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Shared Parental Leave and Pay Policy 2020-2024

(This policy is derived from the WSCC Model Policy of the same name – March 2015
For Guidance- see WSSfS)

Approved by Governors Spring 2020

Turn your ear to wisdom and apply your heart to understanding (Proverbs 2:2)

Broadwater is a Christian School. We will enable children to become wise, confident, successful learners with the motivation, skills and responsibility to make a positive difference in God's world. Our vision is underpinned by the values we live by.

The Holy Spirit produces this kind of fruit in our lives: love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, and self-control. There is no law against these things! Galatians 5:22

It is this fruit that, in partnership with parents, we will instil in the children of our school.

1. Introduction

Statutory shared parental leave and statutory shared parental pay will be available for eligible employees:

- Whose baby is due on or after 5 April 2015; or
- Who have a child placed with them for adoption on or after 5 April 2015 (including “Foster to Adopt” arrangements) or, in cases of overseas adoptions, where the child enters Great Britain on or after that date; or
- Parental order parents in surrogacy arrangements.

The intention of shared parental leave and pay is to allow families more choice over how they look after their child in the first year after their child’s birth/ placement for adoption. Mothers/adopters who are eligible for statutory maternity/adoption leave and pay can choose to bring both to an early end and share the balance with their partner as statutory shared parental leave and pay. In contrast to maternity, adoption and paternity leave, eligible employees will be able to stop and start their shared parental leave and pay and return to work between periods of leave if they wish. Both parents can take shared parental leave and pay simultaneously.

In families where both parents are employed and meet the qualifying requirements for shared parental leave and pay, they will need to decide how to divide the leave and pay entitlement between them. Leave or pay taken by one parent will reduce the amount of leave and pay that is available to the other parent.

Existing rules on statutory maternity leave and pay, statutory maternity allowance, statutory adoption leave and pay and statutory ordinary paternity leave and pay will remain the same. Statutory additional paternity leave will be removed with effect from 5 April 2015 (as this is being replaced by shared parental leave and pay). West Sussex County Council (WSSCC) Maternity Leave and Pay, Adoption Leave and Pay and Maternity Support and Paternity Leave (with the exception of the Additional Paternity Leave arrangements) Policies (adopted by the School) will remain.

Shared parental leave should not be confused with parental leave, which is unaffected by shared parental leave. Parental leave is the entitlement to up to 18 weeks’ unpaid leave for each child up to the age of 18 years. The arrangements for parental leave are covered in the School’s Parental Leave Policy.

2. Aim

The aim of this policy is to outline an employee’s entitlements to statutory shared parental leave and pay, and to explain the actions that need to be taken by an employee and their line manager/headteacher for shared parental leave and pay to be taken.

As the legislation providing shared parental leave and pay is complex, we have included a number of Case Studies and Frequently Asked Questions with the Shared Parental Leave

and Pay Guidance Document, which will hopefully help employees understand the flexibilities available and how these may be applied.

3. Scope

This policy applies to all employees of the School.

It applies to employees on WSCC permanent, temporary and fixed term contracts, employees working full or part time hours, and those in their first year of employment.

4. Terminology and Definitions

Throughout this document and the accompanying guidance:

- All references to shared parental leave and pay refer to statutory shared parental leave and pay entitlements only. Occupational shared parental leave and pay are not available;
- All references to shared parental leave and pay are subject to the employee meeting the eligibility criteria, which are detailed in the Shared Parental Leave Guidance Document.

The following definitions are used in this policy:

- "Mother" means the mother or expectant mother of the child;
- "Partner" means the father of the child, or the person who, at the date of the child's birth or date/placement for adoption, is married to, the civil partner of, or the partner of the mother/adopter. This includes someone, of either sex, who lives with the mother/adopter and the child in an enduring family relationship (but who is not the mother/adopter's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew);
- "Parent(s)" means mother/adopter or partner;
- "Expected week of childbirth" means the week, starting on a Sunday, during which the mother's doctor or midwife expects her to give birth;
- "Adopter" means the person with whom the child is, or is expected to be, placed for adoption or, in a case where two people have been matched jointly, whichever of them has elected to be the child's adopter for the purposes of the Paternity and Adoption Leave Regulations 2002(a);
- "Prospective adopter" means a person who has been approved as suitable to adopt child and has been notified of that decision in accordance with regulation 30B(4) of the Adoption Agencies Regulations 2005(4);
- "Adoption" means an Adoption Order has been made by the court on an application under section 50 or 51 of the Adoption and Children Act 2002 giving parental responsibility for a child to the adopters or adopter;

- "Matched for adoption" means an adoption agency deciding that a person would be a suitable adoptive parent for a child either individually or jointly with another person. A person is notified of having been "matched for adoption" with a child on the date on which the person receives notification of the adoption agency's decision;
- "Placed for adoption" means:
 - Placed for adoption under the Adoption and Children Act 2002(1); or
 - Placed in accordance with section 22C of the Children Act 1989(3) with a local authority foster parent who is also a prospective adopter ("Foster to Adopt" arrangements).
- "Date of placement for adoption" means the date the child is placed for adoption;
- "Parental order" means the legal document which permanently reassigns parenthood of a child born through surrogacy so that the intended parents become the legal parents;
- "Surrogacy arrangement" means where a person applies, or intends to apply, with another person for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008.

5. Employee Entitlements

Subject to meeting the relevant qualifying criteria, employees are entitled to:

- Up to 50 weeks of untaken statutory maternity/adoption leave can be converted to statutory shared parental leave. This can be taken continuously (one period of leave asked for in one request) or discontinuously (separate periods of leave asked for in one request), subject to agreement;
- Up to 37 weeks of untaken statutory maternity/adoption pay can be converted to statutory shared parental pay;
- The right to return to their job, or a similar job on terms and conditions no less favourable, at the end of their shared parental leave.

6. Eligibility for Shared Parental Leave

Shared parental leave applies to employees regardless of whether they are the mother/adopter or the partner. For employees to be eligible to take shared parental leave, both parents must meet certain eligibility requirements and these are detailed in the Shared Parental Leave and Pay Guidance Document.

The mother/adopter has overall discretion to continue on maternity/adoption leave or to opt to take shared parental leave. The mother/adopter also has discretion for identifying who they are willing to share their leave with.

7. Amount of Shared Parental Leave Available

Mothers/adopters who are eligible for statutory maternity/adoption leave and pay can choose to bring both to an early end, and share the balance with their partner as statutory shared parental leave and pay.

Before a mother/adopter can commence shared parental leave, they must bring their maternity/adoption leave to an end. They would then be entitled to share the remaining amount of maternity/adoption leave with their partner as shared parental leave.

Before the mother/adopter's partner can commence shared parental leave, the mother/adopter must either end, or give notice to end, their maternity/adoption leave. In this situation, their partner could share the remaining maternity/adoption leave as shared parental leave (and the mother/adopter could still be on maternity/adoption leave).

Shared parental leave and pay cannot begin before the birth/placement for adoption, and must be taken within 52 weeks of the birth of the child/placement for adoption (i.e. the day before the child's first birthday or the first anniversary of the placement of an adopted child). The amount of shared parental leave to which an individual is entitled will depend on when the mother/adopter brings their maternity/adoption leave period to an end.

The first two weeks following birth/placement for adoption are the compulsory maternity/adoption leave period and are reserved for the mother/adopter. Consequently, the mother/adopter cannot bring their maternity/adoption leave to an end to take shared parental leave until two weeks after the birth/placement for adoption. This means that the maximum period that the parents could take as shared parental leave is 50 weeks between them.

The mother/adopter's partner can begin a period of shared parental leave at any time from the date of the child's birth/placement for adoption. However, the partner should bear in mind that they are entitled to take up to two weeks' ordinary paternity leave following the birth of the child/date of placement for adoption, which they would lose if shared parental leave is taken first.

Shared parental leave must be taken in blocks of at least one week.

As shared parental leave must be taken in blocks of at least a week, if a mother/adopter takes 51 weeks or more of the 52 weeks of maternity/adoption leave that is available, no shared parental leave can be taken. This is because only the untaken balance of maternity/adoption leave can be taken as shared parental leave, and in the above case there is insufficient available.

8. Notice Requirements for Shared Parental Leave

There are three different types of notice that parents need to give their employer to be able to take shared parental leave. They are:

Mother/adopter's notice of ending their maternity/adoption leave:

- Unless the mother/adopter has already returned to work from maternity/adoption leave, in order for their partner to take shared parental leave, they need to give notice to end their maternity/adoption leave early. This is called the "Maternity/Adoption Leave Curtailment Notice";

Employee's initial notice of what leave they want:

- Employees need to give an initial, non-binding indication of each period of shared parental leave that they are requesting. It is a non-binding notice because the employee can vary or cancel the proposed shared parental leave dates. This is called the "Notice of Entitlement and Intention";

Employee's notice of the actual dates they wish to take shared parental leave:

- To take a period of shared parental leave, the employee must give a written notice setting out the start and end dates of each period of shared parental leave requested. This is called the "Period of Leave Notice".

There are also other types of notice to cover situations such as the withdrawal of notice to end maternity/adoption leave. Further information on the arrangements for the various notices is contained in the Shared Parental Leave Guidance Document.

There is an eight week notice period to request shared parental leave. However, some of the other notices have different notice periods by which they must be submitted, which are detailed in the Shared Parental Leave and Pay Guidance Document.

9. Periods of Shared Parental Leave

The employee can request to take shared parental leave:

Either:

- In one continuous block (in which case their line manager/headteacher is required to accept the request, as long as the employee meets the eligibility and notice requirements); or
- As a number of discontinuous blocks of leave, (in which case the employee needs the agreement of their line manager/headteacher).

A maximum of three requests for shared parental leave can normally be made by each parent. These can consist of a request for a continuous block of leave, a pattern of discontinuous leave or a variation to an earlier request.

Parents may take it in turns to take time off, have time off together or decide to arrange alternative childcare and both return to work at the same time, before taking further shared parental leave at a later date.

10. Continuous Period of Shared Parental Leave

If the employee submits a period of leave notice requesting one continuous period of leave, they will be entitled to take that period of leave.

11. Discontinuous Periods of Shared Parental Leave

The employee may submit a period of leave notice requesting discontinuous periods of leave. For example, the mother/adopter and partner could request a pattern of leave from their respective employers that allows them to alternate childcare responsibilities.

If the employee submits a period of leave notice requesting discontinuous periods of leave, the line manager/headteacher has two weeks (from the date the employee submits their notice) to:

- Agree to the pattern of leave requested; or
- Propose an alternative pattern of leave; or
- Refuse the pattern of leave requested.

If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, the employee is entitled to take the leave as one continuous period of leave.

Alternatively, if their line manager/headteacher has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw a period of leave notice requesting discontinuous periods of leave.

If the employee chooses to take continuous leave, the employee must choose a start date for the leave that is at least eight weeks from the date on which the period of leave notice was originally given. The employee must notify their line manager/headteacher of that date within five days of the end of the two-week discussion period. If the employee does not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date of the first period of leave requested in the period of leave notice.

If the employee wishes to withdraw the notice of discontinuous leave, they may do so at any time on or before the 15th day after the period of leave notice was given. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make.

12. Eligibility for Shared Parental Pay

For employees to be eligible for shared parental pay, both parents must meet certain eligibility requirements, which are detailed in the Shared Parental Leave and Pay Guidance Document.

An employee will only qualify for shared parental pay if they qualify for statutory maternity, adoption or paternity pay. A mother who qualifies for statutory maternity allowance but not statutory maternity pay will not qualify for shared parental pay, but their employed partner might.

13. Amount of Shared Parental Pay Available

Shared parental pay is available for eligible parents to share between them while on shared parental leave. The amount of shared parental pay available to the parents will depend on how much statutory maternity pay, maternity allowance or adoption pay the mother/adopter has been paid when their maternity/ adoption leave or pay period ends.

A total of 39 weeks' statutory maternity/adoption pay and, maternity allowance is available to the mother/adopter. As there is a compulsory maternity/adoption leave period of two weeks immediately after birth/placement for adoption, this means that a mother/adopter would have up to 37 weeks' statutory maternity/ adoption pay or maternity allowance left. The mother/adopter or their partner could then replace this remaining maternity/adoption pay or maternity allowance with shared parental pay during shared parental leave. It is up to the parents to decide who is paid the statutory shared parental pay, and how it is apportioned between them.

Where a mother/adopter takes 38 weeks or more of statutory maternity/ adoption pay or maternity allowance, then no statutory shared parental pay can be taken.

Before a mother/adopter can commence shared parental pay, they must bring their maternity/adoption leave to an end. They would then be entitled to share the remaining amount of statutory maternity/adoption pay or maternity allowance with their partner as shared parental leave.

Before the mother/adopter's partner can commence shared parental leave, the mother/adopter must either end, or give notice to end, their maternity/adoption leave. This means their partner could share the remaining statutory maternity/adoption pay or maternity allowance as shared parental pay (and the mother/adopter could still be on maternity/adoption leave).

Consequently, the mother/adopter could either:

- End their maternity/adoption leave and share up to 37 weeks' shared parental pay with their partner. This means both the mother/adopter and partner could be on shared parental leave and pay at the same time; or
- If the mother/adopter is in receipt of occupational maternity/adoption pay (which includes statutory maternity/adoption pay or maternity allowance - such as that provided by WSCC), they could give a maternity/adoption leave curtailment notice, stating when they wanted their maternity/adoption leave to end. This would mean that their partner could take shared parental leave and receive any remaining statutory maternity/adoption pay or maternity allowance as shared parental pay. This would allow the mother/adopter and their partner could be on leave at the same time, with the

mother/adopter in receipt of occupational maternity/adoption pay and their partner in receipt of statutory shared parental pay.

Any shared parental pay due during shared parental leave will be paid 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.

14. Annual Leave During Shared Parental Leave

- Whilst an employee is on shared parental leave their service is considered to be continuous for the purposes of calculating annual leave. Therefore, employees continue to accrue annual leave and bank holidays. For part-time employees, accrual of bank holidays will be on a pro-rata basis using the same principles as in the WSCC Guidance on Bank and Statutory Holidays for Part-time Employees (namely, there will be a percentage reduction of entitlement to bank holidays depending on the employee's contracted hours).
- It is important that employees agree with their line manager/headteacher in advance how they intend to take their annual leave, as there is no right to carry over into the next annual leave year more than the number of days stated in the employee's contract of employment.
- With the prior agreement of the employee's line manager/headteacher, annual leave may be taken before the employee commences shared parental leave, and/or immediately after shared parental leave has finished. Annual leave can be taken during shared parental leave. However, it should be noted that because annual leave is considered to be returning to work, taking annual leave during a period of shared parental leave would cause a break in the shared parental leave period.
- For 'Term Time Only' employees, entitlement to annual leave and bank holidays will continue to accrue during shared parental leave. This entitlement will normally be offset against any periods of school closure falling before or after the shared parental leave period(s) in each leave year. In cases where a term time only employee does not return to work after a period of shared parental leave, and there is outstanding annual leave accrued, this can be taken as payment in lieu. For the purposes of calculating statutory annual leave entitlement, the leave year runs from the date of the anniversary of employment.

Arrangements for teachers:

Teachers do not have a contractual right to paid annual leave but they do have a right to statutory annual leave under the Working Time Regulations. When an employee is on shared parental leave their entitlement to statutory annual leave continues to accrue. Teachers will normally take this leave either before or after their shared parental leave during school closure periods. In cases where a teacher does not return to work after a period of shared parental leave and there is outstanding annual leave accrued, this can then be taken as payment in lieu at the rate of 1/260 of pay for each day accrued. For the purposes of calculation of

statutory annual leave entitlement, the leave year runs from 1st September to 31st August.

15. Keeping in Contact During Shared Parental Leave

Whilst on shared parental leave the employee's line manager/headteacher should maintain reasonable contact with the employee. The purpose of this is to keep them updated about developments at work and matters concerning their job, which they would normally be aware of if working. The line manager/ headteacher and employee should agree the level and frequency of contact prior to the employee commencing shared parental leave.

16. 'Shared Parental Leave in Touch' Days

To assist an employee with their return to work they may, by mutual agreement, work up to 20 'shared parental leave in touch' (SPLIT) days. A SPLIT day can be used to attend training sessions or meetings (providing these are related to the employee's job) as well as carrying out aspects of the employee's job.

Whilst on shared parental leave an employee may not carry out any work for the School without bringing the shared parental leave to an end. The only exception to this are the SPLIT days.

There is no obligation for an employee to work a SPLIT day if it is offered, and likewise an employee cannot insist that the School provide them with a SPLIT day.

Any work done on a particular day is counted as using one SPLIT day. For example, if an employee agrees with their line manager/headteacher that they will attend a training course and the course lasts two hours, this is counted as using one SPLIT day. Likewise, if another employee works a night shift, although this stretches over two dates, it is counted as one SPLIT day.

All employees of WSCC including centrally employed teachers and teachers employed in schools: if a SPLIT day is worked during the paid period of shared parental leave an employee will be paid their shared parental pay, plus the hours worked. The total payment will be limited to no more than what they would receive for a normal full day's pay.

Please note that these payment arrangements for SPLIT days for all staff are based on those detailed in the current WSCC Maternity and Adoption Policies. If any national or other agreement is reached which changes these arrangements, we reserve the right to amend this policy accordingly.

An employee working a SPLIT day during the shared parental leave unpaid period will be paid their normal hourly rate of pay for the hours actually worked.

Should any work be undertaken during shared parental leave, this will not extend the total duration of the shared parental leave period.

If a mother/adopter has already taken 'keeping in touch' (KIT) days during maternity/adoption leave, this does not affect the number of SPLIT days available to them under the shared parental leave policy.

17. Pension Contributions During Shared Parental Leave

The arrangements for pension contributions for the LGPS, FPS and NFPS, TPS and NHS Schemes are detailed in the Shared Parental Leave Guidance Document.

18. Employment Rights During Shared Parental Leave

During shared parental leave, the employee is entitled to benefit from all their normal terms and conditions of employment with the exception of pay. Instead of receiving their normal pay, the employee will receive shared parental pay, subject to eligibility.

Shared parental leave does not break continuity of service. Any period of shared parental leave is counted as continuous service for the calculation of statutory employment rights (such as redundancy payments) and other contractual payments relating to length of service (such as occupational sick pay).

An employee is protected from detriment and from unfair dismissal connected with the taking of shared parental leave, regardless of hours worked or length of service.

If an employee is made redundant whilst on shared parental leave, they are entitled to be offered a suitable alternative vacancy if one arises.

The HR Management Advice Team must be contacted before taking any action to dismiss an employee who is on shared parental leave (West Sussex Services for Schools).

19. Employment Rights on Returning to Work

Right to return to the same job:

- The employee has the right to resume working in the same job when returning to work from shared parental leave if the period of leave, (when added to any other period of shared parental leave, statutory maternity, adoption or paternity leave) taken by the employee in relation to the same child, is 26 weeks or less; or
- If the total period of leave is more than 26 weeks, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional maternity/adoption leave, the employee has the right to return to the same job unless this is not reasonably practicable;
- In these circumstances, if it is not reasonably practicable for the organisation to permit a return to the same job, the employee has the right to be offered another similar job on terms and conditions no less favourable to their original job.

20. Other Arrangements for Returning to Work

Return to work is delayed because of sickness absence:

- If a mother/adopter/partner is unable to return to work due to sickness at the end of their shared parental leave, they should notify their line manager/ headteacher through the normal sickness absence reporting procedure. They will be required to provide medical certificates as normal. This absence will be treated as sickness absence and the usual sick pay provisions will apply.

Taking annual leave immediately following shared parental leave:

- An employee may submit a request to their line manager/headteacher to take annual leave immediately following the end of shared parental leave.

Return to work is delayed due to an interruption to work by industrial action or other unforeseen circumstances not related to the employee:

- If an employee is prevented from returning to work at the end of their shared parental leave because of industrial action or other unforeseen circumstances not related to the employee, they may instead return to work when work resumes, or as soon as is reasonably practicable thereafter.

Risk Assessments and health and safety on return from shared parental leave:

- The line manager/headteacher is responsible for carrying out a second risk assessment where a mother returns to work within 6 months of giving birth, or if she continues to breastfeed upon her return. The first risk assessment is done when the line manager/headteacher is notified that the employee is pregnant. Guidance on how to carry out this risk assessment are provided at: WSCC: [New and Expectant Mother's Guidance](#) and schools: [New and Expectant Mother's Guidance](#).
- Employees intending to continue breastfeeding upon return to work must notify their line manager/headteacher as soon as possible so that appropriate arrangements can be organised. The Health and Safety Executive recommends employers to provide a safe, healthy and private environment for breastfeeding mothers to express and store milk. Line managers/ headteachers should accommodate this where reasonably practicable and safe (toilet facilities are not suitable for this purpose). The Health and Safety Team can provide advice as to how this can best be achieved.