee's SPL begins, the manager or Head Teacher will discuss the arrangements for them to keep in touch during the leave. In any event reasonable contact will be maintained with the employee from time to time during their SPL. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

47. Shared Parental Leave In Touch Days (SPLIT Days)

An employee can agree to work or attend training for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as 'Shared Parental Leave in Touch' or 'SPLIT' days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

During the employee's SPL, the school or Tarka Learning Partnership has no right to require the employee to carry out any work, and is under no obligation to offer any work. Any work undertaken is a matter for agreement between the manager or Head Teacher and the employee. An employee taking a SPLIT day will receive their normal rate of pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives normal pay for the day. Any SPLIT days worked do not extend the period of SPL.

An employee, with the agreement of the manager or Head Teacher may use SPLIT days to work part of a week during SPL. The manager or Head Teacher and the employee may use SPLIT days to affect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

Where an employee works on a SPLIT Day, both the employee and the school will pay contributions based on the pay the employee receives for that day and it will count in full for pension purposes.

SPLIT days are in addition to the 10 'keeping in touch' (KIT) days already available to those on maternity and adoption leave

48. Returning to work after Shared Parental Leave

The School Business Manager/Administrator will write to the employee to advise them of the end date of any period of SPL. The employee is expected to return on the next working day after this date, unless they notify otherwise. If they are unable to attend work due to sickness or injury, this must be reported in line with the Tarka Learning Partnership's Managing Sickness Absence Policy and Procedure. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the notice to return early does not have to be accepted but it may be accepted if it is considered to be reasonably practicable to do so.

On returning to work after SPL, the employee is entitled to return to the same job if the employee's aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, he or she will return to the same job. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

49. Fraudulent claims

Where there is a suspicion that fraudulent information may have been provided or where the school or Tarka Learning Partnership has been informed by HMRC that a fraudulent claim was made, this will be investigated in accordance with Tarka Learning Partnership's Staff Disciplinary Policy, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

PATERNITY LEAVE

50. Paternity Leave policy principles

Paternity leave is available to employees on the birth of their child but is also available for adopters where a child has been placed for adoption after that date.

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.

51. Eligibility

To be eligible for paternity leave the employee must:

- have or expect to have responsibility for the child's upbringing
- be the biological father of the child or the mother's husband/partner or civil/same sex partner or in the case of adoption, the adopter's spouse/partner or civil partner.
- have worked continuously for the Tarka Learning Partnership for 26 weeks ending with the 15th week before the baby is due or in the case of adoption, for 26 weeks ending with the week in which the employee have been notified that they have been matched with a child.

Eligible employees will be entitled to take either one or two complete consecutive weeks' paternity leave (not to be taken as odd days).

The employee can choose to start their leave:

- In the case of birth of a child: 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 adoption of a child, from the date the child is placed with the member of staff or from another date as long as it is after the child has been placed with them

The employee's leave can start on any day of the week on or following the child's birth or being placed with the employee for adoption but must:

- be completed within 56 days of the actual birth or the 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.

52. Paid paternity leave

To qualify for paid paternity leave;

(a) The employee must be able to declare that:

- They are the baby's biological/adoptive parent, or
- Married to or in a civil partnership with the mother or child's primary adopter in the case of adoption, or

- Living with the mother in an enduring family relationship, but are not an immediate relative, and
- They will be responsible for the child's upbringing, and
- They will take time off work to support the mother/child's primary adopter or care for the child.

The employee must also

- (b) Have worked continuously for the Tarka Learning Partnership for at least 26 weeks leading into the 15th 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 that the child has been placed for adoption, and
- (c) Earn at least the lower earnings limit (LEL) for National Insurance Contributions for the 8 week period ending with the qualifying week Employees will be asked to confirm in writing that they meet these conditions.

If the employee not qualify or is not eligible for Statutory Paternity Pay (SPP), they may be able to receive an income support allowance direct from the Department of Working Pensions (DWP) or Jobcentre Plus. Payroll will provide the employee with an SPP1 form which they will need to complete and send directly to these organisations.

53. Amount of paternity pay due

Subject to meeting the eligibility requirements as above, the employee's payment is based on their terms and conditions of employment:

During week 1 the employee will be entitled to full pay (offset against any entitlement to SPP during this period).

During week 2 the employee will be entitled to statutory paternity pay paid at a fixed flat rate (or 90% of the member of staff's average weekly earnings whichever is the lesser).

54. Notice of intention to take paternity leave

Before the 15th week before the baby is expected or in the case of adoption within 7 days of being notified that a child has been matched, unless it is not reasonably practicable, the employee must inform their manager or Head Teacher in writing of the following:

- That they 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 they were notified that they were matched with a child for adoption;
- whether they wish to take one or two weeks leave; and
- when they want the leave to start.

The employee will also need to produce a copy of the mother's MATB1 (Maternity certificate).

The employee can change their mind about the start date of leave provided they give their manager or Head Teacher at least 28 days' notice, unless this is not reasonably practicable.

Note: Similar provisions apply in the case of adoption – simply substitute 'placed' for 'childbirth'. To qualify the employee must confirm in writing that:

- the purpose of the leave is to care for the child or to support the child's adopter;
- that the employee is married to the adopter or the partner of the child's adopter; and;
- that they expect to have responsibility for the upbringing of the child.

PARENTAL LEAVE

55. Parental Leave

This entitlement allows parents to take unpaid time off work, which is planned in advance, to look after or make arrangements for the child's welfare.

56. Parental Leave eligibility

Parental leave is available to all parents who have a minimum of one year's continuous service with the Tarka Learning Partnership.

57. Parental Leave provisions

The following outlines the details of the scheme:

Both mothers and fathers can take parental leave. They do not have to be living with the child to qualify for parental leave.

The employee is entitled to a total of 18 weeks for each child (in the case of multiple births, the entitlement is 13 weeks per child) and 18 weeks for parents of disabled children. A week's parental leave is equal to the length of time that the employee is normally required to work in a week. If the working week varies, the time off is based on an average working week. The employee must take the time in blocks of one week or more up to the maximum of 13 weeks or 18 weeks if eligible.

The employee can choose to take parental leave any time up until the child's 18th birthday.

The member of staff cannot normally take more than 4 weeks in any year. An exception to this can apply however if added to maternity leave or with the special approval of the manager or Head Teacher.

Employees should be encouraged to seek advice on how Parental leave is likely to affect their pension rights in the long term or how to buy back service (for support staff only).

Requests for parental leave will be granted subject to the following circumstances:

The leave taken will not unduly disrupt the business of the school or pupils' education and in all cases where the Line Manager or Head Teacher believes there is a problem in granting the request, no decision will be taken until the circumstances have been discussed with them in a meeting, privately, in advance. Where a request for parental leave is not granted, the employee may be able to raise this as an issue through the Tarka Learning Partnership Grievance Procedure.

- The manager or Head Teacher can postpone the employee's leave entitlement for a period no longer than 6 months after the beginning of the period that they originally wanted to start their parental leave. They will discuss the issue with the employee and will ensure they receive confirmation of the postponement arrangements in writing no later than 7 days after the notice to take leave, stating the reason for the postponement and giving the member of staff alternative dates of parental leave. The length of leave will be equivalent to the original request

- If work is at a seasonal peak and the absence would have an unfair impact on employees workloads the request might be declined
- If a significant number of staff from the school are absent from work already the request may be declined
- If the absence of the employee would unduly harm the pupil's education or the school, the request may be declined.

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

58. Applying for Parental Leave

An application for Parental leave must be made to the employee's manager or Head Teacher. The following minimum notice should be given:

- 1 or 2 days leave: 1 week notice
- 2 days plus leave: 3 weeks' notice
- Longer periods: no less than the period of parental leave requested

Notice can be waived with the agreement of the manager or Head Teacher.

Records of all parental leave granted will be maintained throughout the period of employment with the Tarka Learning Partnership. An employee can request details of their parental leave records at any time from the School Business Manager/Administrator.

59. Data Protection

The Tarka Learning Partnership will comply with the provisions of the Data Protection Act and General Data Protection Regulations. Employee data will be processed by the organisation in accordance with the principles of that legislation, as necessary for the performance of the employee's contract of employment and/or the conduct of the organisation's business. The organisation will ensure that personal information about an employee, including information in personnel files, is securely retained.

APPENDIX 1 – TERMS AND ABBREVIATIONS

Actual Week of Childbirth (AWC)	This is the week the baby is born.
Additional Adoption Leave (AAL)	An additional 26 weeks adoption leave, immediately following Ordinary Adoption Leave (OAL), which gives the right to 52 weeks (one year's) adoption leave in total, regardless of length of continuous service.
Additional Maternity Leave (AML)	An additional 26 weeks maternity leave, immediately following ordinary maternity leave, which gives the right to one year's maternity leave in total to all pregnant employees, regardless of length of continuous service.
Childbirth	The live birth of a child, or a still birth after a pregnancy that has lasted at least 24 weeks.
Compulsory Maternity Leave	The two weeks commencing with the day of childbirth during which employers are prohibited from allowing the employee back to work.
Continuous leave	A period of leave that is taken in one block, e.g. four week's leave
Continuous service (support staff)	Continuous service includes continuous previous service with any public authority to which the Redundancy payments Modification Order (Local Government) 1983 (as amended) applies.
Continuous service (Teachers)	Continuous service includes continuous previous service as a teacher with any Local Authority under the Redundancy Payments Modification Order.
Contractual Adoption Pay (CAP)	This is the payment made by the Academy over and above SAP, as part of the employee's Conditions of Service.
Contractual Maternity Pay (CMP)	This is the payment made by the Tarka Learning Partnership over and above SMP, as part of the employee's Conditions of Service.
Curtailment Notice	Curtailment is notice to end maternity/adoption leave with the intention to use any remaining leave and pay through shared parental leave.
Discontinuous leave	A period of leave that is arranged around weeks where the employee will return to work, e.g. an arrangement where an employee will work every other week for a period of three months.
Expected Week of Childbirth (EWC)	The week, starting on a Sunday, during which the mother's doctor or midwife expects her to give birth.
Job	For this purpose, means the nature of the work that the employee is employed to do and the capacity and place in which they is so employed.
MATB1	This is the certificate issued by the employee's GP or Midwife (no earlier than 20 weeks before the EWC) to confirm the date of the EWC.
Match	When an adopter is approved to adopt a named child or children
Maternity Allowance (MA)	Where the employee does not qualify for SMP they may be entitled to MA, which is paid directly by the Department for Work and Pensions.
Mother / Adopter	The woman who gives birth to a child or the adopter. The adopter means the person who is eligible for adoption leave and/or pay (They can be male or female.)

Notice of entitlement & Intention	Notice given to the employer of the intention to take SPL containing declarations from both parents about the amount of leave they are entitled to and the consent of the other parent to take the leave.
Ordinary Adoption Leave (OAL)	26 weeks adoption leave.
Ordinary Maternity Leave (OML)	26 weeks maternity leave. Available to all pregnant employees.
Partner	The biological father of the child, or the person who, at the date of the child's birth, or adoption is married to, the civil partner of, or the partner of the mother. This includes someone of either sex, who lives with the mother and the child in an enduring family relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.
Period of Leave Notice	Notice given to employer setting out the start and end dates of each period of SPL
Qualifying Week	This is the 15th week before the EWC. It is used to determine entitlement to SMP, as the employee needs to have worked for the same employer for at least 26 weeks up to and including the Qualifying Week (in addition to paying appropriate National Insurance Contributions).
Return to Work	Means to the job to which the employee was employed under their original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to them if they had not been absent.
SPL	Shared Parental Leave
ShPP	Statutory Shared Parental Pay
SPP	Statutory Paternity Pay
SPLIT day	Shared Parental Leave in Touch Day
Statutory Adoption Pay (SAP)	Providing the entitlement and National Insurance contribution criteria are met the employee will be entitled to SAP. This payment is made by the Academy on behalf of the Department for Work and Pensions. Current rates are available from the Directgov website.
Statutory Maternity Pay (SMP)	Providing the Qualifying Week and National Insurance contribution criteria are met the employee will be entitled to SMP. This payment is made by the Tarka Learning Partnership on behalf of the Department for Work and Pensions. Current rates are available from the Directgov website.
Week	An employee can start to receive their SMP on any day of the week.
Week's Pay	This is usually the amount payable by the Tarka Learning Partnership to the employee under their current contract of employment for working their normal hours in a week.
14 day discussion period	This is 14 consecutive days from receipt of the period of leave notice form.