

# Maternity, Adoption, Paternity and Flexible Working Policy

The King's School  
Cadhay Lane  
Ottery-St-Mary  
Devon  
EX11 1RA



## **MATERNITY POLICY**

### **1.0 Introduction**

- 1.1 This policy applies to all pregnant staff employed by The King's School, including school support staff and teachers regardless of the number of hours worked per week.

### **2.0 Policy**

- 2.1 This policy sets out the rights of employees to maternity leave and pay in accordance with national, local and statutory conditions of service. Nothing in the provisions shall be construed as providing rights less favourable than statutory rights.

### **3.0 Principles**

- 3.1 Employees are not discriminated against on the grounds of their pregnancy in addition to being free to exercise their rights to maternity leave, paid time off for antenatal care, maternity pay and the right to return to work.
- 3.2 Full consideration is given to the full range of flexible working arrangements when requested by women returning to work after maternity leave and these are arranged wherever possible in response to such requests.
- 3.3 An employee who is the child's father, or is the partner or nominated carer of an expectant mother, is allowed to take paid maternity support leave at or around the time of the birth in accordance with the local conditions of service.
- 3.4 Around or after the time of the birth, requests by the child's father or the partner or nominated carer of an expectant mother for flexible working arrangements are treated sympathetically.

## **Procedure**

### **4.0 Notification of pregnancy**

- 4.1 The employee should notify her line manager as soon as possible so that the employee can find out about her entitlements and the employee and manager can identify any potential health and safety implications by completing a risk assessment and the manager can begin to prepare appropriate maternity cover.
- 4.2 The employee should contact the Payroll Section. Payroll will send the employee a Maternity Information letter, which includes notification form MAT5 (MAT6 for teachers).
- 4.3 The employee should complete the MAT5 (MAT6 for teachers) notification form and send the original to Payroll as soon as possible, but at least by the 15<sup>th</sup> week before her Expected week of childbirth(EWC). A copy should be given to the line manager who must arrange for it to be placed on her personnel file.
- 4.4 The Line Manager will respond to the notification within 28 days, setting out the date on which the employee is expected to return to work if she takes her full entitlement to maternity leave.
- 4.5 The employee will be able to change her mind about when she wishes to start her maternity leave providing she gives at least 28 days notice in advance (unless this is not reasonably practicable).
- 4.6 The employee should give her line manager her MAT B1 form. The line manager should forward copies of the MAT B1 to Payroll and to the employee's personnel file. (The employee will receive the MAT B1 from her GP or Midwife stating when the baby is due, not before 20 weeks before the expected date of birth).
- 4.7 If a performance appraisal is due whilst the employee will be on maternity leave, the line manager should agree with the employee to either carry this out before she starts her leave or upon her return.
- 4.8 Employees should discuss the management of their annual leave with their line manager at the earliest opportunity so that they are able to take their annual leave around the needs of the school.

## **5.0 Ante natal care**

5.1 In order to exercise her right to time off the employee must notify the line manager of her pregnancy and obtain her line manager's authorisation to take time off and provide evidence of her antenatal appointments, if requested (an appointment card will suffice as evidence). It is recommended that the manager maintains a record of the appointments through the normal processes for recording employee absences.

5.2 Please see the Maternity and Adoption Support Leave Policy for those accompanying a pregnant woman at an antenatal appointment.

## **6.0 Commencing maternity leave**

6.1 Maternity leave can commence at any time from 11 weeks before EWC. It must commence no later than the day after childbirth.

6.2 If the employee is absent from work due to a pregnancy related illness during the 4 weeks before the EWC, her maternity leave will commence automatically.

6.3 If childbirth occurs before the date the employee notified as the day she intended to start maternity leave then her maternity leave will commence on the day after the day of childbirth.

6.4 When the employee actually begins maternity leave, the school administrator must ensure that the 'Online Absence Report' is completed stating the date that the employee commenced maternity leave. The line manager should also make a note of when the employee is expected to return, to ensure a further 'Online Absence Report' is completed at that time notifying Payroll of her return to work.

6.5 If a temporary replacement is required to cover the employee's maternity leave, the temporary employee must be informed in writing that his or her employment will be terminated on the return to work of the employee from maternity leave.

## **7.0 Contact during maternity leave**

7.1 Managers 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.

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

## **8.0 Following the birth**

8.1 Once the baby is born the employee should send a copy of the birth certificate to the line manager. The line manager should then forward a copy of the birth certificate to the employee's personnel file.

8.2 If a premature, still birth or miscarriage occurs, the employee is advised to notify her line manager as soon as is reasonably practical so that arrangements can be put in place to organise her maternity entitlements.

## **9.0 Returning to work**

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

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

9.3 **Return during Ordinary Maternity Leave** – If the employee chooses to return before the 26 weeks have elapsed, she must give, in writing, if requested, at least 21 days notice before her 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.

9.4 **Return at the end of Additional Maternity Leave** – If the employee chooses to return when the additional maternity leave period ends, she does not have to give specific notice.

9.5 **Return during Additional Maternity Leave** – If the employee chooses to return before the 52 weeks have elapsed she must give, in writing if requested, at least 21 days notice before her 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.

9.6 **Altering an early return date** – If an employee changes her mind about the date she intends to return, where she has already notified an early return date, she must give 21 days notice before the new date, and at least 21 days before the original early return date.

9.7 **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 her right to return by complying with the notification procedure. She 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.

9.8 The line manager should ensure that an 'Online Absence Report' is completed upon the employee's return to work.

9.9 The line 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.

9.10 The line manager and employee should review the risk assessment.

### **10.0 Flexible working requests**

10.1 An employee returning to work may make a request to work flexibly, as set out in the School's Flexible Working Requests Policy. Types of flexible work patterns include the consideration of flexi-time, part-time working, job share as well as other flexible working arrangements.

### **11.0 Choosing not to return to work**

11.1 The employee must give normal notice of resignation if she does not intend to return to work after her maternity leave.

11.2 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.

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

11.4 The line manager will need to ensure that a Leaver's form is completed, confirming the end of the employee's employment.

## **Guidance**

### **12.0 Ante Natal Care**

12.1 Any pregnant employee has the right to paid time-off to attend antenatal care. The employee will normally be required to attend antenatal classes (such as relaxation and parenting classes), which are usually at set times during the week, and ante natal appointments where the employee arranges the time with her midwife. The employee should liaise with their line manager regarding time-off giving as much notice as possible (see procedure).

### **13.0 Maternity leave and pay**

13.1 Entitlement to maternity pay is based on the employee's length of continuous local government service. The flowcharts provide more detailed information (appendix 1/2).

13.2 All women are entitled to both 26 weeks ordinary maternity leave and 26 weeks additional maternity leave, thus providing a right to one year's maternity leave in total, regardless of length of continuous service.

13.3 If the employee is absent from work due to a pregnancy related illness during the 4 weeks before the EWC, her maternity leave will commence automatically.

13.4 Maternity leave will not be treated as sick leave and will not therefore be taken into account for the calculation of the period of entitlement to sickness absence.

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

- **Statutory Maternity Pay (SMP)** - An employee is eligible for SMP providing she meets certain criteria. The Payroll Section will advise the employee of her 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. Current rates are available from the Gov.UK website.
- **Maternity Allowance (MA)** - Where the employee is not eligible for SMP she may be able to claim MA from the Department for Work & Pensions. The Payroll Section will send the employee a claim form to complete. MA payments are flat rate for 39 weeks. Current rates are available from the Gov.UK website.
- **Contractual Maternity Pay (CMP)** - This will depend on the employee's length of service (appendix 1/2).

13.6 If an employee has declared that she will be returning to work following the birth, she must return to The King's School for a period of time in order to 'protect' her Contractual Maternity Pay (CMP).

The period for which the employee must return is 3 months for non-teaching staff and 13 weeks for teachers, 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).

13.7 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 she does not return to employment (as set out in 13.6). Payroll will notify the employee of the amount. (This applies to employees on permanent and fixed term contracts).

13.8 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).

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

13.10 To be eligible for maternity leave and pay employees must meet specific notification requirements (see procedure).

#### **14.0 Health & Safety**

14.1 The manager and/or the relevant risk assessor is/are required to carry out specific risk assessments for all employees of childbearing age.

14.2 When an employee notifies her manager that she is pregnant it is important that this risk assessment is reviewed, in consultation with the employee and the risk assessor.

14.3 A further review should take place when the employee returns to work following maternity leave.

14.4 Should the risk(s) be significant the line manager will need to take action, in consultation with Occupational Health. This may include:

- i) Removing the hazard(s) or avoiding the employee's exposure to the risk(s);
- ii) Advising the employee of the risk;
- iii) Informing the employee of any action you will take to ensure that the employee is not exposed to a risk that could cause harm.

14.5 Removing the employee from the workplace if the level of risk is greater than the level of risk expected outside the workplace. This can be done by temporarily adjusting her working conditions and /or hours of work, offering the employee suitable alternative work (if any is available) or if neither of these is feasible, suspending the employee from work (with pay) for as long as necessary to protect her safety and that of the child.

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

#### **15.0 Risk of Rubella – Teachers**

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

#### **16.0 Annual leave entitlement during maternity leave (not applicable to Teachers or Term Time Staff)**

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

16.2 If an employee's maternity leave spans two annual leave years, it is worth remembering that only 4 days leave can be carried forward. It is therefore possible that unless planned for, an employee could lose some of her leave. To avoid this, and depending on the timing of the maternity leave in relation to the leave year, the manager should 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.

16.3 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.

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

16.6 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.

#### **17.0 Annual leave entitlement during maternity leave (applicable to Teachers only)**

17.1 The leave year for teachers, for the purpose of establishing annual leave entitlement, whilst on maternity leave is 1 September to 31 August.

17.2 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.

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

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

17.5 It will not be possible for a teacher 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 a teacher does not return to her job following maternity leave. Payment will be made in accordance with the Working Time Regulations and is not

pensionable.

## **18.0 Pension contributions during maternity**

### **18.1 Teachers:**

- During the period of paid maternity leave, pension contributions will be paid and deducted from the teachers pay in the usual manner.
- Any unpaid period will not be pensionable/reckonable.
- Contact Teachers Pensions on 0845 6066166 and ask for the Fact sheet on Maternity/Paternity which is also available online at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

### **18.2 All Other Employees:**

- During any period of paid maternity leave, employees who are members of the Local Government Pension Scheme will pay basic pension contributions on the pay actually received but The King's School will pay pension contributions on the pay the employee would have received had she been at work (notional pay). The service will count as normal for pension purposes, i.e. as if the employee had been at work.
- During any period of unpaid Ordinary Maternity Leave, the employee will be deemed to have paid basic pension contributions but The King's School will pay contributions on notional pay. 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, the unpaid period will not count for pension purposes unless the employee makes an election for it to count.
- The employee can, within 30 days of returning to work or the termination of the contract if she does not return, elect to pay the relevant pension contributions in respect of this unpaid period. The employee will need to notify the Payroll Section of this decision to pay contributions during the unpaid period of the maternity leave by completing Part 5 of the MAT5 Notification Form.
- 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. The day will count as a day of scheme membership.

## **19.0 Working during maternity leave/'Keeping in Touch' days**

19.1 A woman can do up to 10 days' work during her maternity leave without bringing her maternity leave to an end. Working for part of a day will count as one day.

19.2 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.

19.3 A manager cannot insist that a woman carries out any work and equally a woman cannot insist on being given any work to do.

19.4 A woman's maternity leave will not be extended due to the fact that she has carried out some work during this period.

19.5 A woman will not lose any SMP or CMP for working up to 10 days.

19.6 A woman will be paid their normal rate of pay for any work done under the contract of employment and this will be offset against any SMP or CMP due for each day.

19.7 A woman will lose her SMP for any week in which she does any further work. She will lose her CMP for the actual day(s) on which she does the work.

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

## **20.0 Public and extra statutory holiday entitlement during maternity leave (not applicable to teachers)**

**20.1 Full time employees** - During Ordinary Maternity Leave, 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.

For those employees whose EWC is on or after 5 October 2008, 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.

**20.2 Part time employees** - During Ordinary Maternity Leave an employee is entitled to accrue pro-rata public holiday and extra statutory day entitlement, as those days fall, and will be given a substitute day of paid leave at another time.

For those employees whose EWC is on or after 5 October 2008, an employee is entitled to accrue pro-rata public holiday and extra statutory day entitlement, as those days fall, and will be given a substitute day of paid leave at another time.

**20.3 Term time employees** - Term time only employees should be given a substitute day of paid leave during term time, where a public holiday/extra statutory day falls during their OML period. This should be managed locally, in the same way as the additional day of annual leave after 10 years continuous service.

For those employees whose EWC is on or after 5 October 2008, term time only employees should be given a substitute day of paid leave during term time, where a public holiday/extra statutory day falls during their OML and AML period.

**20.4 Substitute days of leave** may be taken immediately following the end of the period of maternity leave, which should allow for any maternity cover arrangements to be managed most effectively. Alternatively, any substitute days of leave may be added to the leave entitlement to be taken upon the return to work. In all cases, this should be recorded on leave cards (see Procedure).

## **21.0 Maternity rights in the event of a still birth or miscarriage**

**21.1 Stillbirth or miscarriage before the 25th week of pregnancy** - If an employee miscarries or has a stillbirth earlier than the 25th week of her pregnancy she will 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.

**21.2 Stillbirth from 25th week of pregnancy onwards** - A woman who has a stillbirth from the 25th week of pregnancy onwards will be eligible to full maternity scheme benefits.

**21.3 Birth of a live child before the 25th week of pregnancy onwards** - A woman who gives birth to a live child, even if the child later dies, at any point in her pregnancy will be entitled to full maternity scheme benefits.

## **22.0 Right to return to work**

**22.1** Employees have the right to return to work, following maternity leave, subject to specific requirements (see Procedure).

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

**22.3** Where it is not practicable by reason of redundancy for the school to permit the employee to return to work in her 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 she is to be employed and her terms and conditions of employment should not be substantially less favourable to her than if she had been able to return to the job in which she was 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 she was employed prior to her absence.

**23.0 Return to The King's School following a Resignation and Break for Maternity Reasons** (not applicable to Teachers)

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

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

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

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

23.4 If an employee chooses to return to The King's School they will be asked to complete and sign a form confirming service and that no paid employment has intervened.

## Costs

There may be a need to replace an employee on maternity leave. The formulas below will help managers to work out how many replacement hours they are able to employ an individual for, whilst still remaining within their staffing budget.

### All employees except teachers

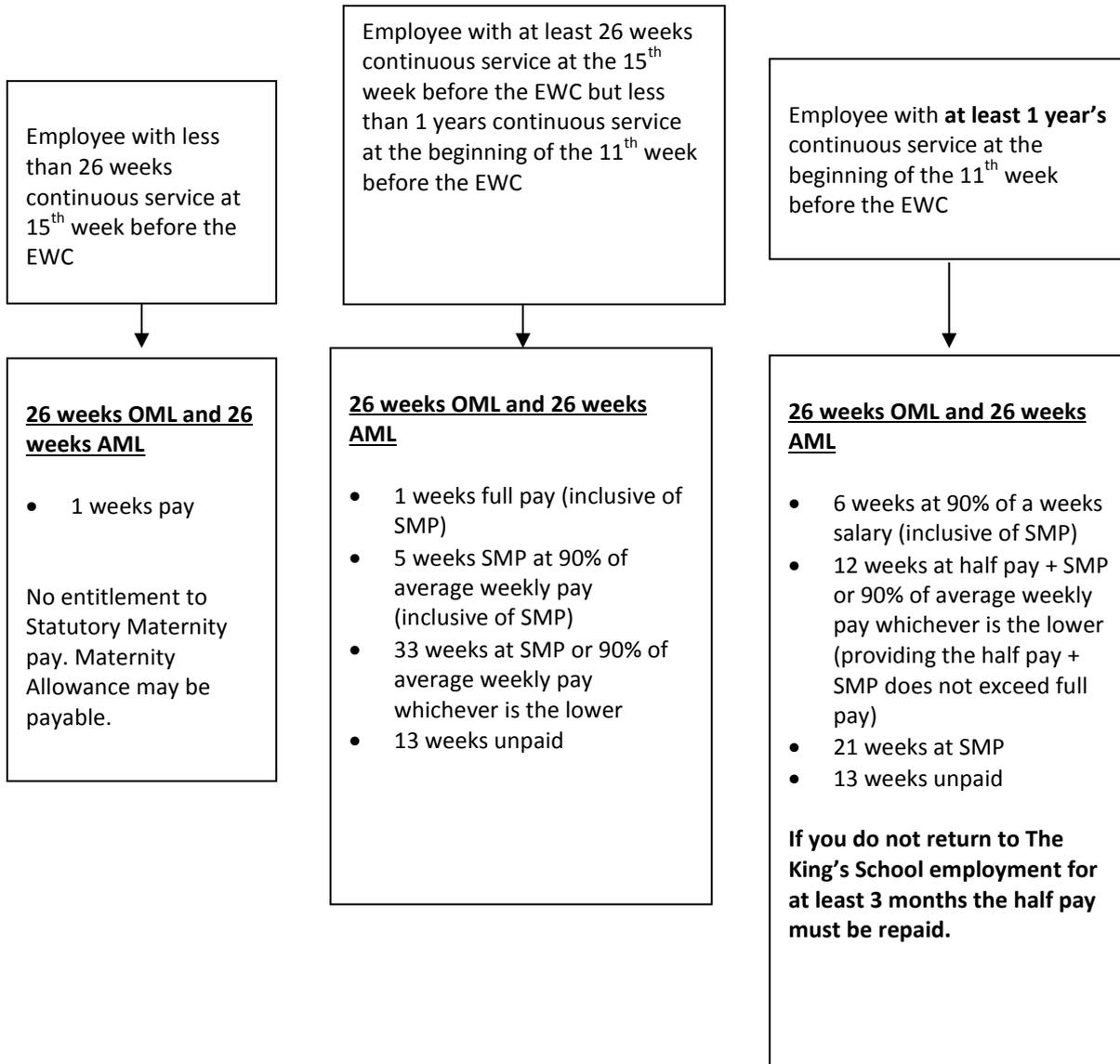
Length of service	Week	Employee Receives	Cost
At least 26 weeks continuous service but less than 1 years continuous service	1	Normal pay which when added to SMP (90% of average weekly earnings) or MA (flat rate) will secure the equivalent of normal pay	If entitled to SMP, 8% of the 90% plus the balance of normal salary. If entitled to MA, normal salary less MA. If no entitlement to statutory pay, one weeks normal pay
	2 - 6	SMP - 90% of average weekly earnings	If entitled to SMP, 8% of the 90%.
	7 - 39	SMP - flat rate (current rates are available from the Gov.UK website)	If entitled to SMP, 8% of flat rate (which may be less if employee is a low earner)
At least 1 years continuous service	1 - 6	CMP / SMP - 90% of average weekly earnings	If entitled to SMP, 8% of the 90%
			If entitled to MA, 90% of normal pay less MA
	7 - 18	CMP - 50% of average weekly earnings + SMP - flat rate	If not entitled to SMP or MA 90% of normal pay  50% of average weekly earnings + 8% of flat rate if entitled to SMP providing half pay + SMP does not exceed full pay
19-39	SMP - flat rate	8% of flat rate if entitled to SMP	

## Teachers

Length of service	Week	Employee Receives	Cost
Less than 26 weeks continuous service with The King's School and less than 1 years continuous service with one or more LEAs	1-26	Nil	Nil
Less than 26 weeks continuous service with The King's School but at least 1 years continuous service with other LEA's	1-4	Normal pay when added to flat rate MA will secure the equivalent of normal pay	If entitled to MA, normal salary less MA. If no entitlement to statutory pay, 4 weeks salary.
If returning to work	5-6	90% of average weekly earnings	If entitled to MA, 90% of 2 weeks salary less MA
	7-18	CMP - 50% of average weekly earnings provided half pay plus maternity allowance does not exceed full pay	If no entitlement to statutory pay, 2 weeks pay 90 % 50% of average weekly earnings
At least 26 weeks continuous service with The King's School but less than 1 years continuous service with other LEA's	1 - 6	90% of average weekly earnings SMP flat rate	If entitled to SMP, 8% of the 90%
	7 - 39		If entitled to SMP 8% of flat rate
At least 26 weeks continuous service with The King's School and at least 1 years continuous service with other LEA's	1-4	CMP / SMP - normal pay when added to SMP (90% of average weekly earnings) or flat rate MA will secure the equivalent of 4 weeks normal pay	If entitled to SMP, 8% of 90% plus the balance of normal salary If entitled to MA, normal salary less MA If no entitlement to statutory pay, 4 weeks salary If entitled to SMP 8% of the 90%
If returning to work	5-6	CMP / SMP 90% of average weekly earnings	If entitled to MA 90% of normal pay less MA
	7-18	CMP / SMP - 50% of average weekly earnings plus SMP flat rate	50% of average weekly earnings plus 8% of flat rate if entitled to SMP
		SMP flat rate	8% of flat rate if entitled to SMP
	19-39		

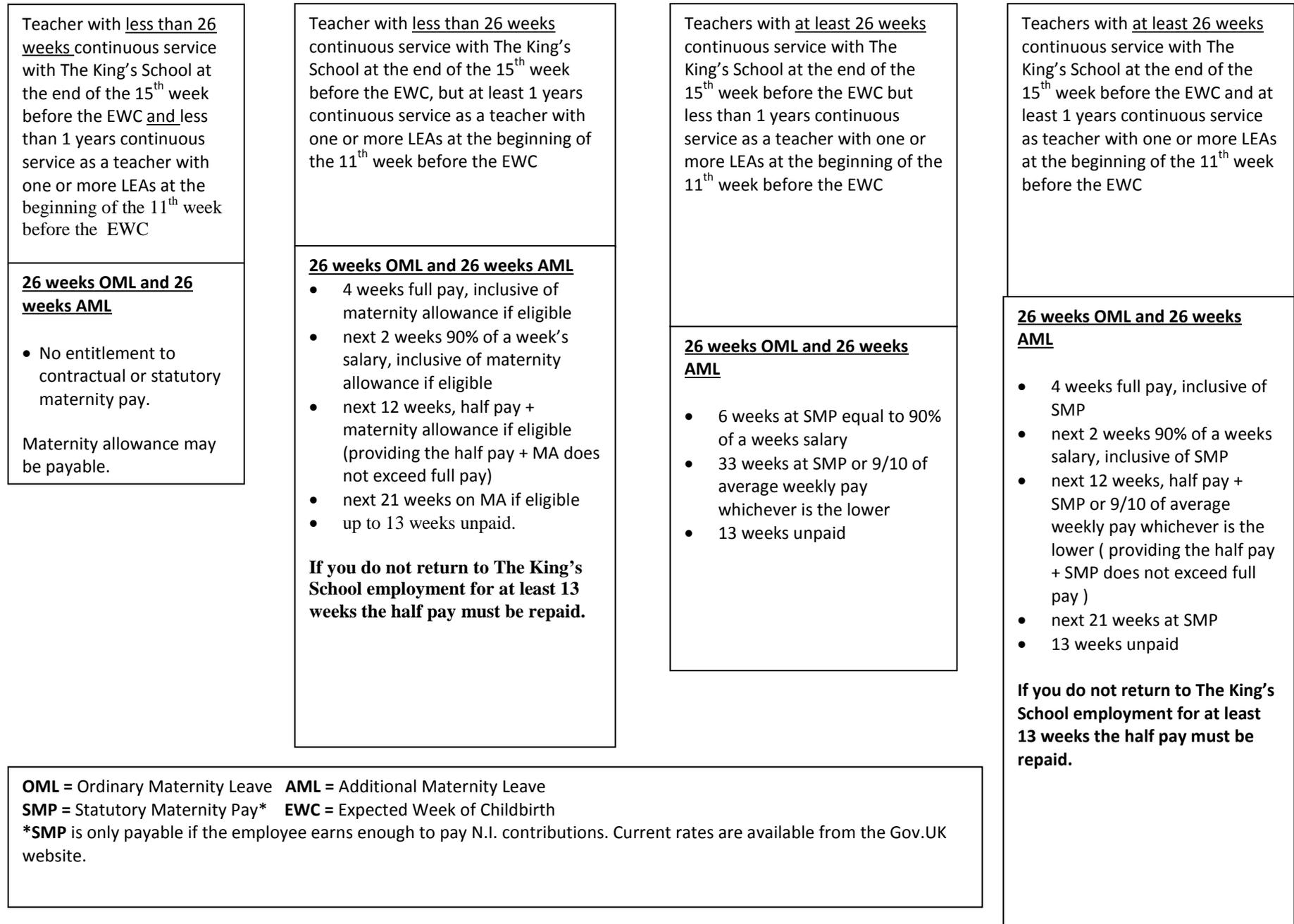
**Appendix 1**

**All Employees (Excluding Teachers) Maternity Benefits Flowchart**



**OML** = Ordinary Maternity Leave  
**AML** = Additional Maternity Leave  
**SMP** = Statutory Maternity Pay\*  
**EWC** = Expected Week of Childbirth  
\***SMP** is only payable if the employee earns enough to pay N.I. contributions. Current rates are available from the Gov.UK website.

**Appendix 2 - Teachers Maternity Benefits Flowchart**



### **Appendix 3 - Terms and abbreviations**

Actual Week of Childbirth (AWC)	This is the week the baby is born.
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 service (excluding teachers)	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 Maternity Pay (CMP)	This is the payment made by The King's School over and above SMP, as part of the employee's Conditions of Service.
Expected Week of Childbirth (EWC)	This is the week the baby is expected to be born.
Job	For this purpose, means the nature of the work that the employee is employed to do and the capacity and place in which she 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.
Maternity Allowance (MA)	Where the employee does not qualify for SMP she may be entitled to MA, which is paid directly by the Department for Work and Pensions.
Ordinary Maternity Leave (OML)	26 weeks maternity leave. Available to all pregnant employees.
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 her original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent.
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 King's School on behalf of the Department for Work and Pensions. Current rates are available from the Gov.UK website.
Week	A woman can start to receive her SMP on any day of the week.
Week's Pay	This is usually the amount payable by The King's School to the employee under her current contract of employment for working her normal hours in a week.

## **ADOPTION POLICY**

### **1.0 Introduction**

1.1 This policy applies to all staff employed by The King's School, including school support staff and teachers.

### **2.0 Policy**

2.1 This policy sets out the rights of The King's School employees to adoption leave and pay in accordance with national, local and statutory conditions of service. Nothing in the provisions shall be construed as providing rights less favourable than statutory rights.

### **3.0 Scope**

3.1 This policy applies to all staff employed by The King's School, regardless of the number of hours worked per week.

3.2 This policy provides for adoption leave to an employee who is adopting a child, and adoption pay if eligible, regardless of gender.

3.3 Where a couple are jointly adopting, the other adoptive parent, if they are employed by The King's School, may be entitled to adoption support leave and pay (also known as statutory paternity leave and pay), as set out in the School's Maternity & Adoption Support Leave Policy, regardless of gender.

(If he/she is not employed by The King's School, he/she may be entitled to take adoption support/ paternity leave and pay with his/her employer).

3.4 Where an employee is adopting individually, only he/she is entitled to take adoption leave, and adoption pay if eligible – although his/her partner may be entitled to adoption support/ paternity leave and pay, as outlined above.

3.5 Adoption support leave and pay cannot be taken by the same person under the same adoptive arrangement.

3.6 There are two elements to this policy, the statutory entitlements and the contractual entitlements. The policy incorporates an amalgamation of the two sets of entitlements.

### **4.0 Principles**

4.1 Employees are free to exercise their rights to adoption leave, and adoption pay if eligible, and the right to return to work.

4.2 Full consideration is given to the full range of flexible working arrangements when requested by employees returning to work after adoption leave and these are arranged wherever possible in response to such requests.

4.3 Where a couple are jointly adopting, requests by the other adoptive parent, if they are employed by The King's School, for flexible working arrangements around or after the time of the adoption placement, are treated sympathetically.

## **Procedure**

### **5.0 Notification and commencement of adoption leave**

5.1 An employee must inform his/her line manager in writing of his/her intention to take adoption leave within 7 days of being notified by his/her adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. The letter must include the expected date of placement and the date when they intend to start his/her adoption leave. A copy of this letter must be forwarded to the School Administrator together with documentary evidence from his/her adoption agency in the form of a 'matching certificate' as evidence of his/her entitlement to Statutory Adoption Pay (SAP).

5.2 The Line Manager or the School Administrator will inform Payroll Section who will send the employee an Adoption Information letter, which includes the notification form ADOPT5 (ADOPT6 for teachers) that must be completed and returned to Payroll as soon as possible. A copy of the ADOPT5 or ADOPT6 must be given to the line manager who must arrange for it to be placed on the employee's personnel file.

5.3 The line manager will respond within 28 days setting out the date on which the employee is expected to return to work if the full entitlement of adoption leave is taken.

5.4 When the employee begins adoption leave, the line manager must ensure that the 'Online Absence Report' is completed, stating the date that the employee commenced adoption leave.

5.5 The line manager should also make a note of when the employee is expected to return to ensure that a further 'Online Absence Report' is completed at that time notifying Payroll of the employee's return to work. The reason for absence should be indicated in the 'other' category and 'adoption leave' should be clearly written in the box.

5.6 If a performance appraisal is due whilst the employee will be on adoption leave, the line manager should agree with the employee to either carry this out before he/she starts his/her leave or upon his/her return.

5.7 An employee should discuss the management of his/her annual leave with his/her line manager at the earliest opportunity so that he/she is able to take his/her annual leave around the needs of the service (see Guidance).

5.8 If a temporary replacement is required to cover an employee's adoption leave, the temporary employee must be informed in writing that his/her employment will be terminated on the return to work of the employee who has taken adoption leave.

## **6.0 Contact during adoption leave**

6.1 Managers will maintain contact with an employee during his/her adoption leave period to discuss issues such as return to work and will keep him/her informed of vacancies, any significant workplace developments and training opportunities.

6.2 Contact will not constitute 'work' and not therefore count towards the 10 days 'Keeping in Touch' days (see Section 7) or bring the adoption leave period to an end.

## **7.0 Working during adoption leave/'Keeping in Touch' days**

7.1 An employee can work up to 10 'Keeping in Touch' days during his/her adoption leave without bringing his/her adoption leave to an end. Working for part of a day will count as one day.

7.2 Work is defined as any work carried out under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch with the workplace.

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

7.4 An employee's adoption leave will not be extended due to the fact that he/she has carried out some work during this period.

7.5 An employee will not lose any Statutory Adoption Pay (SAP) for working up to 10 days.

7.6 An employee will be paid his/her normal rate of pay for any work carried out under the contract of employment and this will be offset against any SAP due for each day.

7.7 An employee will lose their SAP for any week in which they do any further work.

## **8.0 Return to work after adoption leave**

**8.1 Return at the end of Ordinary Adoption Leave (OAL)** – If the employee chooses to return when the OAL period ends after 26 weeks, he/she does not have to give specific notice, although he/she should confirm to his/her line manager the date he/she wishes to return so that arrangements can be made.

**8.2 Return during Ordinary Adoption Leave (OAL)** – If the employee chooses to return before the 26 weeks have elapsed, he/she must give notice, in writing if requested, at least 21 days before his/her 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 period of the adoption leave period.

**8.3 Return at the end of Additional Adoption Leave (AAL)** – If the employee chooses to return when the AAL period ends, he/she does not have to give specific notice.

**8.4 Return during Additional Adoption Leave (AAL)** – If the employee chooses to return before the 52 weeks have elapsed, he/she must give notice, in writing if requested, at least 21 days before his/her return. Where the notice given is less than 21 days notice, the employer may postpone the return to ensure 21 days notice but not beyond the end of the adoption leave period.

**8.5 Altering an early return date** – If an employee changes his/her mind about the date he/she intends to return, where he/she has already notified an early return date, he/she must give 21 days notice before the new date, and at least 21 before the original early return date.

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

**8.7** The line manager should ensure that the 'Online Absence Report' is completed upon the employee's return to work.

**8.8** The line 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 substitute days.

## **9.0 Flexible working requests**

**9.1** An employee returning to work may make a request to work flexibly, as set out in the School's Flexible Working Requests Policy. Types of flexible work patterns include the consideration of flexi-time, part-time working, job share as well as other flexible working arrangements.

## **10.0 Choosing not to return to work**

**10.1** The employee must give normal notice of resignation if he/she does not intend to return to work after his/her adoption leave.

**10.2** 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 (CAP). Payroll will notify the employee of their particular circumstances.

**10.3** The last day of adoption leave will be the last day of service, unless the employee has given written notice that he/she wishes to resign on an earlier date.

**10.4** The line manager will need to ensure that a Leaver's Form (Prism 2) is completed, confirming the end of the employee's employment.

## **Guidance**

### **11.0 Adopting a child from overseas**

**11.1** 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 (usually the Department of Health) which confirms that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

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

- a copy of the official notification at least 28 days before he/she wishes to claim Statutory Adoption Pay (SAP)
- 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.

## 12.0 Adoption leave entitlements

12.1 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.

12.2 In addition, 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.

12.3 To qualify for these entitlements, the employee must have been newly matched with a child for adoption by an approved adoption agency.

The entitlements do not apply to step family adoption, although, leave, equivalent to the compassionate leave provisions for sickness should be allowed for an employee taking the main caring responsibility.

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.

Where a foster parent does not qualify, as set out above, leave, equivalent to the compassionate leave provisions for sickness should be allowed for an employee taking the main caring responsibility. However, in cases where there has been a period apart between fostering and adoption, a period of one month's unpaid leave may also be allowed.

12.4 Only one adoptive parent (the main adoptive parent) is entitled to take adoption leave.

12.5 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.

12.6 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 Statutory/Contractual 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.

If 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.

12.7 The employee can choose to start his/her 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 his/her 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.

12.8 To be eligible for adoption leave, the employee must meet specific notification requirements (see Procedure).

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

12.10 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 his/her contract of employment.

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

12.12 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.

### **13.0 Adoption pay**

13.1 Entitlement to adoption pay is based on an employee's length of continuous service. The charts outlined in Appendix 1 (applicable to all employees excluding teachers) and Appendix 2 (applicable to teachers) provides more detailed information.

13.2 An employee may be eligible for one or more of the following payments, and entitlement will begin when he/she commences OAL:

- **Statutory Adoption Pay (SAP)** - An employee is eligible for SAP providing he/she meets certain criteria. The Payroll Section will advise the employee of his/her entitlement. SAP payments are paid at a flat rate for 39 weeks, or, at 90% of average weekly earnings if this is less. Current rates are available from the Gov.UK website.
- **Contractual Adoption Pay (CAP)** - This will depend on an employee's length of service (see Appendices 1 and 2 for details, and clause 13.3 below).

Both SAP and CAP are treated as earnings and are therefore subject to PAYE and national insurance deductions.

13.3 If an employee has declared that he/she will be returning to work following his/her adoption leave, he/she must return to The King's School for a period of time in order to 'protect' his/her Contractual Adoption Pay (CAP). The period for which the employee must return is 3 months for non-teaching and 13 weeks for teachers, regardless of the number of hours worked. Contractual 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).

13.4 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 he/she does not return to The King's School employment (as set out in 13.3). Payroll will notify the employee of the amount. (This applies to employees on permanent and fixed term contracts).

13.5 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).

13.6 The employee will not have to refund SAP payments.

13.7 To be eligible for adoption pay, an employee must meet specific notification requirements (see Procedure).

13.8 If the adopted child's placement ends during the adoption leave period and SAP is being paid, SAP payments will end 8 weeks after the end of the pay week in which the child stopped living with the employee.

13.9 Adoption pay will cease in any week following the week in which the adopted child reaches 18 years of age.

#### **14.0 Annual leave entitlement during adoption leave** (not applicable to teachers or term time staff)

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

14.2 If an employee's adoption leave spans two annual leave years, it is worth remembering that only 4 days leave can be carried forward. It is therefore possible that unless planned for, an employee could lose some leave. To avoid this, and depending on the timing of the adoption leave in relation to the leave year(s), the employee and his/her line manager should discuss the options available as early as possible whilst taking into account the needs of the service. These options are to:

- take annual leave before the start of the adoption leave
- take annual leave before returning to work
- return earlier than otherwise planned so that the remaining leave can be taken before the end of the annual leave year.

14.3 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.

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

14.5 If, during the adoption leave period, the employee subsequently decides not to return to work and too much annual leave has been taken, there will be a requirement to pay back any overtaken annual leave.

#### **15.0 Annual leave entitlement during adoption leave** (applicable to teachers)

15.1 The leave year for teachers, for the purpose of establishing annual leave entitlement, whilst on adoption leave is 1 September to 31 August.

15.2 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.

15.3 Teachers on adoption leave are entitled to the statutory annual leave under the Working Time Regulations. A teacher who takes adoption leave must be able to take the statutory annual leave, as set out above, at a time outside of the 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.

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

15.5 It will not be possible for a teacher 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 a teacher does not return to the job following adoption leave. Payment will be made in accordance with the Working Time Regulations and is not pensionable.

**16.0 Public and extra statutory holiday entitlement during adoption leave (not applicable to teachers)**

16.1 **Full time employees** - During OAL, 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.

An employee who has since had a child placed with him/her for adoption, on or after 5 October 2008, or who has a child adopted from overseas entering the UK on or before the 5 October 2008, during OAL and AAL, 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.

16.2 **Part time employees** - During OAL an employee is entitled to accrue pro-rata public holiday and extra statutory day entitlement, as those days fall, and will be given a substitute day of paid leave at another time.

An employee who has since had a child placed with him/her for adoption on or after 5 October 2008, or who has a child adopted from overseas entering the UK on or before the 5 October 2008, during OAL and AAL, is entitled to accrue pro-rata public holiday and extra statutory day entitlement, as those days fall, and will be given a substitute day of paid leave at another time.

16.3 **Term time employees** - Term time only employees should be given a substitute day of paid leave during term time, where a public holiday/extra statutory day falls during their OAL period. This should be managed locally, in the same way as the additional day of annual leave after 10 years' continuous service.

An employee who has since had a child placed with him/her for adoption on or after 5 October 2008, or who has a child adopted from overseas entering the UK on or before the 5 October 2008, should be given a substitute day of paid leave during term time where a public holiday/extra statutory day falls during their OAL or AAL period.

16.4 Substitute days of leave may be taken immediately following the end of the period of adoption leave, which should allow for any adoption cover arrangements to be managed most effectively. Alternatively, any substitute days of leave may be added to the leave entitlement to be taken upon the return to work. In all cases, this should be recorded on leave cards in the normal manner.

## **Pension**

**17.0 Pension (not applicable to teachers)**

17.1 During any period of paid adoption leave, an employee who is a member of the Local Government Pension Scheme 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 they been at work (notional pay). The service will count as normal for pension purposes i.e. as if the employee had been at work.

17.2 During any period of unpaid OAL the employee will be deemed to have paid basic pension but the employer will pay contributions on notional full pay. The service will count as normal for pension purposes i.e. as if the employee had been at work.

17.3 During any period of unpaid AAL the unpaid period will not count for pension purposes unless the employee makes an election for it to count. The employee can, within 30 days of returning to work or the termination of the contract if he/she does not return, elect to pay the relevant pension contributions in respect of this unpaid period. The employee will need to notify the Payroll Section of this decision to pay contributions during the unpaid period of the adoption leave by completing Part 4 of the ADOPT5 Notification Form.

17.4 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. The day will count as a day of scheme membership.

## **18.0 Pension – applicable to teachers**

18.1 During the period of paid adoption leave, pension contributions will be paid and deducted from a teacher's pay in the usual manner.

18.2 Any unpaid period will not be pensionable/ reckonable.

18.3 A fact sheet on maternity, paternity and adoption can be obtained from Teachers' Pensions, telephone number 0845 6066166, and is also available on line at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk).

## **19.0 Right to return to work**

19.1 An employee has the right to return to work, at any time during either OAL or AAL. Alternatively, he/she may take his/her full period of adoption leave and return at the end of this period. (See Procedure).

19.2 'Return to work' means to the job to which the employee was employed under his/her original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to him/her if he/she had not been absent. 'Job' for this purpose, means the nature of the work that he/she is employed to do and the capacity and place in which he/she is so employed.

19.3 Where it is not practicable by reason of redundancy for the employer to permit the employee to return to work in his/her 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 he/she is to be employed and his/her terms and conditions of employment should not be substantially less favourable to him/her than if she had been able to return to the job in which he/she was originally employed.

19.4 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 he/she was employed prior to his/her absence.

## **20.0 Return to The King's School service following a resignation and break for adoption reasons (not applicable to teachers)**

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

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

21.2 For the purpose of the calculation of entitlement to annual leave, the 8 years time limit does not apply, provided that no permanent full time employment has intervened.

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

21.4 If an employee chooses to return to The King's School, he/she will be asked to complete and sign a form confirming his/her service and that no paid employment has intervened.

## **22.0 Equalities**

22.1 The King's School is committed to equality in its adoption policy.

22.2 The conditions for qualification for leave and pay under the adoption leave policy will not disadvantage any employee on the grounds of age, race or ethnicity, disability, gender and marital status, gender identity or sexual orientation, religion or belief.

**Appendix 1**

**All Employees (excluding Teachers) Adoption Benefits Flow Chart**

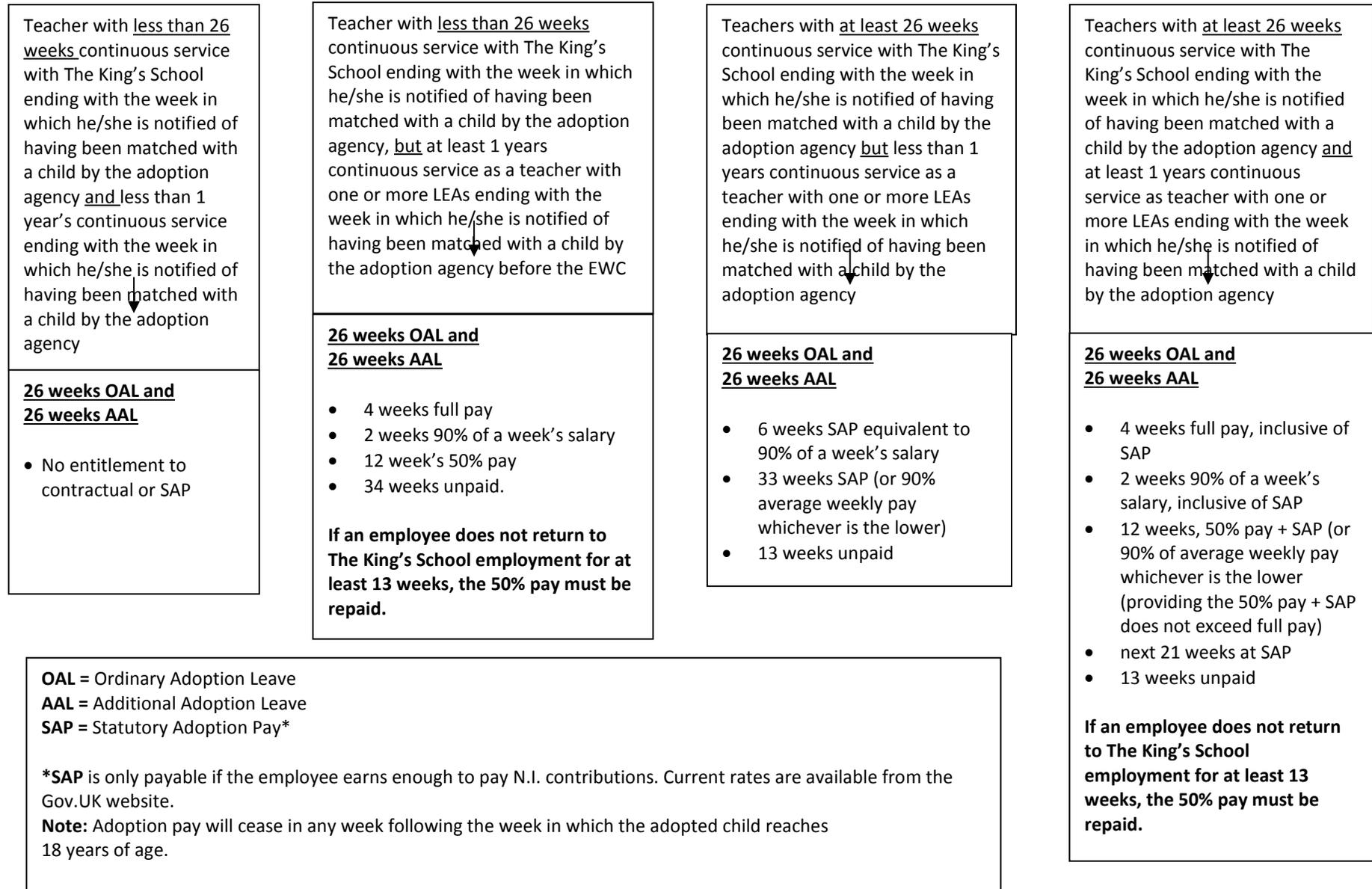
<p>Employee with less than 26 weeks continuous service ending with the week in which he/she is notified of having been matched with a child by the adoption agency</p>	<p>Employee with at least 26 weeks continuous service ending with the week in which he/she is notified of having been matched with a child by the adoption agency</p>	<p>Employee with <b>at least 1 year's</b> continuous service ending with the week in which he/she is notified of having been matched with a child by the adoption agency</p>
<p><b><u>26 weeks OAL and 26 weeks AAL</u></b></p> <ul style="list-style-type: none"><li>• 1 weeks pay</li></ul> <p>No entitlement to SAP.</p>	<p><b><u>26 weeks OAL and 26 weeks AAL</u></b></p> <ul style="list-style-type: none"><li>• 1 weeks full pay, inclusive of SAP</li><li>• 5 weeks at 90% of average weekly pay, inclusive of SAP</li><li>• 33 weeks at SAP or 90% of average weekly pay, whichever is the lower</li><li>• 13 weeks unpaid</li></ul>	<p><b><u>26 weeks OAL and 26 weeks AAL</u></b></p> <ul style="list-style-type: none"><li>• 6 weeks at 90% of a weeks salary, inclusive of SAP</li><li>• 12 weeks at 50% pay + SAP or 90% of average weekly pay, whichever is the lower (providing the half pay + SAP does not exceed full pay)</li><li>• 21 weeks at SAP</li><li>• 13 weeks unpaid</li></ul> <p><b>If an employee does not return to The King's School employment for at least 3 months the 50% pay must be repaid.</b></p>

**OAL** = Ordinary Adoption Leave  
**AAL** = Additional Adoption Leave  
**SAP** = Statutory Adoption Pay\*

**\*SAP** is only payable if the employee earns enough to pay N.I. contributions. Current rates are available from the Gov.UK website.

Note: Adoption pay will cease in any week following the week in which the adopted child reaches 18 years of age.

**Appendix 2 Teachers Adoption Benefits Flow Chart**

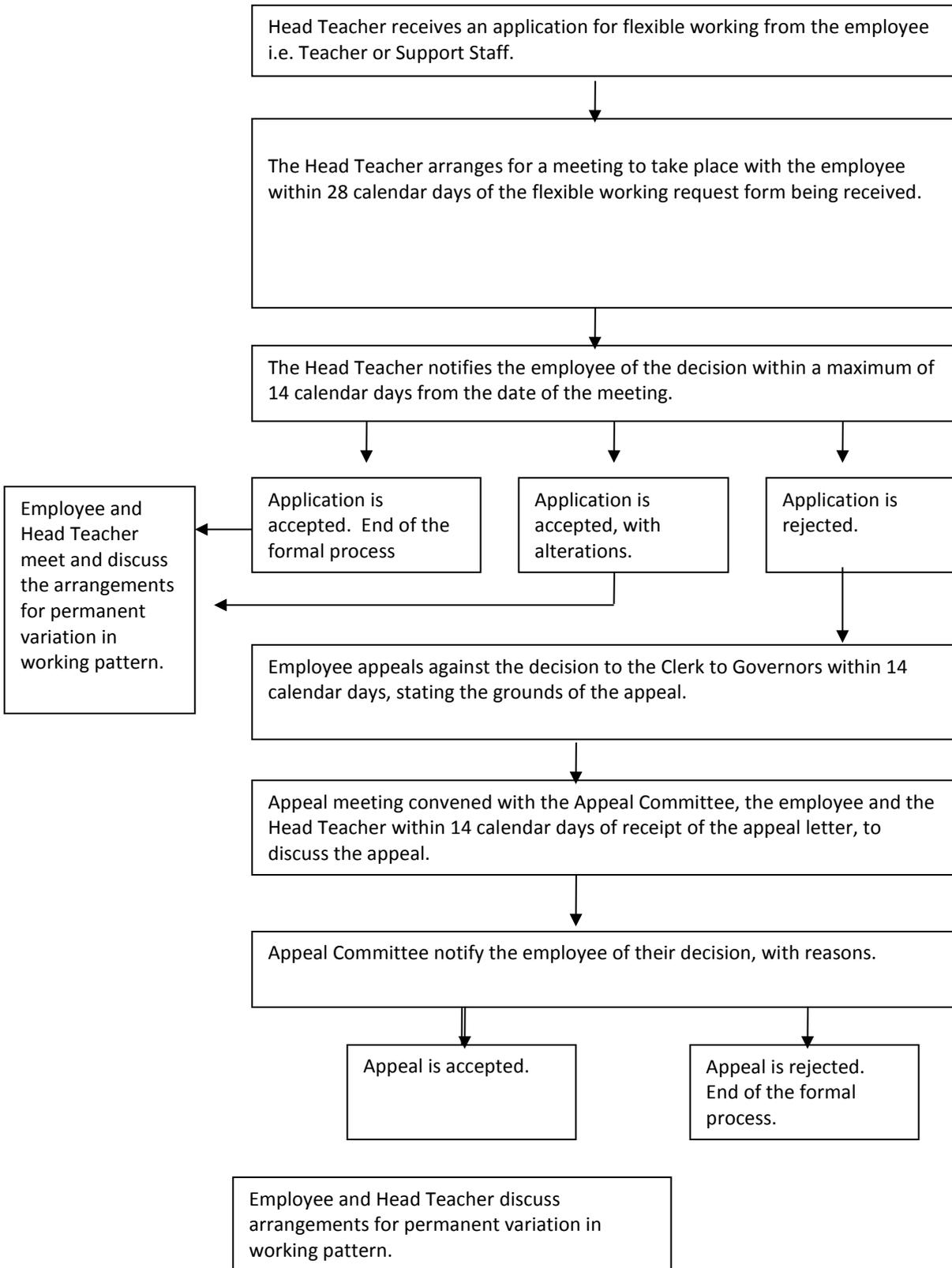


### **Appendix 3 – Terms and Abbreviations**

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.
Continuous service (excluding teachers)	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 King's School over and above SAP, as part of the employee's Conditions of Service.
Job	For this purpose, means the nature of the work that the employee is employed to do and the capacity and place in which he/she is so employed.
Ordinary Adoption Leave (OAL)	26 weeks adoption leave.
Return to Work	Means to the job to which the employee was employed under his/her original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to him/her if she had not been absent.
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 King's School on behalf of the Department for Work and Pensions. Current rates are available from the Gov.UK website.
Week	An employee can start to receive his/her SAP on any day of the week.
Week's Pay	This is usually the amount payable by The King's School to the employee under his/her current contract of employment for working his/her normal hours in a week.

# FLEXIBLE WORKING REQUESTS POLICY

## Flexible Working Request Flow Chart



## **A. INTRODUCTION AND PURPOSE**

### **A.1. Responsibility for the Application of the Policy**

It is the responsibility of the Governing Body and Head Teacher to ensure that employees who meet the eligibility criteria detailed in the Model Flexible Working Requests Policy are provided with the right to request a variation to his or her contract so that they can work more flexibly and thereby achieve a better balance between their lives outside of work and work commitments.

The Governing Body and Head Teacher are responsible for ensuring that the statutory procedures and timeframes detailed in the Model Flexible Working Requests Policy are adhered to.

In considering a flexible working request, the Governing Body and Head Teacher should ensure that they have due regard to the School's staffing structure requirements, in particular ensuring that teaching and learning standards can be maintained.

### **A.2. First Committee**

The Governing Body may agree to delegate responsibility for considering and deciding whether or not to agree to flexible working requests, in line with the Model Flexible Working Requests Policy, to either the Head Teacher, the Chair of Governors or to the First Committee of Governors.

### **A.3. Appeal Committee**

The Appeal Committee will comprise three governors. It should be confirmed that none of the governors have had any previous involvement in the flexible working request, a close relationship with the employee or a vested interest.

### **A.4. Consultation**

This policy is provided, following consultation with Trade Unions and Professional Associations, for the Governing Body to consider for adoption. Should the Governing Body wish to make changes to this model policy, the required consultation must be undertaken with the County Officers of the recognised Trade Unions and Professional Associations.

### **A.5. Legislative Base**

This policy takes into account the statutory requirements of the Employment Rights Act 1996 (Amended 2009).

From 6<sup>th</sup> April 2003, the Employment Act 2002 amended the Employment Rights Act 1996 to provide parents with children under the age of six (or under the age of eighteen in the case of a disabled child), the right to request flexible working and placed a duty on employers to consider these requests seriously. This was extended to parents with children under the age of sixteen (or under the age of eighteen in the case of a disabled child) on 6<sup>th</sup> April 2009.

From April 2007 the right to request flexible working was extended to the carers of adults.

### **A.6. Aim of this Policy**

This policy supports employees, who meet the eligibility criteria, to request a permanent variation to their contract of employment so that they can work more flexibly and thereby achieve a better balance between their lives outside work and their work commitments.

### **A.7. Coverage**

This policy applies to all staff in the School and will be made available to every member of staff through the School's internal systems.

## **B. POLICY**

### **B.1. Application of the Policy**

This policy:

- is non-discriminatory and in accordance with the School's equality policies;
- will be consistently and fairly applied across the School;
- will be conducted with respect for the confidentiality of individuals and in accordance with the Data Protection Act 1998;
- is based on open communication between members of staff and their managers;
- is explicit about the responsibilities for all involved.

## C. CONFIDENTIALITY

The Head Teacher will ensure there are full, comprehensive records of the process which will be stored confidentially.

In the event of the employee making an application under the Data Protection Disclosure Policy, a school can obtain advice from the Devon County Council Compliance Team.

The Information Compliance Team can be contacted by emailing [dpoffice@devon.gov.uk](mailto:dpoffice@devon.gov.uk).

## D. EQUAL OPPORTUNITIES

The conditions for qualification under this policy will not disadvantage any employee on the grounds of age, race or ethnicity, disability, gender and marital status, gender identity or sexual orientation.

## E. GENERAL PRINCIPLES

### E.1. Being Accompanied at Meetings

Employees have the right to be accompanied by a trade union representative or a workplace colleague at any stage in the procedure. The Head Teacher is advised to make staff members aware of this provision.

### E.2. Recording of Information

All decisions relating to the request should be recorded in writing.

Subject to Data Protection legislation, documentation or data that has been used to form the basis of the decision should be available upon request.

### E.3. Contractual Variations

If a change is agreed, it will be a permanent variation of contract and there will be no right for the employee to revert back to the former working arrangement.

Where there is concern by either party on the implications of agreeing a flexible working request, a trial period or a limited period of working flexibly can be mutually agreed. A timeframe should be agreed in advance of the arrangement commencing and this should be documented in writing.

### E.4. Timescales

The timescales detailed in the policy are in accordance with the statutory requirements and therefore must be adhered to unless both parties have agreed to an extension of time.

There may be a number of reasons why the time limits specified are too short and an extension may be required. Where an extension to the time limits is agreed, a written record of this decision should be made. **See Flexible Working Extension of Time Limit Form – Appendix 2.**

An application is taken to have been made on the date that it is received. Where an application is made by email or fax, it is taken to be received on the day it was transmitted.

The timeframes indicated in the Flexible Working Policy shall not commence until the Head Teacher is in receipt of the fully completed Flexible Working Request Form.

An employee who is thinking about making a request to change his or her work pattern should speak to the Head Teacher as early as possible in order to explore what possibilities might be available.

The statutory procedures can take up to 14 weeks to complete and therefore sufficient time should be allowed by the employee.

Where the manager is absent from work due to leave or illness the statutory procedures provide an automatic extension to the time limits. Therefore during periods of school closure or where the Head Teacher is absent due to illness, the period that the designated DHT has to arrange the meeting will commence either on the day of the Head Teacher's return or 28 calendar days after the application is made, whichever is the sooner. It is advisable that the school makes arrangements

during the summer holidays to ensure that any anticipated flexible working requests are registered within the 28 calendar days extension period.

#### **E.5 Pensions**

It is recommended that the employee seeks advice from their pension provider prior to requesting a variation to the contract of employment. The employee's Trade Unions / Professional Association may also be able to provide information.

Teachers should contact Teachers' Pensions at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk). Support staff belonging to the Local Government Pension Scheme can make contact at [www.lgps.org.uk](http://www.lgps.org.uk).

#### **F. Statutory Reporting Obligations**

No statutory reporting obligations exist under this policy.

#### **G. Eligibility**

The Flexible Working Requests Policy applies to employees who:

- Have a child under 16 years of age, or under 18 years of age in the case of a disabled child; and
  - Have or expect to have responsibility for the child's upbringing; and
  - Are making the application to enable them to care for the child;
  - And are either: the mother, father, adopter, guardian, special guardian or foster parent of the child; or
  - Are married to or the partner of the child's mother, father, adopter, guardian, special guardian or foster parent.
- Have caring responsibilities. Carers are family, friends, neighbours and partners who provide long term care and support to people of any age with disability, illness or frailty. The care they provide is unpaid.

An employee making a request under the Flexible Working Policy must also meet the following criteria:

- Have worked for the School continuously for 26 weeks at the date the application is made;
- Make the application no later than two weeks before the child's 16th birthday or 18<sup>th</sup> birthday in the case of a disabled child;
- Make the application to enable him or her to provide unpaid care;
- Have not made another application to work flexibly under this policy during the past 12 months.

#### **H. No Automatic Entitlement**

It is important to note that the Flexible Working Requests legislation provides an employee, who meets the qualifying criteria, with the right to **REQUEST** flexible working arrangements. Whilst every effort will be made to accommodate a flexible working request, there is no automatic entitlement to have a flexible working request agreed; every request will be considered in conjunction with the needs of the School.

#### **I. Non Eligible Employees**

The principles of the Flexible Working Requests Policy may be used to consider flexible working requests received from employees who do not meet the eligibility criteria. However, it should be noted that the School is not bound by the statutory requirements detailed in the Flexible Working Requests Legislation.

#### **J. Types of Flexible Working**

Types of flexible work patterns include the consideration of:

- Flexi-time – working time is split between core hours and time when employees can choose when to work.
- Part-time working – allows employees to work a proportion of the hours which would normally be regarded as full-time for that employment.
- Job share – involves two or more people sharing a full-time post.
- Shift working – provides employers with the opportunity to open their business for longer.
- Annualised hours – where working time is organised over the number of hours to be worked in a year rather than a week.
- Term-time working – allows employees to take unpaid leave of absence during the school holidays.

- Home working - individuals have the opportunity to work from home on either a full or part time basis.
- Compressed hours – where individuals complete their hours over a shorter period of time.
- Staggered hours – allows employees to start and finish their day at different times

The type of flexible working pattern requested by an employee will need to take into account the practicalities of applying the revised working arrangements in a school setting.

#### **K. Proof of Eligibility**

There is no legislative requirement for employees to provide evidence or proof that the child or adult in question requires any particular level of care or to detail the type of care that will be provided. However, where it is suspected that there has been abuse of the right, for example because it is suspected that the employee does not genuinely have a qualifying relationship with the child or adult in question, the employer may reasonably request evidence (if this is available). Abuse of the right to request flexible working may result in the Schools' Conduct Procedures being invoked.

#### **L. PROCEDURE**

##### **L.1 Making the Request**

An employee wishing to make a request for flexible working must complete a **Flexible Working Request Form (Appendix 1)** and submit it to the Head Teacher.

The Flexible Working Request Form provides the employee with the opportunity to give an explanation of what effect, if any, the employee thinks the proposed change would have on the school and how they feel any such effect might be dealt with.

Employees should ensure that all sections of the form are completed.

Incomplete forms should be returned to the employee for completion. The timeframes indicated in the Flexible Working Requests policy shall not commence until the completed the form is received.

The Head Teacher should acknowledge receipt of the request by returning, to the employee, the **Head Teacher's Confirmation of Receipt Slip** at the end of the Flexible Working Request Form.

If an employee unreasonably refuses to provide all the information needed to assess whether the change can be agreed, the Head Teacher will be entitled to treat the application as withdrawn. The employee would not then be able to make another application for 12 months. In these circumstances, the Head Teacher should write to the employee to confirm that the status of the application is considered as being withdrawn.

##### **L.2. Considering the Request**

The Headteacher should arrange a meeting with the employee within 28 calendar days of the Flexible Working Request Form being received.

The purpose of the meeting will be to discuss and clarify any aspect of the flexible working request and if necessary, to consider alternatives.

Consideration should be given to the long term implications of agreeing a flexible working request and the restrictions that may be associated with a particular type of employment contract or the wording used in the Flexible Working Request Acceptance Form and / or Letter of Appointment.

The employee may be accompanied to the meeting by either a union representative / professional association or by a work colleague.

If the employee is unable to attend the meeting, a new meeting should be arranged for a date within 7 calendar days of the original proposed time.

If the employee fails to attend the meeting without explanation more than once, the employer may consider the flexible working request application withdrawn. The Head Teacher should write to the employee to confirm the action taken.

Both parties should be prepared to be flexible when reaching an agreement whilst having due regard for the needs of the school.

The Head Teacher should be present to submit information to the meeting on how the flexible working request could be accommodated within the existing school structure.

Any recommendation provided by the Head Teacher should be supported by the relevant documentation and / or evidence.

The Headteacher should ensure that a written record of the meeting is made detailing the key points of discussion, including any alternative working proposals suggested and the response. A copy of the record should be provided for the employee.

If the flexible working request cannot be accommodated it is advisable that the Head Teacher explores alternative working arrangements that may enable the employee to work flexibly. The rationale for accepting or refusing any arrangement should be documented.

A decision regarding the flexible working request will be made by the Head Teacher. The Head Teacher has up to a maximum of 14 calendar days from the date of the meeting to consider the flexible working request, including clarifying any information that may have been submitted as part of the process, and to provide the employee in writing, with details of the final decision.

It may be appropriate for the Head Teacher and the employee to agree a trial period of a new working arrangement to establish whether it suits both parties. It is important that any trial period agreed outside of the original flexible working request is documented, detailing the length of time that the trial period will operate, when it will be reviewed and extending the timescales for a final decision to be made on the flexible working request.

Where a flexible working request is unlikely to be accepted, the Head Teacher must ensure that the decision can be substantiated with the appropriate evidence, for example, if citing detrimental impact on quality, specifically parental concerns regarding continuity of teaching, it would be reasonable that there is a record of either discussions held or letters received from parents corroborating the reason cited.

#### **M. Informing of the Decision**

The Head Teacher will write to inform the employee of their decision within a maximum period of 14 calendar days of the meeting.

If the request is agreed the Head Teacher should complete a **Flexible Working Acceptance Form (Appendix 3)** and send it to the employee. Any compromise offered and agreed at the meeting should be detailed in the Flexible Working Acceptance Form.

If the request is refused the Head Teacher should complete a **Flexible Working Reject Form (Appendix 4)** and send it to the employee.

The only valid reasons for a request being refused include:

- Additional cost to the School
- Detrimental effect on the School's ability to meet customer demand
- Inability to recruit additional staff
- Detrimental impact on quality
- Detrimental impact on performance
- Insufficiency of work during the periods the employee proposes to work
- Planned structural changes

In addition to stating the reason for the request being refused the Head Teacher should include an explanation about why the reason(s) apply in the circumstances. It is not necessary for the Head Teacher to provide evidence to support the explanation however they should ensure that they are able to substantiate any facts in the event of a subsequent dispute occurring.

The Head Teacher should arrange for a copy of the Flexible Working Request Form and either the Flexible Working Acceptance Form or the Flexible Working Reject Form to be placed onto the employee's personal file.

#### **N. Appeal Against the Decision**

If an employee is dissatisfied with the response from the Head Teacher, he or she has the right of appeal.

An Appeal meeting provides an opportunity for the employee to make representation to a Committee of Governors not involved in the original decision.

There are no constraints on the grounds under which an employee can appeal.

The employee should register the appeal using a **Flexible Working Appeal Form (Appendix 5)** within 14 calendar days of receiving the written refusal for the request for flexible working. The employee should provide concise details of the grounds under which they are appealing the original decision. The completed form should be sent to the Clerk to Governors.

The Clerk to Governors should arrange for an Appeal meeting to be convened within a maximum period of 14 calendar days of receipt of the appeal.

The Appeal should be considered by a Committee of Governors acting as the Appeal Panel. It should be confirmed that members of the Appeal Panel have not had any previous involvement in the flexible working request, a close relationship with the employee or a vested interest.

The employee and the Head Teacher will be invited to attend the Appeal meeting to submit their case.

Where an employee fails to attend an Appeal meeting, the Clerk to Governors should arrange for a second Appeal meeting to be scheduled. If the employee fails to attend more than two Appeal meetings the Head Teacher can assume that the flexible working request has been withdrawn. It is advisable that the Head Teacher writes to the employee to confirm this course of action.

Either party may invite witnesses, who are relevant to the flexible working request, to attend the meeting. The Head Teacher should be asked to attend to present and clarify information.

An accurate account of the Appeal meeting should be made. This record may be used during any legal process.

The Appeal Panel has responsibility for considering the grounds on which the appeal has been raised; as detailed in the employee's Flexible Working Appeal Form. This may require the panel to review the original decision making process, the grounds of refusal and any supporting documentation to establish whether the original decision was reasonable and was in line with legislative requirements.

The Chair of the Appeal Panel must notify the employee of the decision using a **Flexible Working Appeal Reply Form (Appendix 6)**, within a maximum period of 14 calendar days after the date of the meeting.

Once the process is complete, the Chair of the Appeal Panel should arrange for copies of the Flexible Working Appeal Form and the Flexible Working Appeal Reply Form to be placed onto the employee's personal file.

At the end of the appeal procedure there is no further mechanism for considering the flexible working request.

#### **O. Withdrawal of Flexible Working Request**

If an employee wishes to notify the Head Teacher that they wish to withdraw their application, they should do so in writing using the **Flexible Working Notice of Withdrawal Form (Appendix 7)**. The Head Teacher should respond by completing the **School Confirmation of Withdrawal** slip which can be found at the end of the Notice of Withdrawal Form. A copy of the Flexible Working Notice of Withdrawal Form should be placed on the employee's personal file.

Where an employee fails to meet their responsibilities, as detailed in the Flexible Working Requests policy, the School may also treat an application as withdrawn. In these circumstances, the Head Teacher should write to the employee to confirm that the application has been withdrawn.

**Appendix 1 - Flexible Working Request Form**

<b>Personal Details</b>	
Employee Name:	
Head Teacher:	School:
Payroll Number:	NI Number:
<b>Work Pattern Details</b>	
Detail your current contractual hours including the number of weeks per annum you are contracted to work:	
Describe the new contractual variation that you would like the School to consider:	
Detail when you would like the new contractual variation implemented (date):	
<b>Impact of the Flexible Working Request</b>	
Describe how the contractual variation will affect the School and colleagues:	
<b>Accommodating the Flexible Working Request</b>	
Describe how the effect on the School and colleagues can be addressed:	
I confirm I have not made a flexible working request during the past 12 months.	
Employee Signature:	Date:
<b>NOW PASS THIS REQUEST TO THE HEAD TEACHER</b>	
<b>Head Teacher's Confirmation of Receipt (to be completed and returned to employee)</b>	
Dear:	
I confirm that I received your flexible working request on (date):	
A meeting will be arranged with me to discuss your application within 28 calendar days following this date. In the meantime you might want to consider whether you would like trade union representative or work colleague to accompany you at the meeting.	
From:	
Head Teacher Signature:	Date:

**Appendix 2 - Flexible Working Extension of Time Limit Form**

Dear: ..... Payroll Number: .....

I wish to extend the amount of time that the procedure allows me to: (please tick)

- Arrange a meeting to discuss your request (28 calendar days)
- Notify you of my decision regarding your request (14 calendar days)
- Arrange a meeting to discuss your appeal (14 calendar days)
- Notify you of my decision regarding your appeal (14 calendar days)

I wish to extend the time limit to ..... calendar days.

This means that I will have until .....to complete the necessary action.

I need the extra time for the following reason:

.....  
.....  
.....  
.....

If you agree to this extension, please complete the slip below and return it to me.

.....

Name:..... Date: .....

Signature:.....

**NOW PASS THIS APPLICATION TO THE EMPLOYEE**

-----

Cut this slip off and return it to the Head Teacher in order to confirm your acceptance of their request.

**Employee's Agreement to Time Extension**  
(to be completed and returned to the Head Teacher)

Dear: .....

I accept your request to extend the amount of time to .....

Name:..... Date: .....

Signature:.....

**Appendix 3 - Flexible Working Request Acceptance Form**

Dear: ..... Payroll Number: .....

Following receipt of your request and our meeting on.....(date):

I have considered your Flexible Working Request:

- I am pleased to confirm that I am able to accommodate your application.
- I am unable to accommodate your original request. However, I am able to offer the following alternative, which we have discussed and you agreed, would be suitable to you.

The variation to your contract of employment will be as follows:

.....

.....

.....

.....

.....

.....

The contractual variation will begin from ..... (date):

Signature (Head Teacher): ..... Date:.....

**SEND FORM TO EMPLOYEE FOR SIGNATURE**

Please note that unless otherwise stated the change will be a permanent change to the terms and conditions of employment and you have no right to revert back to your previous contract of employment.

Name (Employee): ..... Date: .....

Signature: .....

**NOW RETURN THIS FORM TO THE HEAD TEACHER**

**Appendix 4 - Flexible Working Request Rejection Form**

**HEAD TEACHER TO SEND THIS FORM TO THE EMPLOYEE**

Dear: ..... Payroll Number: .....

Following receipt of your request and our meeting on: ..... (date).

I have considered your Flexible Working Request.

I am sorry but I am unable to accommodate your request for the following business ground(s):

.....  
.....  
.....  
.....

The grounds apply in the circumstances because:

.....  
.....  
.....  
.....

Note: You should explain why any other work patterns you may have discussed at the meeting are also inappropriate. Please continue on a blank sheet if necessary.

You have the right to appeal against my decision. Details of the appeal procedure are set out below.

Name:..... Date:.....

Head Teacher's signature: .....

**The Appeal Process**

**TO THE EMPLOYEE**

If your request for flexible working has been turned down, you have the right to appeal against the decision. If you wish to appeal, you must write to your Chair of Governors, setting out the grounds for your appeal, within 14 calendar days after receiving written notice of their decision.

**Appendix 5 - Flexible Working Request Appeal Form**

Dear: .....

I wish to appeal against your decision to refuse my request for flexible working.

I am appealing on the following grounds:

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

(Please continue on a blank sheet if necessary)

Signed: ..... Date:.....

Name:..... Payroll Number:.....

School:

**NOW RETURN THIS FORM TO THE CLERK TO GOVERNORS**

**Appendix 6 - Flexible Working Appeal Reply Form**

Dear: ..... Payroll Number: .....

Following our meeting on:.....(date)

The Appeal Committee has considered your appeal against the decision to refuse your Flexible Working Request application.

The Committee’s decision is to accept your appeal against the decision. I am therefore able to accommodate your original request to vary your contract of employment as follows:

.....  
.....  
.....  
.....

The variation to your contract of employment will begin from:.....(date).

Please note that the change will be a permanent change to your contract of employment and you have no automatic right to revert back.

The Committee’s decision is to reject your appeal for the following ground(s):

.....  
.....  
.....  
.....  
.....

The grounds apply because:

.....  
.....  
.....

Please continue on a separate sheet if necessary

Signed:..... Date: .....

Name:.....

HEAD TEACHER TO RETURN THIS FORM TO THE EMPLOYEE

**Appendix 7 - Flexible Working Notice of Withdrawal Form**

Dear: .....

I wish to withdraw my application to work flexibly which I submitted to you on..... (date).

I understand that I will not be able to make another application until twelve months after the above date.

Name: ..... Date: .....

Signature: .....

NOW RETURN THIS FORM TO YOUR HEAD TEACHER.

Cut this slip off and return it to your employee in order to confirm your receipt of their withdrawal notice.

-----

**School Confirmation of Withdrawal**

(to be completed by the Head Teacher and returned to employee)

Dear: .....

I confirm that I have received notice that you wish to withdraw your application for flexible working which you submitted to me on: .....

Under the right to apply, you will not be eligible to submit another application until twelve months after the above date.

Name: ..... Date: .....

Signature: .....

**Head Teacher's letter - Flexible Working Meeting**

Private and Confidential

**NAME**  
**ADDRESS**

**DATE**

Dear

**Re: Flexible Working Meeting**

I am writing further to receipt of your letter application form dated (**DATE**) advising that you wish to make a flexible working request.

You are invited to attend a meeting with me on (**DATE**) at (**TIME**) at (**LOCATION**).

The purpose of the meeting will be to discuss and clarify any aspect of the flexible working request and if necessary, to consider alternatives.

You have the right if you so wish to be represented by a Professional Association/Trade Union representative or work colleague. It is your responsibility to arrange this.

If you have any queries about the content of this letter please contact me.

Yours sincerely

**Clerk's Response to Appeal Request - template**

Private and Confidential

**NAME**  
**ADDRESS**

**DATE**

Dear

**Re: Flexible Working Appeal**

I am writing further to the receipt of your letter dated **(DATE)** advising that you wish to appeal against the decision to reject your flexible working request.

I confirm that arrangements have been made for your appeal to be heard.

You are invited to attend a meeting before the Governor's Appeal Committee on **(DATE)** at **(TIME)** at **(LOCATION)**. You should report to **(LOCATION)** prior to the meeting where a room will be made available for you.

The Committee will consist of three Governors have not previously been involved in considering your flexible working request.

The Committee will consist of:

**(NAME)** (Chair)  
**(NAME)**  
**(NAME)**

**(NAME)** will present the management case and will be advised by the School's and Academies' Personnel Service. **(NAME)** will be calling **(NAME)** to attend as a witness.

You are encouraged and entitled to attend with a work colleague or trade union representative. You will be given the fullest opportunity to present relevant information and you can make a statement either orally or in writing or both.

You will be asked to withdraw from the meeting whilst the Committee considers the information. A decision will be conveyed to you in writing within 14 calendar days after the date of the appeal meeting.

**Insert appropriate paragraph:**

***Either***

A copy of the information that will be presented by **(NAME)** will be forwarded to you shortly. Please ensure that you send any information you wish to be considered at the hearing to me at the School and notify me of any witnesses you will be calling by the .....**(DATE)**

***Or***

Enclosed for your information are copies of the documents that will be presented by **(NAME)**. Please ensure that you send any information you wish to be considered at the hearing to me at the school.

If you have any queries about the contents of this letter please contact me on the above telephone number.

Yours sincerely

Clerk to Governors

## **PATERNITY AND ADDITIONAL PATERNITY LEAVE**

### **Introduction**

This policy applies to all partners of pregnant staff employed by The King's School, including school support staff and teachers regardless of the number of hours worked per week.

### **Policy**

This policy sets out the rights of employees to paternity leave (OPL) and pay (OPP) and additional paternity leave (APL) and Additional paternity pay (APP) in accordance with national, local and statutory conditions of service. Nothing in the provisions shall be construed as providing rights less favourable than statutory rights.

### **Principles**

Employees are free to exercise their rights to OPL and OPP and APL and APP where eligible, and the right to return to work.

Full consideration is given to the full range of flexible working arrangements when requested by employees returning to work after APL and these are approved where possible.

Ordinary Paternity Leave OPL - an employee who qualifies for OPL may elect to take up to 1-2 weeks as a continuous period of time.

Additional Paternity Leave (APL) - an employee who qualifies for APL may elect to take up to 26 weeks' APL as a continuous period of time within the first year of the child's life provided that the mother has returned to work prior to taking her full entitlement to maternity leave.

APP may be payable, at the statutory rate, during some or all of the APL period of between two and 19 weeks, dependent on the mother meeting certain criteria and on the length and timing of the APL period.

An employee may take just one period of APL per pregnancy, regardless of the number of children born.

### **Procedure**

#### **Notification of pregnancy**

The employee should notify their line manager as soon as possible so that the employee can find out about their entitlements and eligibility to OPL and APL.

The employee should initially contact the Heads PA for the appropriate forms which are also available from HMRCs website.

If requesting OPL an HMRC (HMRC SC3 form for childbirth or an SMRC SC4 form for Adoption) must be submitted to the Heads PA. This MUST be done at least 28 days before the expected date of childbirth for paternity pay benefits to apply.

For those staff requesting APL an HMRC (HMRC SC7 form for childbirth or an SMRC SC8 form for Adoption) notification form MUST be submitted to the Heads PA at least 28 days before you wish the APL to start.

The School Business Manager will respond to the notification for OPL and APL in writing within 28 days confirming the start and end dates of the leave and any paternity pay where eligible. A copy will be held on the individuals personnel file,

If a performance appraisal is due whilst the employee will be on APL leave, the line manager should agree with the employee to either carry this out before or after their leave.

#### **Commencing OPL/APL**

When the employee actually begins OPL/APL, the Heads PA will record the date the individual leaves and when the employee is expected to return, and will notify the finance team to ensure That paternity pay is calculated and paid correctly.

If a temporary replacement is required to cover the employee's OPL/APL, the temporary employee must be informed in writing that his or her employment will be terminated on the return to work of the employee from APL.

### **Contact during APL**

Managers will maintain contact with employees during their APL 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 APL period to an end.

### **Losing Eligibility to APL, and APP**

An employee may lose their eligibility for APL, and APP, if they are no longer married to or the partner of the child's mother and/or no longer have the main responsibility for the upbringing of the child. Eligibility will also be lost if the mother is no longer entitled to maternity leave or has not returned to work.

### **Returning to work**

Return at the end of APL – If the employee chooses to return when the APL ends after 26 weeks, they do not have to give specific notice, although the employee should confirm to her Headteacher the date they wish to return so that arrangements can be made.

Altering a start or return dates – before APL starts, if the employee changes their mind, they may cancel the leave or change the start or end dates. The employee must give the Heads PA written notice ("subsequent notice") at least six weeks before the date that they are amending.

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

### **Flexible working requests**

An employee returning to work may make a request to work flexibly, as set out in the School's Flexible Working Requests Policy. Types of flexible work patterns include the consideration of part-time working, job share as well as other flexible working arrangements.

### **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 OPL/APL. The last day of APL will be the last day of employment, unless the employee has given written notice that they wish to resign on an earlier date.

### **Guidance**

#### **Eligibility**

OPL must be started and completed within 56 days of the baby's arrival. If you are eligible, employees can take both OPL and APL. For OPP payments- see Table 1

In order to be eligible for OPL an employee must:

- Be the child's biological father or mother's husband or partner, the child's adopter or husband or partner of the child's adopter.
- have at least 26 weeks' continuous service with the school by the "qualifying week", (end of the 15th week before start of the week in which the child is born /adopted)

- provide the school with at least eight weeks' notice

Additionally In order to be eligible for AML an employee must:

- remain in continuous employment with The King's School until the week before the first week of APL.
- provide the school with at least eight weeks' notice
- the mother must be entitled to Statutory Maternity Pay and or Maternity allowance
- the mother must have physically returned to work before using her full entitlement to maternity leave, and consequently no longer be entitled to receive Statutory Maternity Pay or Maternity Allowance where eligible.

APL must be taken as a single continuous block of time in multiples of complete weeks. The minimum period is two weeks and the maximum 26 weeks.

An employee may choose to take their APL if eligible; any time in the period which begins 20 weeks and ends 12 months after the child is born.

An employee has the right to take unpaid APL if they meet the eligibility criteria for leave but not Additional Paternity Pay (APP).

### **Additional Paternity Pay**

An employee is eligible to APP if they:

- meet the eligibility criteria for APL,
- their average weekly earnings for the eight weeks ending with the "qualifying week" are not less than the lower earnings limit for national insurance contributions
- the mother has at least two weeks of her Statutory Maternity Pay or Maternity Allowance period that remains unexpired
- they give proper notification
- All APL taken after the end of the mother's Statutory Maternity Pay or Maternity Allowance period is unpaid.

APP is paid at the standard statutory rate or 90% of the employee's average weekly earnings, if this less.

APP starts on or after the date that the mother physically returns to work, and when the employee gives notice for it to start.

APP continues to be paid during the 10 Keeping in Touch (KIT) days, but it is not payable in any week in which work is carried out in excess of those 10 days (see 17.0).

APP is payable whether or not the employee intends to return to work after his/her APL period.

APP is not payable where an employee carries out any work for a new employer.

### **Annual leave entitlement during APL**

#### **Support staff**

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

If an employee's APL spans two annual leave years only four days leave can be carried forward. It is therefore possible that unless planned for, an employee could lose some of this leave. To avoid this, and depending on the timing of the APL in relation to the leave year, the manager should discuss the options available as early as possible.

During APL, annual leave will accrue in the same way as it did before this leave 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 employment.

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

**Full time employees** - During APL 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 APL an employee is entitled to accrue pro-rata public holiday and extra statutory day entitlement as those days fall, and will be given a substitute day of paid leave at another time.

**Term time employees** – Term time only employees should be given a substitute day of paid leave during term time, where a public holiday/extra statutory day falls during the APL period.

Substitute days of leave may be taken immediately following the end of the period of APL, which should allow for any cover arrangements to be managed most effectively. Alternatively, any substitute days of leave may be added to the leave entitlement to be taken upon the return to work. In all cases, this should be recorded on personnel files.

### **Teachers**

The leave year for teachers, for the purpose of establishing annual leave entitlement, whilst on maternity leave is 1<sup>st</sup> September to 31<sup>st</sup> August.

Following the introduction of the Working Time (Amendment) Regulations 2007, which came into effect in 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.

A teacher who takes APL must be able to take the above statutory annual leave entitlement at a time outside of the APL period. This leave 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 APL period.

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

It will not be possible for a teacher 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 a teacher does not return to her job following maternity leave. Payment will be made in accordance with the Working Time Regulations and is not pensionable.

### **Pension contributions during Paternity Leave**

#### **Support staff**

During any period of paid APL, employees who are members of the Local Government Pension Scheme will pay basic pension contributions on the pay actually received but The King's School will pay pension contributions on the pay the employee would have received had she been at work (notional pay). The service will count as normal for pension purposes, i.e. as if the employee had been at work.

During any period of unpaid APL, the unpaid period will not count for pension purposes unless the employee makes an election for it to count.

The employee can, within 30 days of returning to work or the termination of the contract if she does not return, elect to pay the relevant pension contributions in respect of this unpaid period. The employee will need to notify the School Business Manager of this decision to pay contributions during the unpaid period of the APL in writing. .

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.

#### **Teachers:**

During the period of OPL/APL, pension contributions will be paid and deducted from the teachers pay in the usual manner.

Any unpaid period will not be pensionable/reckonable service.

Contact Teachers Pensions on 0845 6066166 and ask for the Fact sheet on Maternity/Paternity which is also available online at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

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.

**Working during APL/‘Keeping in Touch’ days**

An employee can do up to 10 days’ work during APL without bringing their APL to an end. Working for part of a day will count as one day.

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 Headteacher cannot insist that an employee carries out any work and equally an employee cannot insist on being given any work to do during the APL period

An employee’s APL will not be extended due to the fact that they have carried out some work during this period.

An employee will be paid their normal rate of pay for any work done under the contract of employment and this will be offset against any APP due for each day.

A woman will lose her APP for any week in which they do any further work.

**Right to Return to Work**

Employees have the right to return to work following APL.

‘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.

Ordinary Paternity Pay Allowances:

**Appendix Paternity Pay allowances and Terms and Abbreviations**

Support staff or teachers with Less than 26 weeks continuous service with The King’s School at the end of the 15th week before EWC	No statutory pay
Support Staff with Greater than 26 weeks but < 1 years service at the beginning of the 15th week before EWC	2 Weeks at Statutory Paternity Pay Only
Support Staff > 1 years service at the beginning of the 15th week before EWC	1 Week at Full Pay, 1 Week Statutory Pay
All Teaching Staff with greater than 26 weeks service at the end of the 15th week before EWC	2 Weeks at Statutory Paternity Pay Only

Additional Paternity Leave (APL)	An employee who meets the eligibility criteria for APL may choose to take up to 26 weeks’ APL: <ul style="list-style-type: none"> <li>• within the first year of the child’s life, or</li> <li>• within the first 12 months after the child’s placement for adoption (in the case of UK adoption), or</li> <li>• within the first 12 months after the child enters Great Britain (in the case of an overseas adoption) provided that the mother or primary adopter has returned to work prior to taking his/her full entitlement to maternity or adoption leave.</li> </ul>
Additional Paternity Pay (APP)	APP may be payable at the statutory rate during some or all of the APL period, between two and 19 weeks, dependent on the mother or primary adopter meeting certain

	criteria and on the length and timing of the APL period.
Expected Week of Childbirth (EWC)	This is the week the baby is expected to be born (in the case of a birth child).
Job	For this purpose, means the nature of the work that the employee is employed to do and the capacity and place in which he/she is so employed.
Matched	A person is matched with a child for adoption when an adoption agency decides that the person would be a suitable adoptive parent for the child, either individually or with another person (in the case of UK adoptions).
Official notification	Means written notification, issued by or on behalf of the relevant domestic authority, that it is prepared to issue a certificate to the overseas authority concerned with the adoption of the child, or has issued a certificate and sent it to that authority, confirming that the primary adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.
"Partner" in relation to a child's mother	Means a person (whether of the same or the opposite sex) who lives with the mother and the child in an enduring family relationship, but is not the mother's father, mother, grandfather, grandmother, sister, brother, aunt or uncle. Where the child's mother was adopted, her full blood and half blood relatives will still be classed as relatives. The adoptive parents will also be treated as relatives. However, no other adoptive relationships will be treated in this way. Therefore, any other member of the adoptive family could be a partner of the child's mother and would be able to make a request if they fulfilled the other criteria.
"Partner" in relation to a child's adopter	Means a person (whether of the same or the opposite sex) who lives with the adopter and the child in an enduring family relationship, but is not a relative of the adopter. "Relative" for these purposes means the adopter's father, mother, grandfather, grandmother, sister, brother, aunt or uncle.
Qualifying Week (for APL)	An employee must have at least 26 weeks' continuous service by the "qualifying week", which is either: <ul style="list-style-type: none"> <li>• the end of the 15th week before start of the week in which her child is born (the Expected Week of Childbirth), or</li> <li>• the end of the week he/she is notified of having been "matched" with the child (in the case of a UK adoption), or</li> <li>• the end of the week in which "official notification" was sent from the relevant domestic authority, or, commencing with the week in which his/her employment with DCC began (to accommodate the possibility that the official notification may have been received a year or more before the child enter the UK and the employee may have changed employer in this time) (in the case of an overseas adoption).</li> </ul> <p>(The "qualifying week" starts on a Sunday and ends on a Saturday).</p>
Return to Work	Means to the job to which the employee was employed under his/her original contract of employment, and on terms and conditions not less favourable than those which would have been applicable to him/her if he/she had not taken APL.

