



The Circle Trust Document: **Staff Family Care Policy (including Flexible Working requests)**

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Approver:	Trustees
Owner:	H.R. Trustees
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Changes History:

Version	Date	Amended by:	Substantive changes:	Purpose
1.0	26.9.18	Exec Head	New Document	First release
1.1				
1.2				
1.3				

1. Purpose of the policy

1.1. The Circle Trust recognises the importance of a balanced approach to work and family life.

2. Introduction

2.1. This Policy is an important part of the Trust's approach to Equal Opportunities. The Family Care Policy will be applied fairly and consistently to all staff employed at the school regardless of gender, race, marital status, national or ethnic origin, nationality, disability, sexuality, age, religion, status or number of hours worked

2.2. This policy ensures that all Members of Staff are given support to manage family responsibilities and balance this with the need to maintain service delivery and the impact on other colleagues. Please refer to [The Circle Trust's Staff Absence from work for reasons other than sickness policy](#)

2.3. The Trust will observe all its statutory obligations

3. The Aims and Objectives of the Family Care Policy

3.1. To ensure that all Members of Staff are treated fairly, equally and consistently in line with good employment practice

4. The Management of the Family Care Policy

4.1. The Trustees have a fundamental role to:

4.1.1. Review this policy to approve changes

4.2. The Executive Headteacher will:

4.2.1. Implement this policy

4.2.2. Promote and ensure that all Headteachers follow procedures as set out in this policy

4.3. The Local Advisors have a fundamental role to:

4.3.1. Be satisfied that any Absence Management procedure is followed as set out in this policy and understood by the Headteacher/school leaders and Members of Staff

4.3.2. Convene when required a Flexible Leave Appeals Panel

4.4. A Headteacher with the oversight of Local Advisors will:

4.4.1. Follow this policy

5. Maternity Leave

- 5.1. There are two levels of maternity leave – Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML).
- 5.2. All Members of Staff are entitled to 26 weeks' ordinary maternity leave (OML), immediately followed by 26 weeks' additional maternity leave (AML).
- 5.3. Notification of pregnancy and the intention to take maternity leave must be given by the 15th week before the end of the expected week of childbirth (EWC). A member of staff must inform her manager at least 28 days before absence begins:
 - 5.3.1. That she is pregnant
 - 5.3.2. The date of the expected week of confinement (EWC)
 - 5.3.3. The date she would like her OML to begin (In writing). The leave cannot be taken earlier than the 11th week before the EWC.
- 5.4. A member of staff must provide an original certificate of expected confinement from her doctor or midwife, (this is called a MATB1 form).
- 5.5. A member of staff may change the date her leave begins subject to giving her manager 28 days notice.
- 5.6. A member of staff may take OML for a period of 26 weeks. The only restrictions to the timing of this leave are that she must take at least two weeks' leave after the week of confinement and cannot begin maternity leave before the 11th week prior to the EWC. She will retain all employment rights during general maternity leave, apart from remuneration.
- 5.7. Any absence after the beginning of the 4th week before EWC, which is wholly or partly because of pregnancy or childbirth, will automatically trigger the start of maternity leave, which will start on the following day. SMP will also start on the following day.
- 5.8. Statutory Maternity Pay. A member of staff will qualify for 39 weeks of Statutory Maternity Pay (SMP) if:
 - 5.8.1. She has been continuously employed for at least 26 weeks before her qualifying week – the 15th week before the EWC i.e. 41 weeks' continuous service
 - 5.8.2. Her average weekly earnings in the eight weeks up to and including the qualifying week have been equal to the lower earnings limit for National Insurance Contributions.
- 5.9. Statutory Maternity Pay (SMP) will be paid to support staff at 90% of average weekly earnings for the first six weeks and at the lesser of the lower SMP rate per week or 90% of her average weekly earnings, for the remaining 33 weeks of the maternity pay period.

- 5.10. Statutory Maternity Pay (SMP) will be paid to teaching staff at full pay for the first four weeks followed by 90% of average weekly earnings for the next two weeks and at the lesser of the lower SMP rate per week or 90% of her average weekly earnings, for the remaining 33 weeks of the maternity pay period.
- 5.11. If a member of staff does not qualify for SMP she may be entitled to claim a maximum of 39 weeks Statutory Maternity Allowance (SMA) provided that she has 26 weeks' National Insurance Contributions during the 66 weeks before the qualifying week. A claim pack can be obtained from the Jobcentre Plus/social security Office.
- 5.12. Where Members of Staff wish to return to work before the end of their OML, they must give their Manager 7 days' notice of the date they intend to return or 21 days' notice if the member of staff is teaching staff. If the member of staff fails to notify their Manager, the manager can postpone their return by 7 days or 21 days for teaching staff. Where Members of Staff wish to return to work before the end of their AML, they must give their Manager 21 days' notice of the date they intend to return. A manager can postpone their return until the required 21 days' notice has taken place.
- 5.13. If a member of staff changes her mind about her original return date from additional maternity leave she must give her manager 21 days' notice of the change. If she does not give the required notice and her manager needs more notice he or she can postpone her return until the required 21 days' notice has taken place. A Headteacher cannot postpone it past the end of the 52-week period.
- 5.14. A member of staff may take parental leave at the end of maternity leave with the agreement of her Headteacher and the required notice period.
- 5.15. Occupational Maternity Pay. A member of staff with at least one year's continuous service in local government at the beginning of the 11th week before the EWC (i.e. 63 weeks' continuous service by the EWC) will be entitled to receive a further 12 week's salary at half pay. This is on the condition that:
- 5.15.1. Support staff return for 3 months
- 5.15.2. Teaching staff return for a period of at least 13 weeks. For Teachers this is an equivalent of 13 weeks full-time hours if you return to work on part-time hours having previously worked full-time or if a part-time teacher returns to work on a different part-time basis she must return for a period which equates to 13 weeks part-time service relating to her previous contract.
- 5.16. This can be paid as a lump sum on return to work, or in conjunction with SMP - but if paid in advance, it would have to be reclaimed if the member of staff does not return to work for the qualifying return period. Although it is not a statutory requirement, if a member of staff wishes to qualify for additional salary she must notify her manager of her intention to return to work after OML/AML. A member of staff must notify her manager of the date of her child's birth to enable her manager to plan for her return.

- 5.17. Statutory Sick Pay (SSP) All maternity leave counts as service for the purposes of the school's sick pay scheme.
- 5.18. Right to Return to Work. As a general guideline, a member of staff has the right to return to the job in which she is currently employed and on terms and conditions not less favourable than those, which would have applied to her, if she had not been absent.
- 5.19. Where it is not possible, through redundancy or general reorganisation, to offer a return to work under the original contract, a member of staff is entitled to be offered a suitable alternative vacancy. (In the case of redundancy, this would be subject to there being such a post available). The terms and conditions of the alternative job must be substantially as favourable as those of her original job.
- 5.20. The Circle Trust will be sympathetic to requests for a return to work under a more flexible arrangement such as part-time or job sharing. However, any part time or job share arrangement will have to be agreed by the Headteacher and the operational needs of the school should be taken into account. If a member of staff works full time and returns from maternity leave on a part-time, reduced hours or job share basis, she will not have an automatic right to resume full time working at a later date, unless specifically agreed in writing with her at the point of return. Application for Flexible working is set out in section 7 of this policy.
- 5.21. Reasonable contact during maternity leave. The Headteacher and the member of staff are entitled to make reasonable contact with each other while the member of staff is on maternity leave. For example, a Headteacher may contact the member of staff to discuss whether or not her planned date of return has changed or is likely to do so, or to discuss any flexible working arrangements that would make her return to work easier.
- 5.22. Keeping in touch days (KIP). A member of staff may work during her maternity leave for up to 10 days (also known as 'keeping-in-touch' days) without bringing her maternity leave to an end. These days are not limited to the usual job but can be used for training days, other events or easing a return to work. Any arrangement should be agreed between the manager and member of staff. A member of staff cannot be required to take up keeping in touch days or penalised for refusing to take them up and Headteachers are not obliged to offer them.
- 5.23. No keeping in touch days are to be taken until at least two weeks after the birth of the child. Any KIT days worked do not extend the period of maternity leave. Once the KIT days have been used up, the member of staff will lose a week's SMP for any week in which she agrees to work for the school.
- 5.24. Members of Staff returning for KIT days will be paid their regular pay calculated on the number of hours they attend. For example if a member of staff attends for 2 hours, they will be paid for 2 hours but it will be deemed as one KIT day taken.

- 5.25. Resignation and Maternity Pay. If a member of staff leaves voluntarily before the beginning of the 15th week before her EWC she cannot claim SMP. However, she may be entitled to Maternity Allowance and should contact her local Jobcentre Plus/social security Office. If she leaves after the 15th week before her EWC she will still be entitled to receive SMP (subject to her satisfying the qualifying criteria for SMP).
- 5.26. Health and Safety Implications. During a member of staff's pregnancy she has the right to special consideration under the Management of Health and Safety at Work (Amendment) Regulations with regard to health and safety and time off for antenatal care. Once the Headteacher has been informed that she is expecting a baby, they have a duty to carry out a risk assessment, additional to the assessment that has already been done for her section as a whole. Please refer to [The Circle Trust's Health and Safety Policy](#)
- 5.27. If, through an individual risk assessment, an unacceptable risk has been identified with regard to her health and safety then one or more of the following steps may apply:
- 5.27.1. Elimination of the risk
 - 5.27.2. Protection or prevention measures to control hazards/risks
 - 5.27.3. If it is reasonably practical to do so, an alternative to working conditions or hours of work. providing suitable alternative employment (on existing terms and conditions) within the School.
 - 5.27.4. If the perceived risks from the job that she does are serious and none of the above steps are possible, paid leave may be offered.
- 5.28. It is unlawful to allow a member of staff to return to work within two weeks of childbirth. This is the compulsory maternity leave period in the *Employment Rights Act (ERA) 1996, s.72*. The word 'childbirth' means the birth of a child whether living or dead after 24 weeks of pregnancy.

6. Paternity Leave

- 6.1. The entitlement to leave is to take one or two weeks' paternity leave in a single block within eight weeks of the child's birth, or of the first day of the member of staff's partner's expected week of childbirth, if the baby is born prematurely.
- 6.2. The first week will be on full pay and the second week will be paid at the current rate of Statutory Paternity Pay (SPP) or 90% of the average weekly earnings, whichever is lowest.
- 6.3. The right to leave is available to the biological father of a child or to a person who is married to, the civil partner of, or the partner of, the child's mother. The definition of partner includes same-sex partners. To qualify for paternity leave, the member of staff must have, or expect to have, responsibility for the child's upbringing and be taking the leave to care for the child.
- 6.4. The entitlement is to only one period of leave regardless of how many children born as a result of a single pregnancy.

6.5. Where Members of Staff wish to request paternity leave in respect of a birth of a child, they must make a request in writing to their manager and submit a copy of the mother's Certificate of Confinement (MATB1 Form), the SC3 form: <http://www.hmrc.gov.uk/forms/sc3.pdf> and provide:

6.5.1. 15 weeks' notice of the date on which his/her partner's baby is due,

6.5.2. the length of paternity leave he/she wishes to take and

6.5.3. the date on which he/she wishes the leave to commence.

6.6. If a member of staff subsequently wishes to change the timing of the ordinary paternity leave, they must give 28 days' written notice of the new dates. The member of staff must also, if asked, complete and sign a self-certificate declaring that they are entitled to paternity leave and statutory paternity pay.

6.7. Ante-natal leave for fathers and partners. Members of Staff who have a qualifying relationship with a pregnant woman or an expected child are entitled to take unpaid time off work to accompany that pregnant woman at up to two antenatal appointments.

6.8. A member of staff has a qualifying relationship with a pregnant woman or her expected child if he or she:

- is the husband or civil partner of the pregnant woman;
- lives with the pregnant woman in an enduring family relationship, but is not a relative of the woman;
- is the father of the expectant child; or
- is an intended parent in a surrogacy situation who meets certain conditions.

6.9. Members of Staff will have the right to attend ante-natal appointments from day one of their employment. The right to time off is capped at a maximum of six-and-a-half hours on each occasion, which can include travelling time, waiting time and attendance.

6.10. The antenatal appointment must be made with a registered medical practitioner, midwife or nurse. The Headteacher may ask for a signed declaration confirming: the individual's relationship to the mother or her expected child; the time and date of the appointment; the purpose of the time off; and that the appointment is made on the advice of a registered medical practitioner, nurse or midwife.

7. Adoption Leave

7.1. For Members of Staff to qualify for adoption leave they must meet the following criteria:

7.1.1. They have been newly matched with a child for adoption by an approved adoption agency

- 7.2. Where the child is not newly matched for adoption, for example adopting a partner's children, Members of Staff will not be eligible for paid adoption leave.
- 7.3. Members of Staff will be entitled to 26 weeks' ordinary adoption leave immediately followed by 26 weeks' additional adoption leave.
- 7.4. Members of Staff must notify their Manager of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. Members of Staff must give the following information:
 - 7.4.1. When the child is expected to be placed
 - 7.4.2. When they want their adoption leave to begin.
- 7.5. A member of staff may change the date adoption leave begins subject to giving his/her manager 28 days' notice. The school will send written confirmation of the change.
- 7.6. Members of Staff will be required to provide their Manager with a copy of the matching certificate to confirm entitlement to adoption leave and pay.
- 7.7. Members of Staff adopting a child from overseas must give a copy of the official notification from the Secretary of State for Health to his/her manager. For further information contact the The Department for Education's Intercountry Adoption Casework Team on 0370 000 2288 and the Overseas Adoption Helpline contact on **0870 516 8742**.
- 7.8. Members of Staff can choose to begin their adoption leave:
 - 7.8.1. From a fixed date which can be up to 14 days before the expected date of placement,
 - 7.8.2. From the date of the child's placement (whether this is earlier or later than expected).
- 7.9. Adoption leave cannot begin before a child adopted from overseas has arrived in the UK.
- 7.10. Adoption leave can start on any day of the week.
- 7.11. The entitlement is to only one period of adoption leave irrespective of whether more than one child is placed for adoption as part of the same arrangement.
- 7.12. Statutory adoption leave is not meant to be used to cover the period Members of Staff spend travelling overseas to arrange the adoption.
- 7.13. All Members of Staff are protected from suffering detriment or unfair dismissal for a reason related to taking adoption leave.
- 7.14. Statutory Adoption Pay (SAP) will be paid to support staff at 90% of average weekly earnings for the first six weeks and at the lesser of the lower SAP rate per week or 90% of her/his average weekly earnings, for the remaining 33 weeks of the adoption pay period.

- 7.15. Statutory Adoption Pay (SAP) will be paid to teaching staff at full pay for the first four weeks followed by 90% of average weekly earnings for the next two weeks and at the lesser of the lower SAP rate per week or 90% of her/his average weekly earnings, for the remaining 33 weeks of the adoption pay period.
- 7.16. Where a member of staff has average weekly earnings below the Lower Earnings Limit for National Insurance contributions he/she will not qualify for SAP. Further information can be obtained from the local Jobcentre Plus Office.
- 7.17. A member of staff with at least one year's continuous service in local government at the time the child is placed will be entitled to receive a further 12 week's salary at half pay. This is on the condition that:
- 7.17.1. Support staff return for 3 months and
- 7.17.2. Teaching staff return for a period of at least 13 weeks.
- 7.18. For teachers this is an equivalent of 13 weeks full-time hours if they return to work on part-time hours having previously worked full-time or if a part-time teacher returns to work on a different part-time basis they must return for a period which equates to 13 weeks part-time service relating to their previous contract.
- 7.19. This can be paid as a lump sum on return to work, or in conjunction with SAP - but if paid in advance, it would have to be reclaimed if the member of staff does not return to work for the qualifying return period.

8. Parental Leave

- 8.1. All Members of Staff with one year's continuous service, and parental/guardian responsibilities, will be entitled to eighteen weeks' unpaid leave, (pro-rata for part-time Members of Staff) for the purpose of caring for a child up to the age of 18 years.
- 8.2. The eighteen week's entitlement relates to each child.
- 8.3. Application for Parental Leave. Members of Staff must make a request to their Headteacher. Members of Staff are required to give their line manager/head teacher the correct period of notice e.g.:
- 21 days notice for up to 4 weeks rising to
 - 60 days notice for 13 weeks
- 8.4. Applications must specify when the leave is to begin and end. Where the member of staff is the father and is taking parental leave around the time of the birth of a child, the expected week of childbirth will also be required. Where a child is being placed for adoption the date this is expected to occur should be included.

- 8.5. Postponement of leave. A Headteacher may need to postpone a period of parental leave where there will be a significant disruption to service delivery. The Headteacher must agree an alternative date with the individual for the same period of leave to be taken within 3 months of the postponement. The manager and member of staff may also wish to agree the following:
- 8.5.1. A different pattern of leave – e.g. part-time rather than full-time
 - 8.5.2. A shorter or longer period of leave
 - 8.5.3. Alternative dates within the 3 month period
- 8.6. Managers should give the member of staff notice in writing of the postponement stating:
- 8.6.1. The reason for the postponement
 - 8.6.2. The dates on which the agreed period of leave will begin and end. The member of staff should be notified no later than seven days after the original request.
- 8.7. Parental leave may not be postponed in the following circumstances:
- 8.7.1. Following Paternity leave/maternity support leave – Members of Staff wishing to take parental leave following the above leave should discuss this prior to the expected week of childbirth. Due to the unpredictability of the timing of childbirth the notice period may have to be changed.
 - 8.7.2. Following maternity – Where parental leave is taken as a full time block of leave following maternity leave, a member of staff should not be required to refund her occupational maternity pay unless she does not return to local authority employment for a period of at least 3 months after the end of the parental leave period.
 - 8.7.3. At the time of adoption – at times prior to adoption where the parent is required to be at home by the adoption process, or following adoption leave.
- 8.8. Supporting evidence. Supporting evidence will be requested by the Headteacher in the form of a copy of a MAT B1, a birth certificate or confirmation (a matching certificate) from an adoption agency.
- 8.9. Other Conditions. Members of Staff on parental leave have the same right to return to their job as those returning from maternity leave. Parental leave will be treated as continuous service.
- 8.10. Parental leave is unpaid
- 8.11. Members of Staff may take up to 18 weeks' parental leave for each child beginning on the date the member of staff becomes eligible for the entitlement i.e. either one year qualifying period or the date of a child's birth/adoption subject to the following:
- 8.11.1. The leave must be taken in single blocks of up to a maximum of 4 weeks in any one year

- 8.11.2. As a number of shorter periods of a minimum of a half day if the child receives a disability allowance
- 8.11.3. In patterns which provide a part-time or reduced hours working arrangement for a period of time equivalent to taking 18 weeks leave in a single block
- 8.11.4. Parental leave is for each child, if twins are born each parent will get 18 weeks leave for each child.
- 8.12. A week's leave is defined as follows:
- 8.13. Where a member of staff's work pattern does not vary, a week is the period that he or she normally works
- 8.14. Where the working pattern normally varies from week to week or over a longer period, or if the member of staff is normally required to work in some weeks and not in others, a week is the total of all the periods in which he or she works, divided by 52.

9. Request for Flexible Working

9.1. All members of staff have the right to apply for flexible working who:

9.1.1. Have 26 weeks' continuous service* on the date they apply

9.1.2. Have not made another application to work flexibly under the right during the past 12 months.

*Members of Staff may only count continuous service with The Circle Trust and not previous service with other local government bodies.

9.2. The changes to their working pattern that Members of Staff may request are:

9.2.1. The number of hours they are required to work

9.2.2. The times they are required to work

9.2.3. Where they are required to work

9.3. Members of Staff must apply in writing to set out a Flexible Working Request, giving the following information:

9.3.1. State whether a previous application has been made in the last 12 month period

9.3.2. Description of the member of staff's current working pattern (days/hours/times worked)

9.3.3. Set out the change that the member of staff would like to work in the future and the date they wish it to begin

- 9.3.4. Explain the effect that they believe the change will have on their school, including how it might be accommodated
- 9.3.5. Sign and date
- 9.4. The Headteacher must take advice regarding all Flexible Working requests from a Human Resource Advisor
- 9.5. If the application for Flexible Working is accepted there is a permanent change to a member of staff's terms and conditions of employment.
- 9.6. The Headteacher must consider any Flexible Working requests and arrange a meeting within **28 days** of receiving the letter requesting Flexible Working.
- 9.7. The meeting will provide an opportunity to discuss the requested work pattern in depth and how it can be accommodated. The member of staff may be accompanied by a work colleague or trade union representative. The work colleague or Trade Union Representative may ask the meeting questions and confer with the member of staff but is not permitted to answer questions on behalf of the member of staff.
- 9.8. The Headteacher must inform the member of staff of their decision within **14 days** after the meeting. If a change is agreed the Headteacher must set out in writing the agreement and date from which it takes effect.
- 9.9. If the application is refused the Headteacher must inform the member of staff setting out the grounds for refusal. The only valid grounds for refusal are:
- 9.9.1. The burden of additional costs
 - 9.9.2. A detrimental effect on the ability to meet customer demand
 - 9.9.3. The inability to re-organise the work among existing staff
 - 9.9.4. The inability to recruit additional staff
 - 9.9.5. A detrimental impact on quality
 - 9.9.6. A detrimental impact on performance
 - 9.9.7. Insufficient work during the periods the member of staff proposes to work
 - 9.9.8. Planned structural changes.
- 9.10. The Headteacher must set out in writing the decision to accept or decline the Flexible Working requests of why the business reason applies in the circumstances and state that the member of staff may appeal the decision

- 9.11. If at any stage, the Headteacher needs more time to consider the request, for example to consider alternative work patterns he or she may extend the time limit in agreement with the member of staff. Time limits will be automatically extended where the Headteacher is absent due to sickness or annual leave when the application is received. The 28-day period begins when the Headteacher returns to work.
- 9.12. If the member of staff withdraws the application the Headteacher should write and ask for this to be confirmed in writing.
- 9.13. The application can also be treated as withdrawn if the member of staff fails to attend a meeting more than once without a reasonable explanation or unreasonably refuses to provide the information the Headteacher requires determining whether the change to the member of staff's working pattern can be agreed to. Where this occurs the Headteacher must write to the member of staff to confirm that the application has been withdrawn.
- 9.14. A member of staff may appeal against the Headteacher's Flexible Working decision.
- 9.15. The appeal must be made in writing and must clearly set out the grounds of appeal within 14 days after the date the member of staff was notified of the decision by the Headteacher.
- 9.16. Any appeal will be heard by a panel of Local Advisors.
- 9.17. The Appeals Panel will be made up of three Local Advisors who have no previous involvement or knowledge of the case. The Appeals Panel may be advised by a Human Resources Advisor.
- 9.18. An appeal meeting heard by a panel of Local Advisors must be held within 14 days of receiving the member of staff's notice of appeal.
- 9.19. A member of staff will have the right to be accompanied at the appeal by a colleague who also works for the School or a Trade Union Representative. The colleague or Trade Union Representative will have the right to address the meeting and confer with the member of staff during the hearing, but will not be permitted to answer questions on the member of staff's behalf.
- 9.20. If the member of staff's colleague or Trade Union Representative cannot attend on the date proposed for the hearing then the meeting must be postponed to a date convenient to all parties providing this is within 7 days beginning the day after the original appeal hearing date
- 9.21. The Appeals panel will be conducted in accordance to the process set out below:
 - 9.21.1. Appeals Panel appoints a Chair and Clerk
 - 9.21.2. Appeals Panel Chair introduces everyone and what their role is
 - 9.21.3. The Member of Staff will state their case

- 9.21.4. Chair asks questions of the Member of Staff
- 9.21.5. Chair invites panel (if applicable) and Headteacher to also ask questions
- 9.21.6. Headteacher will state their case
- 9.21.7. Chair asks questions of the Headteacher
- 9.21.8. Chair invites panel (if applicable) and Member of Staff to ask questions of the Headteacher
- 9.21.9. Chair to sum up
- 9.21.10. Chair ends the hearing and advises the Member of Staff that will let him/her have the panel's decision in writing within a 7 day timescale
- 9.21.11. Chair to adjourn hearing to deliberate (all depart with the exception of the Clerk and H.R. Advisor)
- 9.22. Appeal panel's Decision-making
 - 9.22.1. Clerk notes main points of panel discussion and their decision
 - 9.22.2. Panel obtains HR advice if required to inform their decision-making
 - 9.22.3. Panel considers the information they have heard
 - 9.22.4. Communication of decision is confirmed and actioned
 - 9.22.5. Decision and reason for the decision confirmed in writing