Family Leave Policy

1.0 POLICY STATEMENT

Birkbeck is committed to helping employees with child caring responsibilities to balance work and family life. It will do this by following consistent, fair and transparent processes whilst ensuring that the interests of the College are met. The College recognises that there are a diverse range of family formations and the policy has endeavoured to use inclusive language throughout in an attempt to reflect this diversity. The language of ‘maternity’ and ‘paternity’ leave reflects government policy and the College recognises that parents may not identify with these terms. Similarly, for ease of understanding the policy uses the term ‘mother’ to describe the birthing parent, but recognises that some birthing parents do not identify with this term.

1.1 Scope

This combined family leave policy incorporates the College’s former maternity, adoption, paternity/partners’, and parental leave policies. The policy applies to all eligible Birkbeck employees (it excludes agency workers who are bound by the Agency Workers Regulations (with the exception of time off for antenatal appoints which does cover agency workers) and contractors who are bound by the terms and conditions governing their contracts within their respective organisations).

2.0 PROCEDURE

MATERNITY, ADOPTION, PATERNITY and SHARED PARENTAL LEAVE

The employee applying for maternity, adoption, paternity or shared parental leave should discuss the arrangements relating to the pregnancy or adoption and the expected leave with their line manager as soon as possible.

2.1. MATERNITY LEAVE

HR is available to discuss any confidential issues and provide advice and guidance. The form ‘Maternity Leave Planner’ must be completed and sent to HR as soon as possible, but no later than the end of the Qualifying Week (that is the 15th week before the expected week of childbirth (EWC)).

The employee must also forward their original MAT B1 form to HR, as soon as it is provided by the GP or midwife. A member of the HR Department will then confirm in writing, within 10 working days, the terms of the maternity leave and the date on which the employee is expected to return to work.

2.1.1 Eligibility for Maternity Leave and Pay

Employees who are due to give birth are entitled to ordinary maternity leave (OML) for 26 weeks and additional maternity leave (AML) for 26 weeks. This is 52 weeks in total, regardless of length of service.

To qualify for paid leave the employee must have completed at least 26 weeks of continuous service with the College by the Qualifying Week which is the 15th week before the EWC (see guidance section 3.0 for further information).
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The EWC is the week, beginning at midnight between Saturday and Sunday, in which it is expected that the child will be born. The week in which the child is actually born is, of course, the week of childbirth.

2.1.2 Maternity Benefits

2.1.3 Statutory Maternity Pay (SMP)

Statutory Maternity Pay is a State benefit for employees on maternity leave, the conditions for which and the amount of which are determined by the Government (this amount varies each year, please contact HR or the Payroll team for further details), but it is paid by the employer:

- The first 6 weeks of OML are paid at 90% of the employee’s average earnings
- The next 33 weeks are paid at the Standard Rate or 90% of average earnings if this is less.
- Average earnings are calculated based on earnings over a statutorily defined period prior to Maternity Leave. SMP may start on any day of the week.
- All eligible staff will receive SMP whether or not they intend to return to work after maternity leave. To qualify the employee must:
  - Complete at least 26 weeks of continuous service with the College by the Qualifying Week.
  - Have average earnings above the lower earnings limit for National Insurance contributions, and
  - Comply with Birkbeck’s application procedures set out in this policy.

An employee who does not meet the above criteria for SMP will receive a form – SMP1 from HR which can be submitted to a Social Security / Jobcentre Plus Office to enquire about eligibility for Maternity Allowance (MA). Unlike SMP, the MA is not paid by the employer; rather the payment is made by the Government via the Social Security / Jobcentre Plus Office.

2.1.4 Occupational Maternity Pay (OMP)

Occupational Maternity Pay (OMP) is provided by the College to give enhanced benefits to members of staff who meet the qualifying criteria for SMP and intend to return to work after maternity leave. It comprises of:

- Full pay for 26 weeks during the period of OML, which will include any payments of SMP. Or SMP alone, where this is greater.
- SMP only for the first 13 weeks of the period of AML and the remainder will be unpaid.
- To qualify the employee must have:
  - Completed at least 26 weeks of continuous service with the College by the Qualifying Week.
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- Plus, have followed the application procedures set out below informing the College in writing that they intend to return to work at the end of the period of maternity leave for at least 12 weeks (excluding sickness absence and extended unpaid leave).

2.1.5 Other Conditions

- Staff on maternity leave are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to salary, throughout the 52 week period of Ordinary and Additional Maternity Leave.

- Sickness absence, as opposed to maternity leave, which occurs after the first 39 weeks of maternity leave may be treated as normal sickness absence, provided that it is covered by a medical certificate. Where this does occur then it will be subject to the provisions of the College’s Policy on Sickness Absence.

- Maternity leave is not treated as absence due to illness.

- An employee may apply for an extended period of unpaid leave under the terms of the policies on Career Breaks or Parental Leave, if eligible.

- Periods of Maternity Leave are counted as periods of continuous employment.

- Employees are entitled to Ordinary and Additional Maternity Leave of 52 weeks for a new pregnancy during maternity leave. However, employees may not qualify for SMP unless their earnings meet the qualifying threshold during the calculation period for SMP; employees should seek advice from HR.

- There is no distinction between live and still births in the granting of maternity benefits if the pregnancy has lasted at least 24 weeks.

- An employee may not work for another employer whilst on Ordinary or Additional Maternity Leave. It is the employee’s responsibility to advise Birkbeck when alternative employment occurs. Entitlement to maternity pay and employment may end.

- Due diligence will be made with respect to the need to protect the employee from any discrimination relating to the pregnancy.

- Occupational maternity pay will cease at the end of a fixed term contract.

2.1.6 Health and Safety and Risk Assessment

Once an employee notifies HR of their pregnancy the Health and Safety Officer will be informed so that a health and safety risk assessment can be carried out at the earliest opportunity either by that person, the line manager or by a nominated appropriate person, and any specific health and safety guidance and instruction can be provided as appropriate.

Any health and safety concerns should be raised immediately with the line manager in the first instance. Occupational Health may be consulted for confidential advice and guidance.
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In accordance with guidance from the Health & Safety Executive, and the Workplace (Health, Safety and Welfare) Regulations 1992 (commonly referred to as ‘the Workplace Regulations) Birkbeck provides a rest facility for employees who are pregnant or breastfeeding and a facility for storing expressed milk. Employees should contact HR for further information.

An employee, who is pregnant, has recently given birth or is breast-feeding, and is unable to continue in their post on designated health and safety grounds, will be offered alternative work or, where none is available, will be suspended from work on full pay until such time as they are able to resume their duties.

2.1.7 Ante Natal Care

Once a pregnancy has been confirmed an employee who has made an appointment to receive ante-natal care on the advice of a registered medical practitioner, registered midwife or registered health worker, will be entitled to take time off with pay to keep the appointment, provided that they produce the documentation giving details of the appointment. This is irrespective of length of service or hours worked. The medical appointments must be associated with the pregnancy.

Partners may take paid leave to attend up to two ante-natal appointments with their pregnant partner. Agency workers with 12 weeks continuous service with the same or similar role are entitled to take unpaid leave to accompany their partner to up to two ante-natal appointments.

2.1.8 Shared Parental Leave

An employee can share a portion of their maternity leave with their partner by “converting” any unused leave into shared parental leave. In order to do this the employee must curtail their right to any remaining maternity leave. Additional details on accessing shared parental leave can be found in section 2.4.

2.2 ADOPTION LEAVE

2.2.1 Eligibility for Adoption Leave and Pay

Employees will be eligible to claim adoption leave under the following conditions:

- be newly matched with a child for adoption by an approved adoption agency.
- employed continuously for Birkbeck for 26 continuous weeks at the Qualifying Week which is the date the employee is notified that they have been matched (see section 3.4 Definitions for further explanation regarding the matching process) with a child for adoption.
- Be the sole claimant for adoption leave (individuals can claim for adoption leave however where a couple adopt jointly only one partner is entitled to take adoption leave. The other parent may be eligible for paternity leave and pay; employees should refer to the section 2.3 Paternity Leave and seek further advice from HR where necessary.

Employees must provide documentary proof, in the form of a matching certificate from an approved adoption agency that verifies they are eligible to apply for adoption leave and pay.
All eligible employees with at least 26 weeks continuous service are also entitled to parental leave; employees are advised to refer to section 2.7 Parental Leave for further details.

Adoption leave comprises of 26 weeks of Ordinary Adoption Leave (OAL) (see section 3.4 Definitions for further guidance) and 26 weeks of Additional Adoption Leave (AAL) (see section 3.4 Definitions for further guidance). As soon as possible after receiving the employee’s notification of the date they intend to commence adoption leave, HR will write to the employee, stating the level of adoption pay, where applicable, and the expected date of return from adoption leave.

If adopting from within Great Britain – this leave can commence 14 days before the date of placement of the adopted child. If adopting from overseas – employees may choose to start their OAL:

- from the date the child enters Great Britain, or
- from a fixed date (as notified to the College) no later than 28 days after the date the child enters Great Britain.

Employees will not qualify for statutory adoption leave or pay if they:

- make arrangements to adopt a child privately (without permission from an UK authority or adoption agency);
- adopt a relative or stepchild;
- become a guardian or carer;
- have a child through surrogacy.

Eligible employees are entitled to 52 weeks leave comprising of 26 weeks of Ordinary Adoption Leave (OAL) (see section 3.4 Definitions for further guidance) and 26 weeks of Additional Adoption Leave (AAL) (see section 3.4 Definitions for further guidance). As soon as possible after receiving the employee’s notification of the date they intend to commence adoption leave, HR will write to the employee, stating the level of adoption pay, where applicable, and the expected date of return from adoption leave.

2.2.3 Statutory Adoption Pay (SAP)

Employees who qualify for adoption leave will also qualify for statutory adoption pay provided that their average weekly earnings are not less than the lower earnings limit for national insurance contributions. Statutory Adoption Pay (SAP) is payable for up to 39 weeks at a rate set by the Government for the relevant tax year, or at 90% of the employee’s average weekly earnings, if this figure is lower than the Government’s set weekly rate.

Normal pay applies whilst the employee is at work. It is illegal to receive normal pay from any employment and SAP at the same time. All SAP, therefore, ceases upon return to work at Birkbeck or with any other employer on a full or part-time basis.

SAP will be paid as complete weeks, but employees will continue to be paid on a weekly or monthly basis in accordance with the normal payroll timetable and payment method.

After statutory adoption pay has ended, the remainder of the adoption leave period will be unpaid. If the employee returns to work at the end of the paid statutory adoption leave, they will return to normal pay.

Employees will receive the following adoption/pay benefits:
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- The first 6 weeks of Ordinary Adoption Leave are paid at 90% of the employee’s average earnings.
- The next 33 weeks are paid at the Standard Rate or 90% of average earnings if this is less.

To qualify the employee must:

- Complete at least 26 weeks of continuous service with the College by the Qualifying Week.
- Have average earnings above the lower earnings limit for National Insurance contributions, and
- Comply with Birkbeck’s application procedures set out in this policy.

An employee who does not meet the above criteria for SAP will receive a form – SAP1 from Payroll which can be submitted to a Social Security / Jobcentre Plus Office.

2.2.4 Occupational Adoption Pay (OAP)

Occupational Adoption Pay is provided by the College to give enhanced benefits to members of staff who meet the qualifying criteria for SAP and intend to return to work after adoption leave. It comprises of:

- Full pay for 26 weeks during the period of OAL, which will include any payments of SAP. Or SAP alone, where this is greater.
- SAP only for the first 13 weeks of the period of AAL and the remainder will be unpaid.
- To qualify the employee must have:

  - Completed at least 26 weeks of continuous service with the College by the Qualifying Week.
  - Plus, have followed the application procedures set out below informing the College in writing that they intend to return to work at the end of the period of adoption leave for at least 12 weeks (excluding sickness absence and extended unpaid leave).

2.2.5 Time off for Pre-adoption and Adoption Order Interviews

The primary adopter can take paid leave for five pre-adoption meetings and the co-adopter can take paid leave for two pre-adoption meetings. This applies to both employees and agency workers.

When an employee is an intended parent through a surrogacy arrangement, the employee can take paid time off for 2 meetings with the person carrying the child.

2.2.6 Adopting within the UK

Employees must inform their line manager within 7 days of being notified by the adoption agency that they have been matched with a child, if they intend to take a period of adoption leave (unless it is not reasonably practicable to do so). The employee should complete the Adoption Leave Planner and
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forward it to HR. If the employee decides to change the date of the placement, they must give at least 28 days’ notice in writing of the date they intend to start the adoption leave period.

In addition, the matching certificate stating the expected date of the placement of the child should be sent to HR as soon as it has been issued to the employee by the relevant approved adoption agency.

2.2.7 Adopting from Overseas

In the case of adoption from outside Great Britain, statutory adoption leave is not meant to be used to cover the period employees spend travelling overseas to arrange the adoption or visit the child.

Employees in this situation should talk to their line manager in the first instance, and may be required to take time off without pay. Annual leave may be used for this purpose, employees should contact HR for further guidance.

Any time off must be agreed with the employee’s line manager and employees may be asked to provide evidence of the appointment.

Employees should complete the Adoption Leave Planner for Overseas Adoptions (ALPO) form and forward it to HR within 28 days of receiving official notification (see section 3.0 Guidance for further information) of being matched with a child.

Where employees have obtained official notification before they began employment with the College, or before they have completed 26 weeks’ continuous employment with the College, they must complete the ALPO form and forward it to HR within 28 days of completing 26 weeks’ employment. A copy of the official notification must be appended by the employee to the completed ALPO form.

In all cases, employees must then give the College at least 28 days' notice of the actual date they want the adoption leave and Statutory Adoption Pay (SAP) to start. (If the date is known, this notice can be added to the ALPO form.) Employees can vary the date on which they want to their leave to start, providing they give at least 28 days' notice in advance of the new date, or as soon as reasonably practicable.

No later than 28 days after the child's entry into Great Britain, employees must notify HR of the date of entry, including relevant evidence (e.g. a plane ticket or copies of entry clearance documents), which will be kept for the record.

2.2.8 Special Circumstances

If an employee commences adoption leave and is subsequently notified that the child is not being placed with them the adoption leave period will end 8 weeks after the end of the week in which this notification is made.

In the case of an employee planning to adopt from overseas, they must tell HR as soon as is reasonably practicable if it becomes known to them that the child will not be entering Great Britain.

If during a period of adoption leave the adopted child dies or is returned to the adoption agency, the adoption leave period will end 8 weeks after the end of the week in which this event occurs, unless the employee is on AAL and this expires before the end of this 8 week period. Where this 8-week period extends beyond the end of the OAL period and the employee is entitled to AAL, the AAL will cease at the end of that 8-week period.
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2.2.9 Shared Parental Leave

An employee can share a portion of their adoption leave with their partner by "converting" any unused leave into shared parental leave. In order to do this the employee must curtail their right to any remaining adoption leave. Additional details on accessing shared parental leave can be found in section 2.4.

2.3 PATERNITY LEAVE

Employees must complete the HMRC ordinary paternity leave form to provide notification of the intention to take ordinary paternity leave following the birth of a child and to confirm the date on which the employee's partner's baby is due, the length of ordinary paternity leave the employee wishes to take and the date on which the employee wishes leave to commence.

Statutory regulations state that the employee must be continuously employed by the College for at least 26 weeks by the end of the 15th week before the week the baby is due. The employee must then continue to be employed by the College until the date the baby is born.

In the case of adoption complete either HMRC ordinary paternity leave adoption UK form or HMRC ordinary paternity leave adoption overseas form should be completed to provide notification of the intention to take ordinary paternity leave following adoption and to confirm the date the child is expected to be placed for adoption, the date the employee intends to start ordinary paternity leave, the length of the intended ordinary paternity leave period and the date on which the adopter was notified of having been matched with the child. The form should be submitted to HR no later than 7 days after the date on which notification of the match with the child was given by the adoption agency. If the employee subsequently wishes to change the timing of the leave, the employee must give 28 days' written notice of the new dates.

2.3.1 Eligibility

Employees are entitled to ordinary and additional paternity leave if they have, or expect to have responsibility for the child's upbringing and intend to care for the child or support the parent giving birth.

2.3.2 Paternity Leave

Paternity leave is available to employees who are biological and adoptive parents and includes those who adopt from overseas.

The statutory entitlement to take ordinary paternity leave is dependent upon the following:

i. An employee whose wife, civil partner or partner gives birth to a child, or who is the biological parent of the child, is entitled to 2 weeks' ordinary paternity leave provided they have, or expect to have, responsibility for the upbringing of the child and is taking the leave to help care for the child or to support the parent giving birth.
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ii. Paternity leave must be taken in a single block of one or two weeks within 8 weeks of the birth or adoption of the child. If the child is born early, it must be taken from the time of the birth but within 8 weeks of the expected date of childbirth. Ordinary paternity leave can start either from the date the child is born or placed for adoption or from a chosen number of days or weeks after that date.

iii. Paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either one of the parents may take ordinary paternity leave where the other adoptive parent has elected to take adoption leave.

Paternity Benefits

2.3.3 Statutory Paternity Pay (SPP)

Employees who qualify for paternity leave will also qualify for statutory paternity pay provided that their average weekly earnings are not less than the lower earnings limit for national insurance contributions. If the employee qualifies for SSP, the College will enhance this payment to the employee’s normal rate of pay which will include any entitlement to SSP at the rate in place at the time leave is taken. The employee will continue to pay tax and national insurance on these earnings.

HR will formally respond in writing to the employee’s notification of their ordinary paternity leave plans, confirming the relevant start and end dates and pay. Statutory paternity pay is payable whether or not the employee intends to return to work after the additional paternity leave.

Employees who do not qualify for statutory paternity pay can download a copy of the OSPP1 form. Assistance may be available from Jobcentre Plus.

2.4 Shared Parental Leave (SPL)

Shared parental leave may be taken by either parent during the first year of birth or adoption of their child. Up to 50 weeks leave can be shared between the mother/adopter and the father of the child or the spouse, civil partner or partner of the child’s mother/adopter. Both parents must share the main responsibility for the care of the child to be eligible for leave.

2.4.1 Eligibility for Shared Parental Leave

An employee must meet the following criteria:

- The mother/adopter of the child must be entitled to statutory maternity/adoption leave, pay or maternity allowance and must have ended or given notice to end maternity or adoption leave and

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1 Please note that for ease of understanding this policy uses the term ‘mother’ to describe the birthing parent, but recognises that some birthing parents do not identify with this term.
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- Have a minimum of 26 weeks' service at the end of the 15th week before the child’s expected due date/matching date
- The employee’s partner must have worked for at least 26 weeks in the 66 weeks prior to the expected due date/matching date, and have average earnings of £30 a week in any 13 of those weeks

2.4.2 Entitlement

The number of weeks available to be taken as shared parental leave is calculated using the mother’s/adopter’s entitlement to maternity/adoption leave which allows up to 52 weeks’ leave, the first 2 weeks of which must be taken by the mother/primary adopter. Maternity/adoption leave is reduced by the employee returning to work, or giving notice to curtail their leave and to return to work, at which point the remaining leave can be “converted” into shared parental leave.

If the mother/adopter is not entitled to maternity/adoption leave but is entitled to statutory maternity pay, statutory adoption pay or maternity allowance, they must reduce their entitlement to less than the 39 weeks. The leave entitlement would be calculated by deducting from 52 the number of weeks SMP, SAP or MA taken by the mother/adopter.

2.4.3 Notification of leave

An employee intending to take shared parental leave must give notice to their line manager at least 8 weeks before the date they intend to commence their leave by completing the appropriate shared parental leave form. An employee can submit 3 notifications specifying leave periods they intend to take. Each notification may contain either a single period of weeks of leave or two or more weeks of discontinuous leave where the employee intends to return to work between periods of leave.

Shared parental leave can only be taken in complete weeks but may begin on any day of the week.

Continuous leave notifications: a notification can be for a period of continuous leave which means a notification of a number of weeks taken in a single unbroken period of leave. An employee has the right to take a continuous block of leave notified in a single notification so long as it does not exceed the total number of weeks of shared parental leave available to them and 8 weeks’ notice has been given. An employee may submit 3 separate notifications for continuous leave.

Discontinuous leave notifications: a notification can ask for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work. The line manager should meet with the employee to discuss arrangements for discontinuous leave. The line manager will then consider whether the discontinuous leave notification can be supported. If the leave pattern is refused the employee can either withdraw the notification within 15 days of giving it and submit another request, or take the leave in a single continuous block.

2.4.4 Statutory Shared Parental Leave Pay (ShPP)

Employees who qualify for statutory shared parental leave will also qualify for statutory shared parental leave pay provided that their average weekly earnings are not less than the lower earnings limit for national insurance contributions. Employees may be entitled to take up to 39 weeks statutory shared parental leave pay while taking shared parental leave. To qualify for ShPP employees must qualify for either statutory maternity or adoption pay, or statutory paternity pay and have a partner who qualifies
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for statutory maternity or adoption pay or maternity allowance. The number of weeks’ pay will depend on the number of weeks’ shared parental leave available for the employee to take in relation to their partner’s plans to take leave therefore some leave may be paid and some unpaid.

2.4.5 Occupational Shared Parental Leave Pay (OShPP)

Occupational Shared Parental Leave Pay (OShPP) is provided by the College to give enhanced benefits to members of staff who meet the qualifying criteria for ShPP and intend to return to work after shared parental leave. It comprises of:

- Full pay for 26 weeks during the period of SPL, which will include any payments of ShPP. Full pay will not apply if SPL is taken after ShPP payments have been exhausted.
- Once ShPP payments have been exhausted the remainder of leave will be unpaid.
- To qualify the employee must have:
  
  Completed at least 26 weeks of continuous service with the College by the Qualifying Week.

  And have followed the application procedures set out below informing the College in writing that they intend to return to work at the end of the period of shared parental leave for at least 12 weeks (excluding sickness absence and extended unpaid leave).

2.4.5 Other Conditions

- A maximum of 26 weeks full pay can be claimed in total so if shared parental leave follows a period of maternity leave, and/or if both parents are employed by Birkbeck, the number of weeks taken at full pay during maternity leave will be off set against the number of weeks shared parental leave at full pay.

- Employees taking shared parental leave are entitled to the benefit of their normal terms and conditions of employment (except for terms relating to salary once payments are exhausted) for the duration of the leave. This includes the normal accrual of annual leave and continuous service.

2.5 Keeping in Touch during Maternity, Adoption or Shared Parental Leave

Prior to the commencement of the leave period the manager and employee will discuss, agree and document arrangements for staying in touch with each other. These are referred to as “Keeping-In-Touch” (KIT) days. This should include agreements on the way in which contact will happen, how often, and who will initiate the contact. It should also cover the reasons for making contact and the types of things that could be discussed. The line manager will ensure that members of staff are kept informed of promotion opportunities relevant to their job and any important changes in the workplace which may directly affect them on their return to work.

During maternity (staff can work during ordinary or AML but not during the two weeks of Compulsory Maternity Leave immediately after the birth) or adoption leave, the College may offer members of staff the option to work for up to 10 days without bringing the leave period to an end or losing any benefits,
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where applicable. During shared parental leave up to 20 days can be taken by each parent in addition to any KIT days taken during maternity or adoption leave. Keeping in touch days enable staff to keep in touch and keep up to date with developments at work, and may include working, attending training or meetings.

Any work during the leave period must be by agreement, on agreed dates and neither the College nor staff can insist on it. Working for any part of a day will count as one of the keeping in touch days available. Days of work will not extend the leave period.

The College will pay staff at their normal basic rate of pay (inclusive of Statutory /Occupational Pay, where applicable) for the hours worked.

2.6 Returning to Work from Maternity, Adoption, Paternity or Shared Parental Leave

An employee who intends to return to work at the end of their full leave period (e.g. after 52 weeks), does not have to give any further notification of their return to work.

If the employee intends to return to work earlier than previously indicated they must provide 8 weeks notice, in writing, of their intended date of return to their line manager and to HR.

An employee who is only taking the statutory ordinary element of their leave is entitled to return to the same job they were in before they went on leave, on the same terms and conditions.

An employee who has stated their intention to return to work after a period of additional leave will normally be re-employed in the same job they were in before they went on leave, but if there are exceptional reasons why this is not possible, the employee will be employed on similar work and terms and conditions.

On returning to work after Shared Parental Leave, an employee is entitled to return to the same job if the employee’s aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, he/she will return to the same job. If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, an employee is entitled to return to the same job they held before commencing the last period of leave, or if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable. If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternal/adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave, or if this is not reasonably practicable, to another job which is suitable and appropriate on terms and conditions no less favourable.

If the employee wishes to extend their leave and therefore change their return to work date they must give 8 weeks notice in writing to HR.

Where a redundancy or restructuring exercise occurs in the area from which an employee is absent due to maternity, adoption, paternity or parental leave, the employee will be treated as if they were at work with regard to consultation, notification and offer of suitable alternative employment which is available and all other support and assistance provided by Birkbeck in these circumstances. The fact that the
employee was absent due to taking a period of leave will be ignored for the purposes of any selection for redundancy that may be necessary. Further information regarding the redundancy process can be found in the Redundancy Policy.

An employee who has been working full-time but who indicates a wish to return to work on a part-time basis following their period of leave, they will receive sympathetic consideration of their request, and will be accommodated wherever possible taking into consideration the business needs of the College. Similarly, requests for flexible working or to job-share will also be carefully considered further guidance can be found in the Flexible Working Policy.

If the employee is unable to return to work as a result of sickness, the employee may be eligible for statutory and occupational sick pay in accordance with Birkbeck’s sickness absence policy. Employees should seek further advice from HR.

An employee who does not return to work after the agreed leave period will be treated as being on unauthorised absence, and the College will be entitled to take appropriate disciplinary action, which may include dismissal. The College will, in such circumstances, reclaim any payment made in excess of the statutory element.

If an employee leaves within 12 weeks of their return to work from leave, the College has the right to recover any payment made in excess of the statutory element. This shall not apply to staff on fixed term contracts whose date of contract expiry means that they cannot meet the requirement to return for 12 weeks.

2.7 Annual Leave during Maternity, Adoption, Paternity or Parental Leave

During the period of Leave an employee will continue to accrue annual leave, including bank holidays and closure days, in the normal way.

Staff may take their annual leave at the beginning and/or end of the leave period. Annual leave accrued prior to the start of the maternity, adoption, paternity or parental leave period must be taken within the current leave year. Annual leave accrued during the maternity, adoption, paternity or parental leave period should be taken during the current leave year wherever possible. Staff will normally only be allowed to carry over any accrued annual leave into the next leave year if it has not been possible to take it. Staff transferring to part time work on their return, must take their outstanding full time annual leave allowance prior to returning.

2.8 PARENTAL LEAVE

Employees are entitled to apply for parental leave if they have at least one year’s continuous service and parental responsibility for a child under the age of eighteen. Foster parents do not have rights to parental leave (unless they have been granted parental responsibility by law).

Employees must complete the parental leave application form to provide notification of the intention to commence the leave. Employees must notify their line manager of the intention to take parental leave. The parental leave application form should be submitted to HR no later than the 15th week before the
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expected week of the birth of the child, or placement in the case of adoption. HR will respond to the request for leave, in writing, having conferred with the line manager where necessary within 7 days of the request being submitted.

The request for parental leave will be granted unless there is a justifiable reason why the employee cannot take such leave, in which case the leave may be postponed and the employee will be informed of the reasons in writing. The leave can be postponed to a mutually agreed date, but may not be postponed for more than 6 months from the date on which the employee wanted to originally start their leave. Parental leave will not be postponed for prospective parents requesting to take parental leave for the birth of their child or the period around the placement date for an adopted child.

Line managers are required to ensure that periods of parental leave are recorded on the employees’ annual leave records. When authorising leave, line managers must ensure that the 18 weeks entitlement for each child is not exceeded. This information will be passed to future employers upon request, in the event of the employee leaving Birkbeck’s employment.

2.8.1 Qualifying Conditions for Entitlement to Parental Leave

- The leave may be taken by the child’s 18th birthday.
- A total of 18 weeks’ leave is available for each child as described above. Entitlement is per child in the case of multiple births or the adoption of more than one child.
- The 18 weeks’ leave entitlement includes any parental leave already taken for a child during any period of previous employment with another employer. Employees should be aware that Birkbeck reserves the right to request details of leave already taken with previous employers.
- Employees are entitled to request a period of parental leave as long as it is specifically in order to care for a child.
- Parental leave may be taken in blocks of one calendar week up to a maximum of 4 weeks per calendar year. Only complete weeks are taken into account (unless the child is disabled or it has been agreed with the line manager).
- Employees must give 21 days’ notice (employees must confirm the start and end dates in their notice) before the intended start date of the parental leave. If the employee or their partner is expecting a baby or adopting a child the notice period should be 21 days before the week the baby is due or the child’s adoption placement is expected in the case of adoption.
- Entitlement is on a proportionate basis for part-time employees - for example, where an employee works 2 days a week; one ‘week’ of parental leave is equivalent to 2 days. For employees who work irregular weeks, the number of days in a ‘week’ is calculated by adding the total number of days they work in a year and dividing this figure by 52.
- The only exception to taking parental leave in blocks of at least 1 week is where the employee intends to take parental leave with respect to a disabled child, in which case the leave may be taken as single days, if necessary.
Family Leave Policy

2.8.3 Occupational Benefits during Periods of Parental Leave

Any period of parental leave will be unpaid. However, employment with Birkbeck will be treated as continuous service during the period of parental leave and employees will continue to receive the following benefits:

- Holiday entitlement will continue to accrue for the period of absence taken as parental leave. Carry-over of holiday entitlement from one holiday year to another or payment in lieu of holiday is only permitted as per the Annual Leave policy.
- For employees on Parental Leave who are members of the Superannuation Arrangements (pensions) of the University of London (SAUL), or the Universities Superannuation Scheme (USS), there will be no change to the terms under which Birkbeck pays contributions into the pension fund during the parental leave period.

Parental leave will be in addition to any other leave entitlements to which the employee is eligible.

2.8.4 Returning to Work following Parental Leave

Upon returning to work from a period of parental leave of 4 weeks or less, the employee will have the right to return to their previous position.

Where a redundancy or restructuring exercise occurs in the department/area from which an employee is absent due to parental leave, the employee will be treated as if they were at work with regard to consultation, notification and offer of suitable alternative employment which is available and all other support and assistance provided by Birkbeck in these circumstances. The fact that the employee was absent due to taking a period of parental leave will be ignored for the purposes of any selection for redundancy that may be necessary. Further information regarding the redundancy process can be found in the Redundancy Policy.

Employees should immediately notify their line managers if they are unable or not intending to return to work on the agreed date. An employee who does not return to work after the agreed leave period and has not provided a satisfactory explanation will be treated as being on unauthorised absence, and the College will be entitled to take appropriate disciplinary action, which may include dismissal.

If the employee is unable to return to work as a result of sickness, the employee may be eligible for statutory and occupational sick pay in accordance with Birkbeck’s sickness absence policy. Employees should seek further advice from HR.

3.0 GUIDANCE

3.1 Pay Awards
Family Leave Policy

Absence due to periods of maternity, adoption, paternity or parental leave will not affect the nature or timing of pay awards. Backdated pay awards will affect the level of pay. On no account will the employee on a period of family leave suffer any detriment through not being at work on a daily basis at the time when these pay award procedures are implemented.

3.2 Pension Provisions (Superannuation)

All employees on Ordinary and Additional Maternity, Adoption, Paternity and Parental Leave who are members of the Superannuation Arrangements of the University of London (SAUL), or the Universities Superannuation Scheme (USS) will remain members of the scheme.

If the employee belongs to the Pension Scheme there will be no change to the terms under which Birkbeck will pay contributions into the Pension Scheme during the ordinary leave period. The same percentages of income will apply and pensionable service will continue to accrue.

Employees pay the normal rate of contributions based on pay actually received.

Employees who have a period of unpaid additional maternity, adoption, paternity or shared parental leave may opt to maintain their contributions during the period of unpaid leave in order to maintain pensionable service and death in service benefits. If they opt not to maintain contributions then they will be suspended members of the scheme during the period of unpaid leave.

For further information regarding pension contributions including AVCs during paid or unpaid leave as outlined above, please contact Payroll.

3.4 Definitions

3.4.1 Maternity Leave

MATB1 – The MATB1 is a maternity certificate issued to the employee to verify the pregnancy and enables the individual to claim statutory maternity pay where eligible from the employer or maternity allowance from Jobcentre Plus. The certificate also confirms the date of the expected week of childbirth (EWC) or the actual date of childbirth where the child is born early.

Compulsory Maternity Leave (CML) – is the period immediately after childbirth where the employee is not permitted to return to work. CML would normally last 2 weeks but this period is extended to 4 weeks for employees who work in factories.

Ordinary Maternity Leave and Additional Maternity Leave

Pregnant employees are entitled to 26 weeks’ Ordinary Maternity Leave (OML), which includes the period of compulsory maternity leave (see above) and 26 weeks’ Additional Maternity Leave (AML). AML follows on immediately from OML. The 52 week leave period is known as Statutory Maternity Leave (SML).

Adoption Leave

Adopter - is a person by whom the child has been or is to be adopted or, in the case where the child has been or is to be adopted by two people jointly, whichever of them has chosen to take adoption leave in respect of the child. To qualify for adoption leave and pay, an employee must:
Family Leave Policy

- if adopting from within Great Britain, be certified by an approved adoption agency as being matched with a child for adoption and who is intending to take Adoption Leave and Adoption Pay; or
- if adopting from overseas, have received official notification.

Official notification (when adopting from overseas): written notification, issued by or on behalf of the relevant domestic authority (usually the Department of Health), 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, in either case, that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.

Other Parent: is the partner of an Adopter and they are:

- in an enduring family relationship with the Adopter; and
- will be jointly responsible for the child’s upbringing; and
- will take time off work to support the Adopter or to care for the child.

Please note: Parents who jointly adopt must choose which of the two is to be the Adopter and which is to be the Other Parent. The other parent may be eligible for Paternity Leave under provisions detailed in the Family Leave policy.

Ordinary Adoption Leave (OAL): This is the initial period of absence for the Adopter due to the adoption of a child. It may begin no earlier than 14 days before the date that the child is placed for adoption and will last for 26 weeks unless the employee returns to work beforehand. The leave can start on any day of the week. Only one period of leave will be available irrespective of whether more than one child is adopted as part of the same arrangement.

- If adopting from within Great Britain – OAL may begin no earlier than 14 days before the date that the child is placed for adoption.
- If adopting from overseas – employees may choose to start their OAL:
  - from the date the child enters Great Britain, or from a fixed date (as notified to the College) no later than 28 days after the date the child enters Great Britain.

Additional Adoption Leave (AAL): This is any absence, which is additional to OAL for the Adopter, to which longer serving employees may be eligible. AAL starts the day after OAL ends and may continue for 26 weeks.

Matching: (when adopting within the UK): means that a child under the age of 18 years old, is intended to be placed with the employee for adoption, as certified by an approved adoption agency. A Matching Certificate is issued by the adoption agency as confirmation of the intended date of the placement of the child.
Family Leave Policy

A week (for the purposes of calculating the week in which the employee is notified of a match) means the period of 7 days beginning with Sunday.

The Date of Placement (when adopting within the UK): means the date the child is legally adopted by the employee and, normally, starts to live with the employee as a member of his/her family – as confirmed by the matching certificate.

Birkbeck reserves the right to review, revise, amend or replace the content of this policy and / or introduce new policies from time to time, subject to good practice principles of consultation where applicable, to reflect the changing needs of the College and to comply with legislation.

4.0 RESPONSIBILITIES

The following have direct responsibilities under this policy:

Maternity Leave

- **Employees**
  - Notify line manager of pregnancy and submit maternity leave request.
  - Discuss concerns and/or issues with HR, where appropriate.
  - Complete ‘Maternity Leave Planner’ and forward to HR.
  - Forward MAT B1 to HR.
  - Raise health and safety concerns with line manager, where appropriate.
  - Submit requests to line manager to attend ante natal appointments.
  - Agree terms of ‘Keeping in Touch Days’ with line manager.
  - Provide notification (8 weeks) of early return to work to line manager, where required.
  - Submit request for flexible working/job share, where required.
  - Contact local Social Security Office/Jobcentre Plus Office if not eligible for SMP.

- **Line Managers**
  - Meet with employee to accept maternity leave request.
  - Manage any health and safety concerns from staff member.
  - Process requests to attend ante natal appointments.
  - Provide option to staff member to participate in ‘Keeping in Touch Days’ scheme.
  - Initiate health and safety risk assessment and provide guidance where appropriate.
  - Provide information on Birkbeck’s rest facilities for pregnant employees.
  - Process requests for flexible working job share following staff member’s return to work.

- **HR**
  - Confirm receipt of MAT B1 and return to work date.
  - Notify health and safety office of pregnancy and the need to initiate a health and safety risk assessment.
  - Ensure appropriate documentation is sent to employee.
  - Provide advice or guidance where requested.

- **Health and Safety**
  - Initiate health and safety risk assessment and provide guidance where appropriate.

Adoption Leave
Family Leave Policy

- **Employees**
  - Adhere to Family Leave Policy requirements for notification purposes.
  - Where possible, agree arrangements for pre-adoption and adoption order interviews with line managers.
  - Where required, provide documentary evidence to verify appointments and leave requests.
  - Notify HR if for any reason the adoption does not take place as planned.
  - Provide a copy of a medical certificate if taken ill whilst on adoption leave.
  - Notify the College varying the date or not intending to return to work.
  - Liaise with line manager to arrange contact during adoption leave, where required.
  - Submit requests for flexible leave, where required.

- **Line Managers**
  - Make arrangements to cover post during adoption leave, where required.
  - Liaise with employee to arrange contact during adoption leave.
  - Consider flexible working requests, where required.

- **HR**
  - Liaise with employee to manage the adoption leave process.
  - Provide advice or guidance where requested.

- **Finance Department/Payroll**
  - Provide a copy of SAP1 to employee requesting adoption leave.

### Shared Parental Leave

- **Employees**
  - Notify line manager of intention to take leave and submit notification form to line manager.
  - Discuss concerns and/or issues with line manager and/or HR, where appropriate.
  - Agree terms of ‘Keeping in Touch Days’ with line manager.
  - Provide notification (8 weeks) of early return to work or other change to arrangement to line manager, where required.

- **Line Managers**
  - Meet with employee to discuss notification form and leave arrangement.
  - Provide option to staff member to participate in ‘Keeping in Touch Days’ scheme.
  - Forward notification form to HR and ask HR for advice where appropriate.

- **HR**
  - Confirm receipt of notification form and return to work date in writing to employee.
  - Ensure appropriate documentation is sent to employee.
  - Provide advice or guidance where requested.

### Paternity Leave

- **Employees**
Family Leave Policy

- Complete the HMRC ordinary paternity leave form and submit to HR.
- Provide verification of birth of child through MATB1 to HR.
- Complete the appropriate paperwork for adoption (UK & overseas) and return to HR.
- Discuss initial request and arrangements for contact during paternity leave with line manager.
- Notify HR if there is a need to vary the paternity leave date(s).

- **Line Managers**
  - Discuss and agree arrangements for contact during paternity leave with employee.

- **HR**
  - Process paternity leave requests.
  - Respond to employee written notifications of paternity leave plans.

**Parental Leave**

- **Employee**
  - Submit a request for parental leave at least 21 days before the leave is due to be taken and complete the application form.
  - Notify line manager if unable or not intending to return to work.
  - Employees unable to return to work as a result of sickness should contact HR for clarification on their entitlements.

- **Line Managers**
  - Review requests for parental leave including employee eligibility and the 18 week entitlement.
  - Notify HR of employees’ intention to take parental leave.
  - Record periods of parental leave on the employee’s annual leave record form.

- **HR**
  - Provide advice or guidance where requested.
  - Respond to requests for parental leave in writing.