



# Maternity, Adoption, Paternity and Flexible Working Policy

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## **1.0 Summary**

This policy applies to all The King's School staff. It is intended to provide a summary of employees' entitlements to maternity, paternity, adoption, parental leave and flexible working. It is not a comprehensive summary of employees' legal rights and in any case of dispute on interpretation, the wording used in legislation, Conditions of Service Handbooks and in Local Agreements will take precedence. This policy has been developed in recognition of the statutory requirements covering maternity, paternity and adoption provisions, as well as wider issues affecting working families i.e. parental and shared parental leave provisions.

It also recognises the importance of supporting employees with family friendly approaches to working, to enable them to achieve an improved work-life balance. The rights as described in this document apply to all employees, including those on temporary contracts. They also apply to full-time and part-time employees; irrelevant of the number of hours they work, but are subject to length of service

The following definitions are used in this policy:

- 'Expected week of childbirth' (EWC) means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.
- 'Qualifying week' means the 15<sup>th</sup> week before the expected week of childbirth for the purpose of Statutory Maternity Pay (SMP), and the 11<sup>th</sup> week before the expected week of childbirth for the purpose of Occupational Maternity Pay (OMP).

## **2.0 Guide to Maternity Provisions**

### **Notification of pregnancy**

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.

The employee should contact the Business Manager who will send the employee a Maternity Information letter, which includes relevant notification forms.

The employee should complete the notification forms and send the original to the Business Manager as soon as possible, but at least by the 15<sup>th</sup> week before her expected week of childbirth (EWC).

The Business 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.

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).

The employee should give the Business Manager her MAT B1 form who will put a copy on her 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.

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.

Employees with 52 week contracts 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.

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

All pregnant employees are entitled to paid time off in order to keep appointments for antenatal care, made on the advice of a registered medical practitioner, midwife or health visitor. Antenatal care includes:

1. Appointments with the GP or registered Midwife
2. Hospital appointments for scans or tests
3. Other appointments made on the recommendation of the GP or registered Midwife

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

Except for the first appointment, if requested by the Headteacher, the employee must be prepared to show a certificate from a registered practitioner, midwife or health visitor confirming that she is pregnant and an appointment card, or some other document, showing that an appointment has been made, prior to the appointment taking place. The time taken to attend such appointments within an employee's working hours for that day (including reasonable travelling time) will be paid at the usual rate provided they have complied with the above requirements.

Partners of pregnant employees are entitled to time off to attend antenatal appointments. (See Maximizing attendance and managing staff absence - MAMSA policy)

### **Time off for IVF appointments**

Employees do not have the right to paid time off for medical appointments and should refer to The King's School MAMSA and procedure to request time off. However, when an employee becomes pregnant, she is entitled to the same time off for ante-natal care as outlined above.

### **The Expected Date of Childbirth**

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

As soon as the expected date of birth is confirmed on the MATB1 form, the earliest date for starting the period of maternity leave can be calculated, which is the beginning of the 11<sup>th</sup> week before the expected week of childbirth (EWC). To calculate this date, employees should count back 11 weeks from the Sunday before the date of expected birth. Employees may commence maternity leave any time between this date and the expected date of birth. However, maternity leave will start automatically if employees are absent from work with a pregnancy-related illness during the 4 weeks before the baby is due, or if an employee gives birth, their maternity leave will commence the following day.

### **Pension and Annual Leave**

The contract of employment continues during maternity leave. The employee will continue to receive all contractual benefits for the full maternity leave period, except for the terms relating to pay.

### **For Teachers:**

Pension: Any period when receiving pay during maternity leave (SMP or OMP) is regarded as pensionable service. When pay stops, the employee may not pay into the pension scheme. However, teachers may choose to protect

their pension by buying additional pension to compensate. Employees should contact Teachers' Pensions for more information. (Please note continuity of service will not be affected). Payment for keeping-in-touch days will also be pensionable.

Annual Leave: Under the Working Time Regulations, from April 2009, Teachers have a statutory right to paid annual leave amounting to 28 days (5.6 weeks). However, in most cases, periods of The King's School closure before and after the maternity leave period will more than equal the 28 day annual leave entitlement.

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

#### **For Support Staff:**

Pension: Any period when receiving pay during maternity leave (SMP or OMP) is regarded as pensionable service. Employees can either opt to pay pension contributions for any period of unpaid maternity leave so that it then counts as a period of service or not pay any outstanding contributions and the unpaid period will not count for pension purposes (whichever option is chosen, continuity of service will not be broken). If the employee wishes to pay additional contributions, they should notify the School Business Manager within 30 days of the date of return to work, or the date of ceasing employment, whichever is the earliest. Payment for keeping-in-touch days will also be pensionable.

Annual Leave: Under the Working Time Regulations, from April 2009, support staff who work term time have a statutory right to paid annual leave amounting to 28 days (5.6 weeks). For support staff who work on a term time only basis, in most cases, periods of The Kings school closure before and after the maternity leave period will more than equal the 28 day annual leave entitlement.

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

Support staff who work all year round will continue to accrue their normal annual leave entitlement throughout both ordinary and additional maternity leave. Time off in lieu will accrue in respect of Bank Holidays during the whole of the maternity leave. Employees should discuss their annual leave entitlement fully with their Line Manager to ensure that they have the opportunity to take their entitlement either before commencing maternity leave or immediately prior to their return to work. Where an employee is planning not to return to work, she should be encouraged to plan to take any annual leave entitlement that she may be due, before commencing maternity leave. If the employee has taken more paid annual leave than they are entitled to at the date of resignation, then the overpaid portion must be repaid.

#### **All staff:**

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

For support staff, the period of absence on maternity leave counts towards the service required to establish a "year of employment" for the purpose of incremental progression on the pay band. Support staff who are paid on the exceptional performance (EP) scale will not be disadvantaged in making progress within this scale whilst on maternity leave. (See Pay and Secondment policy). It is also the responsibility of the employer to carry out a written risk assessment with the employee, when the employee has notified that she is pregnant.

## **Maternity leave and Pay**

### **Commencement/Entitlement:**

**Maternity** leave should not commence any earlier than the 11<sup>th</sup> week before the EWC. However, it may be earlier in the following circumstances:

- If the baby is born before the maternity leave is due to commence, then maternity leave starts automatically on the day after the birth.
- Women may work after the 11<sup>th</sup> week before the EWC. A woman may remain at work up to the birth of her child, unless she is certified as medically unfit to do so. Maternity leave may be commenced earlier in the following circumstances:
- When an employee's absence from work for an illness which is partly or wholly due to her pregnancy after the beginning of the 4<sup>th</sup> week before the EWC, her maternity leave will automatically commence.

In accordance with statutory requirements, an employee entitled to maternity leave shall not work, nor be permitted by her employer to work, during the period of two weeks which commence with the day on which childbirth occurs.

### **Maternity Support Leave**

Maternity support leave of up to 5 days with pay shall be granted to the child's father or the partner or nominated carer of an expectant mother at or around the time of birth. A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth. (See MAMSA policy)

### **Maternity Pay**

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

### **Statutory Maternity Pay (SMP)**

Women are entitled to SMP if they have been continuously employed by their current employer for 26 weeks up to and including the 15<sup>th</sup> week before the baby is due. If they are not eligible for SMP, they may be eligible to claim Maternity Allowance from Job Centre Plus depending on their NI contribution record and earnings rule.

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

SMP is paid whether or not the employee intends to return to work for her employer, providing she is still working for the employer at the 15<sup>th</sup> week before the EWC. Where staff members are entitled to Occupational Maternity Pay, SMP is offset against OMP for the first 6 weeks of payment. For employees who inform their employer that they do not intend to return to work, payments during the subsequent 33 weeks shall be the employee's entitlement to SMP. SMP cannot start earlier than the start of the maternity leave period (i.e. the 11<sup>th</sup> week before the EWC, apart from in the exceptional circumstances listed in paragraph 2.4.6 above). SMP is not paid where the employee does any paid work after the birth in the paid maternity period (excluding 'Keeping In Touch' days) or if she is in legal custody at any time during the maternity pay period.

### **Maternity Allowance**

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

**Occupational Maternity Pay (OMP)**

OMP payments made to the employee during Maternity Leave are made on the understanding that the employee will return to work at The Kings School for a period of at least 3 months after the maternity leave period. The provisions for teaching staff and support staff differ and are paid in accordance with statutory and locally agreed terms and conditions.

**Teachers:** Payment of OMP to the teacher shall be made on the condition that she will return to her job for a period of at least 13 weeks from the date of return (this includes periods of The King’s School holidays). This period would extend, on a pro rata basis, if the employee was returning to work on fewer hours than they worked prior to maternity leave. Should the teacher not be available for work or decide not to return to her job for the required period, she shall refund the OMP payments made during her maternity other than those made during the first six weeks of leave. Payments made by the way of SMP are not refundable.

**Support Staff:** payment of OMP to support staff shall be made on the understanding that she will return to The King’s School for a period of at least 3 calendar months, whether this be on a full-time or part-time basis. This period would extend, on a pro rata basis, if the employee was returning to work on fewer hours than they worked prior to maternity leave. Should the employee not be available for work or decide not to return to her job, she shall refund the whole amount of half pay. Payments made to the employee by way of SMP are not refundable.

**Pay During Maternity**

**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  If returning to work	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.
	5-6	90% of average weekly earnings.	If entitled to MA, 90% of 2 weeks salary less MA. If no entitlement to statutory pay, 2 weeks’ pay 90 %.
	7-18	CMP - 50% of average weekly earnings provided half pay plus maternity allowance does not exceed full pay.	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.	If entitled to SMP, 8% of the 90%.
	7 - 39	SMP flat rate.	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  If returning to work	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.
	5-6	CMP / SMP 90% of average weekly earnings.	If entitled to SMP 8% of the 90%.
	7-18	CMP / SMP - 50% of average weekly earnings plus SMP flat rate.	If entitled to MA 90% of normal pay less MA.  50% of average weekly earnings plus 8% of flat rate if entitled to SMP.
	19-39	SMP flat rate.	8% of flat rate if entitled to SMP.

### Support staff

#### 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.
At least 26 weeks continuous service but less than 1 years continuous service and returning to work	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. If not entitled to SMP or MA 90% of normal pay.
At least 1 years continuous service and returning to work	7 - 18	CMP - 50% of average weekly earnings + SMP - flat rate.	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.

### Contact during Maternity Leave

It is good practice for employees and Line Managers to maintain reasonable contact during an employee's absence so that she will remain informed of developments and changes within The King's School, which will support her return to work. The mechanisms by which she wishes to do this, and the extent to which she wants to be informed, should be discussed with her Line Manager prior to the commencement of maternity leave. This contact will normally

be minimal and should neither be excessive or intrusive. This does not constitute “work” and would not count towards the KIT 10 day period (see below).

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

Keeping-in-touch days can also enable an employee and the Line Manager to keep in touch during the maternity leave period to ease the return to work. Following agreement with her Line Manager, the employee can undertake 10 days’ work during her maternity leave without bringing her maternity period to an end. For these purposes, ‘work’ is defined as any work done under the contract of employment and may include training or any activity undertaken for the purposes of keeping in touch such as conferences, team meetings, training etc.

The provisions apply to the entire period of her maternity leave, except during the first 2 weeks after childbirth which is a period of compulsory maternity leave. Working for any part of a day will count as one day towards the 10 KIT days; however employees will only be paid for the hours worked, at their contractual rate of pay (offset against SMP where payable).

Any work done during maternity leave must be by agreement. The employer cannot insist that an employee carries out any work and the employee is protected from suffering a detriment or being dismissed for refusing to do so. An employee cannot insist on being given any work to do.

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

### **Returning to Work**

#### **Right to Return**

- a) Subject to (b), the employee is entitled to return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her had she not been absent. “Job” for this purpose, means the nature of the work which she is employed to do, and the capacity and place in which she is so employed. If the employee takes more than 26 weeks’ leave (Additional Maternity Leave) they are also entitled to return to the same job on the same terms and conditions unless this is not reasonably practicable by reason of redundancy. If however there is some reason other than redundancy why it is not reasonably practicable for the employee to return to her original job, she is entitled to be offered suitable alternative work on terms and conditions no less favourable than the original job.
- b) Where it is not practicable by reason of redundancy for The King’s School to permit her to return to work in her job as defined in (a), the employee shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done in that post is suitable and appropriate to the circumstances and that the capacity and place in which she is to be employed and her terms and conditions of employment are not substantially less favourable to her than if she had been able to return to the job in which she was originally employed.
- c) Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (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. The work to be done should be suitable and appropriate to the circumstances and the capacity and place in which she is to be employed and her terms and conditions of employment should not be less favourable to her than if she had been able to return to the job in which she was originally employed.

#### **Exercise of the Right to Return**

##### **a) At the end of Maternity Period**

Employees taking the full year's maternity leave entitlement are not required to give any further notification of returning to work, provided they intend to return on the date notified to The King's School.

##### **b) Before the end of the Maternity Period**

Employees wishing to return before the end of the maternity leave period should notify the Headteacher, in writing, at least 21 days before the day on which she proposes to return, if this is before the end of the Additional Maternity Leave period. Where the notice given is less than 21 days, the Headteacher can delay the return until 21 days' notice has been received, or until the end of the 52 week maternity leave period (as notified) if this is earlier than 21 days.

Teachers: Where a teacher has not completed one year's continuous service by the beginning of the 11<sup>th</sup> week before the EWC with The King's School she must give the Headteacher at least 8 weeks' notice in writing, of her proposed return date. Where the notice given is less than eight weeks, the Headteacher can delay the return until 8 weeks' notice has been received, or until the end of the 52 week maternity leave period (as notified) if that is earlier than 8 weeks.

##### **c) Prevented from returning to work**

Where an employee is unable to return on the expected day due to sickness, the absence will be covered by the statutory sick pay schemes in the normal way. For an employee where, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect her to return on the due date, she may instead return when work resumes, or as soon as reasonably practicable thereafter.

##### **d) Resignation**

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

#### **End of Contract during Maternity Leave**

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

#### **Rubella**

If in the early months of pregnancy employees are advised by an approved medical practitioner to absent themselves from The King's School because of the risk of rubella, they will be granted full pay.

### **Miscarriage**

Absence due to miscarriage prior to 24 weeks of pregnancy shall be treated as sickness absence provided it is covered by a doctor's certificate.

### **Still Birth**

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

### **3.0 Health and Safety**

All employers have a legal obligation to protect the health and safety at work of all staff and others, including new, breast feeding, and expectant mothers.

#### **Risk**

#### **Assessment**

An employee should inform her line manager that she is pregnant. A risk assessment of her working area and practices should then be carried out. Each individual expectant mother would require a specific assessment that will need to be reviewed as the pregnancy progresses. Further guidance can be found in the HSE booklet, New and Expectant Mothers at Work: A guide for employers.

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

#### **Removal of Staff from Risk**

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

- To temporarily adjust the individual's working conditions and/or hours of work; or if it is not reasonable to do so, or would not avoid the risk:
- Offer her suitable alternative work if any is available; or if that is not feasible:
- Grant a Medical Leave of Absence from work for as long as necessary to protect her safety or health or that of her child.

#### **Offers of Suitable Alternative Work**

Where an employee is offered suitable alternative work, the work must be:

- Both suitable and appropriate for her to do in the circumstances; and
- On terms and conditions no less favourable than her normal terms and conditions.

#### **Entitlements during Medical Leave of Absence**

A woman on medical leave of absence is entitled to be paid remuneration at her full normal rate for as long as the suspension continues. The only exception to this is where she unreasonably refuses an offer of suitable (risk

assessed) alternative work, in which case no remuneration is payable for the period during which the offer applies. During the period of medical leave of absence, continuity of employment, pension rights and length of service payments are protected.

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

##### **Introduction**

Statutory Paternity Leave and Paternity Pay is available to fathers and the partners of mothers of children. The provisions apply whether the employee's service is full-time or part-time (irrespective of the number of hours), or is permanent or temporary, subject to the conditions of the scheme being met.

Employees (male or female) who are acting as the "prime or nominated carer" for the mother/child may request nominated carers' leave. They are subject to the same provisions as applied to employees requesting Paternity Leave.

There are potentially two schemes available including the provisions of The King's School Contractual Paternity Leave Scheme and employee's rights under the Statutory Paternity Scheme. The entitlement is an allowance of up to two weeks' absence (subject to eligibility as outlined below). In order to apply for birth leave they will need to provide a copy of the MAT B1 or birth certificate along with a letter from the mother confirming they are the nominated person.

##### **Statutory Paternity Leave**

To qualify, employees must:

- Be the child's father (or adopter) or the spouse or partner, same or opposite sex, of the child's mother.
- Have or expect to have responsibility for the child's upbringing.
- Have been continuously employed for at least 26 weeks ending with the 15<sup>th</sup> week before the EWC; or the end of the week they are notified of being matched with a child (if adopting from the UK); or from the date the child enters Great Britain (if adopting from overseas); and
- Give proper notice and evidence to The King's School of their intention to take Statutory Paternity Leave (see below).

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

The employee must provide the Business Manager with written evidence from either the GP, hospital or adoption agency that:

- His/her partner's pregnancy exists (or confirmation of being matched with a child).
- Shows the expected date of confinement (or child placement).

The employee must also live at the same address as his/her partner.

In order to apply for Nominated Carer's Leave, the employee must provide the Business manager with a copy of the MAT B1 along with a letter from the mother confirming they are the nominated person of choice. Employees must comply with notification requirements as set out below.

An employee must notify his/her employer by the end of the 15<sup>th</sup> week before EWC, or as soon as reasonably practicable, that he/she intends to take paternity leave. The Inland Revenue Form 'SC3 – Becoming a Parent' (for births) or 'SC4 – Becoming an Adoptive Parent' (for adoptions) can be used to give notice of leave and to apply for

Statutory Paternity Pay (SPP). The notice must specify the length of leave to be taken and the date the employee wishes the leave to commence.

If the employee wishes to change the start date, they must give 28 days' notice, in writing if requested.

The employee must notify his/her Line Manager of intention to take leave as set out above.

In the tragic circumstances of a still birth, which is defined as occurring after 24 weeks of pregnancy or of neo natal death, employees will be entitled to the same paternity leave and pay as if the pregnancy had reached full term.

### **Paternity Pay**

If an employee is entitled to Statutory Paternity Pay and Leave, it will be paid at the weekly rate of Statutory Paternity Pay, or 90% of the employee's weekly earnings, whichever is the lowest.

If an employee is entitled to the contractual paternity scheme, it will be paid at the employee's contractual rate of pay.

If an employee who has met the above criterion has taken some paternity leave but then leaves The King's School employment before the beginning of the 11<sup>th</sup> week, and at the date of leaving, has less than one year's continuous local government service then they will be required to repay The King's School the cost of the paternity pay received.

### **Shared parental leave:**

Shared parental leave (SPL) is a form of leave that may be available. Requests should be made to the Business Manager. It gives you and your partner more flexibility in how to share the care of your child in the first year after birth than simply taking maternity and paternity leave. Assuming you are both eligible, you will be able to choose how to split the available leave between you, and can decide to be off work at the same time or at different times. You may be able to take leave in more than one block.

You are entitled to SPL in relation to the birth of a child if:

- a) You are the child's mother, and share the main responsibility for the care of the child with the child's father (or your partner, if the father is not your partner);
- b) You are the child's father and share the main responsibility for the care of the child with the child's mother; or
- c) You are the mother's partner and share the main responsibility for the care of the child with the mother (where the child's father does not share the main responsibility with the mother).

The following conditions must also be fulfilled:

- a) You must have at least 26 weeks continuous employment with The King's School by the end of the Qualifying Week, and still be employed by us in the week before the leave is to be taken;
- b) The other parent must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the EWC and had average weekly earnings of at least £30 during 13 of those weeks; and
- c) You and the other parent must give the necessary statutory notices and declarations as summarized below, including notice to end any maternity leave, statutory maternity pay (SMP) or maternity allowance (MA) periods.

The total amount of SPL available is 52 weeks, less the weeks spent by the child's mother on maternity leave (or the weeks in which the mother has been in receipt of SMP or MA if she is not entitled to maternity leave).

If you are the mother you cannot start SPL until after the compulsory maternity leave period, which lasts until two weeks after birth.

If you are the child's father or the mother's partner, you should consider using your two weeks' paternity leave before taking SPL. Once you start SPL you will lose any untaken paternity leave entitlement. SPL entitlement is additional to your paternity leave entitlement.

### **Opting in to shared parental leave and pay**

Not less than eight weeks before the date you intend your SPL to start, you must give us a written opt-in notice giving:

- a) Your name and the name of the other parent;
- b) If you are the child's mother, the start and end dates of your maternity leave;
- c) if you are the child's father or the mother's partner, the start and end dates of the mother's maternity leave, or if she is not entitled to maternity leave, the start and end dates of any SMP or MA period;
- d) the total SPL available, which is 52 weeks minus the number of weeks' maternity leave, SMP or MA period taken or to be taken;
- e) How many weeks of the available SPL will be allocated to you and how many to the other parent (you can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- f) if you are claiming statutory shared parental pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of the SMP or MA period taken or to be taken);
- g) How many weeks of available ShPP will be allocated to you and how much to the other parent. (You can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- h) An indication of the pattern of leave you are thinking of taking, including suggested start and end dates for each period of leave. This indication will not be binding at this stage, but please give as much information as you can about your future intentions; and
- i) Declarations by you and the other parent that you both meet the statutory conditions to enable you to take SPL and ShPP.

### **Ending your maternity leave**

If you are the child's mother and want to opt into the SPL scheme, you must give us at least eight weeks' written notice to end your maternity leave (a curtailment notice) before you can take SPL. The notice must state the date your maternity leave will end. You can give the notice before or after you give birth, but you cannot end your maternity leave until at least two weeks after birth.

You must also give us, at the same time as the curtailment notice, a notice to opt into the SPL scheme or a written declaration that the other parent has given their employer an opt-in notice and that you have given the necessary declarations in that notice.

The other parent may be eligible to take SPL from their employer before your maternity leave ends, provided you have given the curtailment notice. The curtailment notice is binding and cannot usually be revoked. You can only revoke a curtailment notice if maternity leave has not yet ended and one of the following applies:

- a) if you realise that neither you nor the other parent are in fact eligible for SPL or ShPP, in which case you can revoke the curtailment notice in writing up to eight weeks after it was given;
- b) if you gave the curtailment notice before giving birth, you can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or
- c) if the other parent has died.

Once you have revoked a curtailment notice you will be unable to opt back into the SPL scheme, unless you revoked it in the circumstances above.

### **Ending your partner's maternity leave or pay**

If you are not the mother, and she is still on maternity leave or claiming SMP or MA, you will only be able to take SPL once she has either:

- a) Returned to work;
- b) Given her employer a curtailment notice to end her maternity leave;
- c) Given her employer a curtailment notice to end her SMP (if she is entitled to SMP but not maternity leave); or
- d) Given the benefits office a curtailment notice to end her MA (if she is not entitled to maternity leave or SMP).

## **Evidence of entitlement**

You must also provide on request:

- a) A copy of the birth certificate (or if you have not yet obtained a birth certificate, a signed declaration of the child's date and place of birth); and
- b) The name and address of the other parent's employer (or a declaration that they have no employer).

## **Booking your SPL dates**

Having opted into the SPL system you will need to give a period of leave notice telling us the start and end dates of your leave. This can be given at the same time as your opt-in notice, or it can be given later, as long as it is given at least eight weeks before the start of your leave. You must also state in your period of leave notice the dates on which you intend to claim ShPP, if applicable. If your period of leave notice gives dates for a single continuous block of SPL you will be entitled to take the leave set out in the notice.

You can give up to three period of leave notices. This may enable you to take up to three separate blocks of SPL (although if you give a notice to vary or cancel a period of leave this will in most cases count as a further period of leave notice).

## **Procedure for requesting split periods of SPL**

In general, a period of leave notice should set out a single continuous block of leave. We may, in some cases, be willing to consider a period of leave notice where the SPL is split into shorter periods (of at least a week) with periods of work in between. It is best to discuss this with your Line Manager in good time before formally submitting your period of leave notice. This will give us more time to consider the request and hopefully agree a pattern of leave with you from the start.

You must submit a period of leave notice setting out the requested pattern of leave at least eight weeks before the requested start date. If we are unable to agree to your request straight away, there will be a two-week discussion period. At the end of that period, we will confirm any agreed arrangements in writing. If we have not reached an agreement, you will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in your notice (for example, if you requested three separate periods of four weeks each, they will be combined into one 12-week period of leave).

Alternatively, you may:

- a) Choose a new start date (which must be at least eight weeks after your original period of leave notice was given), and tell us within five days of the end of the two-week discussion period; or
- b) Withdraw your period of leave notice within two days of the end of the two-week discussion period (in which case it will not be counted and you may submit a new one if you choose).

## **Changing the dates or cancelling your SPL**

You can cancel a period of leave by notifying us in writing at least eight weeks before the start date in the period of leave notice. You can change the start date for a period of leave, or the length of the leave, by notifying us in writing at least eight weeks before the original start date and the new start date.

You do not need to give eight weeks' notice if you are changing the dates of your SPL because your child has been born earlier than the EWC, where you wanted to start your SPL a certain length of time (but not more than eight weeks) after birth. In such cases please notify us in writing of the change as soon as you can. You can change the end date for a period of leave by notifying us in writing at least eight weeks before the original end date and the new end date.

You can combine split periods of leave into a single continuous period of leave by notifying us in writing at least eight weeks before the start date of the first period. You can request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between. We will consider any such request as set out.

A notice to change or cancel a period of leave will count as one of your three period of leave notices, unless:

- a) The variation is a result of your child being born earlier or later than the EWC;
- b) The variation is at our request; or
- c) We agree otherwise.

### **Shared parental pay**

You may be able to claim Statutory Shared Parental Pay (ShPP) of up to 39 weeks (less any weeks of SMP or MA claimed by you or your partner) if you have at least 26 weeks' continuous employment with us at the end of the Qualifying Week and your average earnings are not less than the lower earnings limit set by the government each tax year. ShPP is paid by employers at a rate set by the government each year.

### **Other terms during shared parental leave**

Your terms and conditions of employment remain in force during SPL, except for the terms relating to pay. Annual leave will accrue at the rate provided under your contract. Annual leave cannot usually be carried over from one holiday year to the next. If the holiday year is due to end during SPL, you should ensure that you have taken the full year's entitlement before starting your SPL.

### **Teachers only:**

Your leave year, for the purpose of establishing annual leave entitlement whilst on SPL is 1 September to 31 August. Your statutory holiday entitlement is not an additional entitlement to annual leave on top of the current school closure arrangements.

Whilst you are on SPL you are entitled to your statutory holiday under the Working Time Regulations. You shall not accrue holiday above your entitlement under the Working Time Regulations 1998. Annual leave entitlement will be offset against any period of school closure that has taken place in the leave year in question i.e. both before and after your SPL period.

On return from SPL, you are permitted to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate your holiday in that leave year. Where your return from SPL is so close to the end of the leave year that there is not enough time to take your entire holiday entitlement, you will be permitted to carry over any balance of outstanding holiday to the following leave year. You can be required to take this during the remaining periods of school closure after the statutory holiday for that leave year has been accommodated.

You will not be entitled to a payment in lieu of untaken annual leave. However, payment in lieu may be necessary, if you decide not to return to your job following your SPL. Payment will be made in accordance with the Working Time Regulations and will not be pensionable. Public and extra statutory holiday entitlement during shared parental leave (not applicable to teachers).

### Full time employees:

You will accrue holiday entitlement for any public holidays which fall within your SPL, with substitute paid leave being provided at another time.

### Part time employees:

You will accrue pro-rata holiday entitlement for any public holidays which fall within your SPL, and will be given substitute paid leave at another time.

### Term time employees:

You are entitled to a substitute day of paid leave where a public holiday/statutory holiday falls during term time during your SPL period.

Substitute days of leave may be taken immediately following the end of the period of SPL. Alternatively, any substitute days of leave may be added to the leave entitlement to be taken upon the return to work.

### **Keeping in touch**

We may make reasonable contact with you from time to time during your SPL although we will keep this to a minimum. This may include contacting you to discuss arrangements for your return to work.

You may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days (KIT days) during your SPL. This is in addition to any KIT days that you may have taken during maternity leave. KIT days are not compulsory and must be discussed and agreed by the Principal.

You will be paid at your normal basic rate of pay for time spent working on a KIT day and this will be inclusive of any shared parental pay entitlement.

### **Returning to work**

If you want to end a period of SPL early, you must give us eight weeks' written notice of the new return date. If you have already given us three period of leave notices you will not be able to end your SPL early without our agreement.

If you want to extend your SPL, assuming you still have unused SPL entitlement remaining, you must give us a written period of leave notice at least eight weeks before the date you were due to return to work. If you have already given us three period of leave notices you will not be able to extend your SPL without our agreement. You may instead be able to request annual leave or ordinary parental leave (see our Staff leave Absence Policy), subject to the needs of the College.

You are normally entitled to return to work in the position you held before starting SPL, and on the same terms of employment. However, if it is not reasonably practicable for us to allow you to return into the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favorable, but only in the following circumstances:

- a) if your SPL and any maternity or paternity leave you have taken adds up to more than 26 weeks in total (whether or not taken consecutively); or 10
- b) if you took SPL consecutively with more than four weeks of ordinary parental leave.

If you want to change your hours or other working arrangements on return from SPL you should make a request under our Flexible Working Policy. It is helpful if such requests are made as early as possible. If you decide you do not want to return to work you should give notice of resignation in accordance with your contract.

## **5.0 Adoption Leave and Pay**

### **Introduction**

Statutory Adoption Leave is available to parents to prepare for adoption or to care for a newly placed adoptive child. The adoptive leave facilities will normally apply to women employees. Male employees who are married/living with non- King's School employees will instead have applied the paternity leave entitlements and conditions.

In recognition of the fact that single men may adopt children, the provisions for adoption leave will apply also to single male employees.

The employee will be subject to all other entitlements and conditions of the appropriate maternity scheme, including the obligation to return to work for a minimum of three months in order to retain the adoptive leave pay.

In cases where both parents are employed by The King's School and assuming that both parents are eligible, the total leave entitlement (i.e. the post confinement leave aggregated with the two working weeks' adoptive paternity leave) can be combined and shared between the two employees at their discretion.

### **Pre-Adoption Leave**

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

Employees are asked to inform the Headteacher as far in advance as possible, of the date and time of an appointment/meeting and the best estimate of the length of absence from work, including travelling time if significant. It would also be helpful in many cases if they could try to arrange appointments at the beginning or the

end of the day, although The King's School recognises this may not always be possible. Employees must be prepared to show proof of appointment/meeting/interview.

The time taken to attend such appointments within an employee's working hours for that day (including reasonable travelling time) will be paid at the usual rate provided they have complied with the above requirements. If the employee is adopting a child from overseas, any visits to see the child pre-adoption should be taken during The King's School closure periods or by using normal annual leave arrangements. Time off for this reason will not be granted.

### **Adoption Leave**

An employee adopting a child is to be allowed comparable leave and pay arrangements as applies to natural mothers. Accordingly, an employee who satisfies the full criteria and conditions of the maternity scheme specific to his/her conditions of service will be entitled to:

- All employees are entitled to ordinary adoption leave of 26 weeks duration.
- Employees who have 26 weeks' continuous service ending with the week in which they are notified of being matched with a child for adoption are entitled to a further 26 weeks of additional adoption leave, a total of 52 weeks' adoption leave.
- Both ordinary and additional adoption leave is to be taken in one block within a twelve month period from the date of placement unless otherwise agreed with The King's School.
- Be subject to all other entitlements and conditions of their maternity scheme.

Adoption leave will begin on the placement date or up to 14 days before the placement date. Where employees choose to begin leave on the placement date and they are at work on that date, leave begins the following day.

The employee will be required to notify The King's School of his/her intention to take adoption leave. Correspondence must be sent from the adoption agency confirming the adoption/placement and the employee should inform their employer no more than 7 days after the date of being told by the adoption agency that they have been matched with a child in writing, or as soon as is reasonably practicable, that they will be absent from work due to adoption and whether they intend to return to work.

There is a requirement for employers to respond to an employee's notification of his/her leave plans within 28 days. An employer will need to write to the employee, setting out the date on which they are expected to return to work if the full entitlement to adoption leave is taken. Adopters who intend to return to work at the end of their full adoption leave will not have to give any further notification to their employer and unless otherwise notified, the Headteacher should assume that the employee will be taking his/her full entitlement to adoption leave.

### **Adoption Support Leave**

Adoption support leave of 5 days with pay shall be granted to the partner or nominated carer of the primary adopter at or around the time of placement. A nominated carer is the person nominated by the primary adopter to assist in the care of the child and to provide support to the primary adopter at or around the time of the placement.

### **Adoption Pay**

Payments for employees who have less than one year's continuous service at the beginning of the 11<sup>th</sup> week before the week of the baby/child's placement shall be the employees' entitlement to Statutory Adoption Pay (SAP). Statutory Adoption Pay will be paid for 39 weeks, or if earlier, until the date the employee returns to work, or for eight weeks after the end of the week the placement is disrupted.

The contract of employment continues during Adoption Leave. The employee receives all contractual benefits during the full period of Adoption Leave.

Employees are subject to all other entitlements and conditions of their appropriate Maternity Scheme, including the obligation to return to either his/her 'job' or local authority employment for a period of at least three months in order to retain the occupational pay element.

An employee shall not be entitled to Statutory Adoption Pay (SAP) in the case of:

- Private adoption (Private adoption refers to any adoption not arranged by an agency or organisation i.e. when the adoptive parents find a birth mother or baby or child privately).
- The adoption of a step-child by a step-parent.
- The adoption of a foster child by a foster parent.
- Those who become parents through arrangements with a surrogate mother.

### **Adoptive Paternity Leave and Pay**

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

- Are adoptive fathers,
- The spouse or partner of the main adopter,
- Will have responsibility for the child's upbringing,
- Have been continuously employed for at least 26 weeks ending with the week the child's adopter is notified of the match;
- Have given notice and evidence to their Headteacher

### **Surrogacy**

An employee who becomes a parent through surrogacy arrangements is not entitled to Statutory Adoption Leave and Pay.

Employees will instead be entitled to unpaid parental leave upon becoming a parent, providing that:

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

The father of a child born through surrogacy arrangements (provided he is registered as the father) and fulfills eligibility criteria and provisions outlined, will be eligible to take paternity leave and additional paternity leave. Female employees acting as surrogates are entitled to full maternity leave, pay and provisions as any other pregnant employee.

## **6.0 Parental Leave**

### **Introduction**

The right to parental leave offers qualifying parents the right to take a period of unpaid time off work to look after a child or to make arrangements for the child's welfare. Parents can also use it to spend more time with their children. Employees are entitled to a total of 18 weeks' leave for each qualifying child. Parental leave is for each child therefore if an employee has twins the leave is doubled. Where the child has been adopted, the leave can be taken during the first five years after the child is placed with the family). Employees can take a maximum of 4 weeks per year per child, which can be taken in blocks or multiples of one week (except in the case of parents of children with disabilities who can take leave in blocks or multiples of one day).

**Qualifying Conditions** Parents (or adopters) of children under the age of 5 (or age 18 if the child has a disability) may have the right to parental leave.

To qualify, employees must:

- Have one year's continuous service;
- Be named on the child's birth or adoption certificate.

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

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

### **Requests for Parental Leave**

Employees wishing to request a period of Parental Leave, must give their Headteacher at least 21 days' notice. This request should be put in writing, stating the dates on which the leave is to begin and end. An employer can ask to see evidence to confirm that the employee is the parent or the person legally responsible for the child; evidence might take the form of information contained in the child's birth certificate or adoption papers etc.

An employer can postpone the leave for up to six months where the Headteacher would be particularly disrupted if the leave was taken at the time requested, but it cannot be postponed so that the leave ends after the child's 18<sup>th</sup> birthday. However, the employer will notify the employee of the decision, including the reason for postponement and alternative dates during which the parental leave can be taken.

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

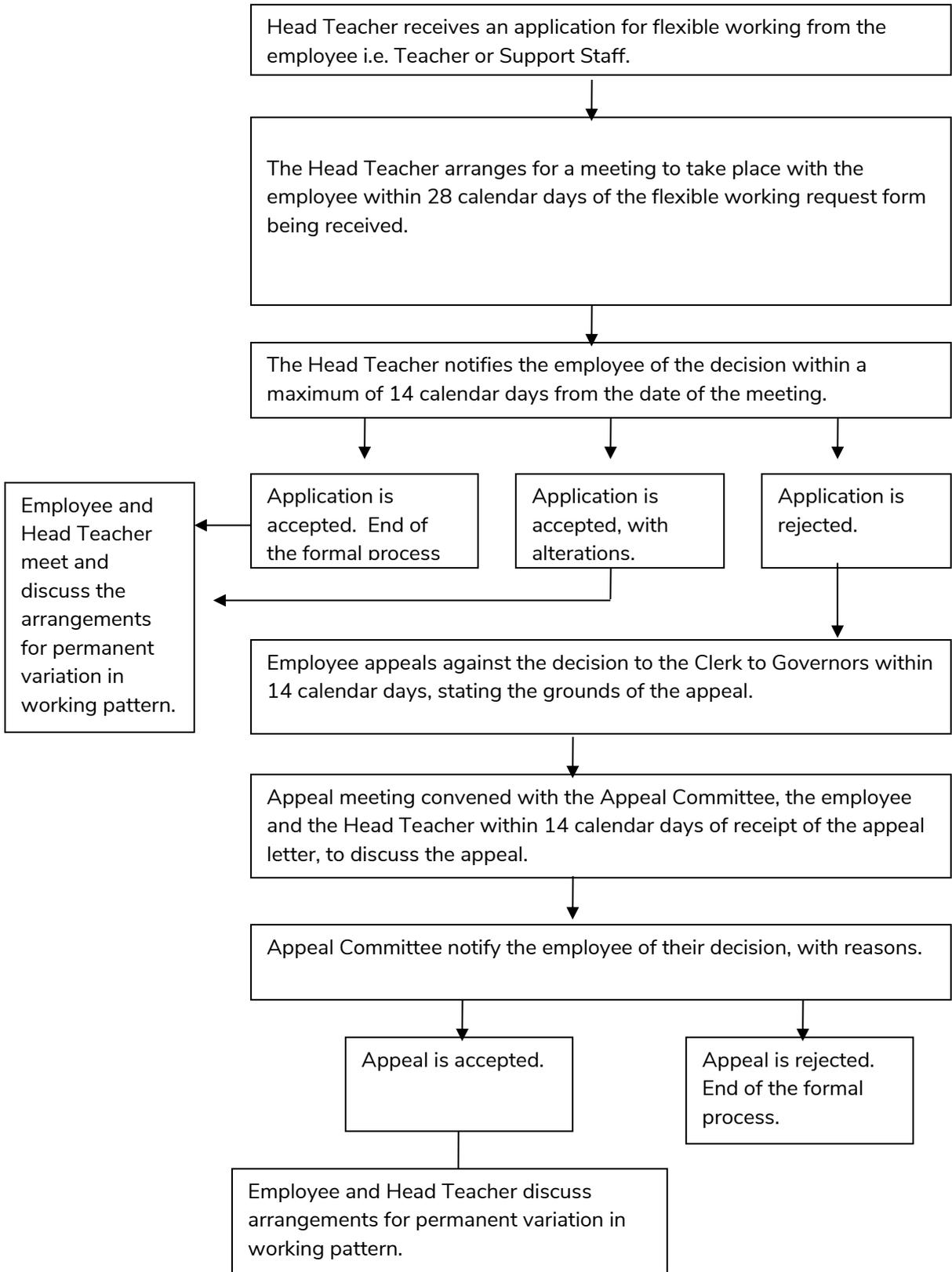
If a woman wishes to take a period of Parental Leave immediately following her maternity leave, she should also ensure that she makes the request to the Headteacher giving at least 21 days' notice.

### **Returning to Work**

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

7.0 FLEXIBLE WORKING REQUESTS POLICY

Flexible Working Request Flow Chart



## **1 Introduction and Purpose**

### **Responsibility for the Application of the Policy**

It is the responsibility of the Trustees 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 Trustees 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.

### **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.

### **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.

### **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.

### **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. All employees are able to request flexible working.

### **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.

### **Coverage**

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

## **2. Policy**

### **Application of the Policy**

This policy:

- is non-discriminatory and in accordance with the King's School's equality policies;

- will be consistently and fairly applied across the Kings 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.

### **3. Confidentiality**

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

### **4. 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.

### **5. General principles**

#### **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.

#### **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.

#### **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.

#### **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.

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.

### **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) .

### **Statutory Reporting Obligations**

No statutory reporting obligations exist under this policy.

### **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.

### **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.

### **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.

## **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.

## **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.

## **7.0 Procedure**

### **Making the Request**

An employee wishing to make a request for flexible working must write to the Head Teacher explaining their request and 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.

The Head Teacher should confirm in writing receipt of the request. 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.

### **Considering the Request**

The Headteacher should arrange a meeting with the employee within 28 calendar days of the request for flexible working.

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.

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.

### **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.

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.

### **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 by writing to the Clerk to the Trustees 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 Clerk to Trustees 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 Trustees 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 the Trustees 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. 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 in writing 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 relevant documentation 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.

### **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. The Head Teacher should respond in writing. A copy of this documentation 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.