

Honiton Community College Academy Trust



This policy was adopted by the Governing Body of
Honiton Community College Academy Trust
on 25th March 2015
and will be reviewed in every 3 years.

Policy updated by Foot Anstey (Solicitors) to reflect changes in the law and/or the introduction of SPL (Shared Parental Leave). Shared Parental Leave is a form of leave that may be available if your child is expected to be born on or after 5 April 2015 or where an adoption agency places a child with you and/or your partner on or after 5 April 2015.

**PATERNITY
POLICY**

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Introduction

This policy outlines your entitlement to paternity leave and sets out the arrangements for taking it. The policy does not apply to agency workers or the self-employed.

This policy does not form part of your contract of employment and the College may amend it at any time.

Definitions

The following definitions apply in this policy:

- **Partner:** someone (whether of a different sex or the same sex) with whom you live in an enduring family relationship, but who is not your parent, grandparent, sister, brother, aunt or uncle.
- **Expected Week of Childbirth:** the week, beginning on a Sunday, in which their doctor or midwife expects your spouse, civil partner or Partner to give birth.
- **Expected Placement Date:** the date on which an adoption agency expects that it will place a child into your care with a view to adoption.
- **Qualifying relationship:** an employee or agency worker has a qualifying relationship with a woman or her expected child if they meet any of the following criteria:
 - They are the pregnant woman's husband or civil partner.
 - They live with the woman (whether in a heterosexual or same-sex relationship) in an enduring family relationship and are not a relative of the woman.
 - They are the expected child's father.
 - They are one of a same-sex couple who is to be treated as the child's other parent under the assisted reproduction provisions in either *section 42* or *43* of the Human Fertilisation and Embryology Act 2008 (HFEA 2008).
 - They are the potential applicant for a parental order under *section 54* of the HFEA 2008 in relation to a child who is expected to be born to a surrogate mother.

The Personnel Committee has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework.

The Personnel Committee ensures the policy's maintenance and review and has delegated to the Principal day-to-day responsibility for operating the policy.

Managers have a specific responsibility to ensure the fair application of this policy and all members of staff are responsible for supporting colleagues and ensuring its success.

Time off for antenatal appointments

An employee who has a "qualifying relationship" with a pregnant woman or her expected child is entitled to take time off during their working hours to accompany the woman to antenatal appointments.

The amount of time off that an employee may take off is limited to no more than two occasions lasting no more than six and a half hours each (which includes travelling time, waiting time and attendance at the appointment).

Entitlement to paternity leave

Certain employees can take paternity leave in relation to the birth or adoption of a child. However, in adoption cases paternity leave is not available to an employee who decides to take adoption leave. Further details of adoption leave are set out in our Adoption Policy.

You are entitled to ordinary paternity leave (OPL) if you meet all the following conditions:

- (a) You have been continuously employed by the College for at least 26 weeks ending with:
 - i) in birth cases, the week immediately before the 15th week before the Expected Week of Childbirth.
 - ii) in adoption cases, the week in which you or your Partner are notified by an adoption agency that you/they have been matched with a child.
- (b) You:
 - i) are the biological father of the child;
 - ii) have been matched with a child by an adoption agency;
 - iii) are the spouse, civil partner or Partner of the child's mother; or
 - iv) are the spouse, civil partner or Partner of someone who has been matched with a child by an adoption agency.
- (c) You:
 - i) expect to have main responsibility (with the child's mother, co-adopter or adopter) for the child's upbringing; or

- ii) are the child's biological father and you expect to have some responsibility for the child's upbringing.
- (d) Your intended leave is for the purpose of caring for the child, or supporting the child's mother, adopter or co-adopter in caring for the child.

Timing and length of paternity leave

OPL is for two weeks. It must be taken as a period of either one week or two consecutive weeks. It cannot be taken in instalments.

OPL can be taken from the date of the child's birth or adoption placement, but must end:

- (a) In birth cases:
 - i) within 56 days of the child's birth; or
 - ii) if they were born before the first day of the Expected week of Childbirth, within 56 days of the first day of the Expected Week of Childbirth.
- (b) In adoption cases, within 56 days of the child's placement.

Notification (birth)

If you wish to take OPL in relation to a child's birth, you must give us notice in writing of your intention to do so and confirm:

- (a) The Expected Week of Childbirth;
- (b) Whether you intend to take one week's leave or two consecutive weeks' leave; and
- (c) When you would like to start your leave. You can state that your leave will start on:
 - i) the day of the child's birth;
 - ii) a day which is a specified number of days after the child's birth; or
 - iii) a specific date later than the first date of the Expected Week of Childbirth.

You must give notice (see Notification (Birth)) before the 15th week prior to the Expected Week of Childbirth (or, if this is not possible, as soon as you can).

We may require a signed declaration from you that you are taking OPL for a purpose for which it is intended; namely, to care for the child or to support the child's mother in caring for the child.

Notification (adoption)

If you wish to take OPL in relation to the adoption of a child, you must give us notice in writing of your intention to do so and confirm:

- (a) The date on which you and/or your spouse, civil partner or Partner were notified of having been matched with the child, together with the Expected Placement Date;
- (b) Whether you intend to take one week's leave or two consecutive weeks' leave; and
- (c) When you would like to start your leave. You can state that your leave will start on:
 - i) the day on which the child is placed with you or the adopter;
 - ii) a day which is a specified number of days after the child's placement; or
 - iii) a specific date later than the Expected Placement Date.

You must give notice no more than seven days after you and/or your spouse, civil partner or Partner were notified of having been matched with the child (or, if this is not possible, as soon as you can).

We may require a signed declaration from you that you are taking OPL for a purpose for which it is intended; namely, to care for the child or to support your spouse, civil partner or Partner in caring for the child.

Changing the dates of OPL

Where you are to take OPL in respect of a child's birth, you can give us written notice to vary the start date of your leave from that which you originally specified in the notice given under the paragraph titled "Notification (Birth)" above. This notice should be given:

- (a) Where you wish to vary your leave to start on the day of the child's birth, at least 28 days before the first day of the Expected Week of Childbirth.
- (b) Where you wish to vary your leave to start a specified number of days after the child's birth, at least 28 days (minus the specified number of days) before the first day of the Expected Week of Childbirth.

- (c) Where you wish to vary your leave to start on a specific date (or a different date from that you originally specified), at least 28 days before that date.

Where you are to take OPL in respect of a child's adoption, you can give us written notice to vary the start date of your leave from that which you originally specified in the notice given under the paragraph titled "Notification (adoption)" above. This notice should be given:

- (a) Where you wish to vary your leave to start on the day that the child is placed with you or the adopter, at least 28 days before the Expected Placement Date.
- (b) Where you wish to vary your leave to start a specified number of days after the child's placement, at least 28 days (minus the specified number of days) before the Expected Placement Date.
- (c) Where you wish to vary your leave to start on a specific date (or a different date from that you originally specified), at least 28 days before that date.

If you are unable to give us 28 days' written notice of the wish to vary the start of your leave as set out above, you should give us written notice of the change as soon as you can.

Statutory paternity pay

In this paragraph, Relevant Period means:

- (a) In birth cases, the eight-week period ending with the 15th week before the Expected Week of Childbirth.
- (b) In adoption cases, the eight-week period ending immediately before the week in which you or your spouse, civil partner or Partner were notified of being matched with the child.

If you take OPL in accordance with this policy, you will be entitled to ordinary statutory paternity pay (OSPP) if, during the Relevant Period, your average weekly earnings are not less than the lower earnings limit set by the government.

Contractual paternity pay

Please see Appendix 1 which sets out employees' entitlement to contractual paternity pay.

Any contractual paternity pay will be inclusive of statutory paternity pay.

Terms and conditions during OPL

All the terms and conditions of your employment remain in force during OPL, except for the terms relating to pay. In particular:

- (a) benefits in kind shall continue;
- (b) annual leave entitlement under your contract shall continue to accrue;
and
- (c) pension benefits shall continue (see the "Pensions" clause below).

Annual leave

During OPL, annual leave will accrue at the rate provided under your contract. Annual leave cannot usually be carried over from one holiday year to the next. If the holiday year is due to end during your paternity leave, you should ensure that you have taken the full year's entitlement before starting your paternity leave.

Teachers only:

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

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

You will not be entitled to a payment in lieu of untaken annual leave. However, payment in lieu may be necessary, if you decide not to return to your job following your paternity leave. Payment will be made in accordance with the Working Time Regulations and will not be pensionable.

Public and extra statutory holiday entitlement during paternity leave (not applicable to teachers)

Full time employees:

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

Part time employees:

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

Term time employees:

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

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

Pensions

Teachers:

During the period of paid paternity leave, pension contributions will be paid and deducted from your pay in the usual manner. Your contributions will be based on the pay you get while absent. The service will count as normal for pension purposes i.e. as if you had been at work.

All other staff:

During the period of paid paternity leave, if you are a member of the Local Government Pension Scheme, you will pay basic pension contributions on the pay actually received but the College will pay pension contributions on the pay you would have received had you been at work (notional pay). The service will count as normal for pension purposes i.e. as if you had been at work.

You can, within 30 days of returning to work or the termination of your contract if you do not return, elect to pay the relevant pension contributions in respect of this unpaid period. You will need to notify Bursar of your decision to pay

contributions during this unpaid period and you will need to complete the appropriate paperwork.

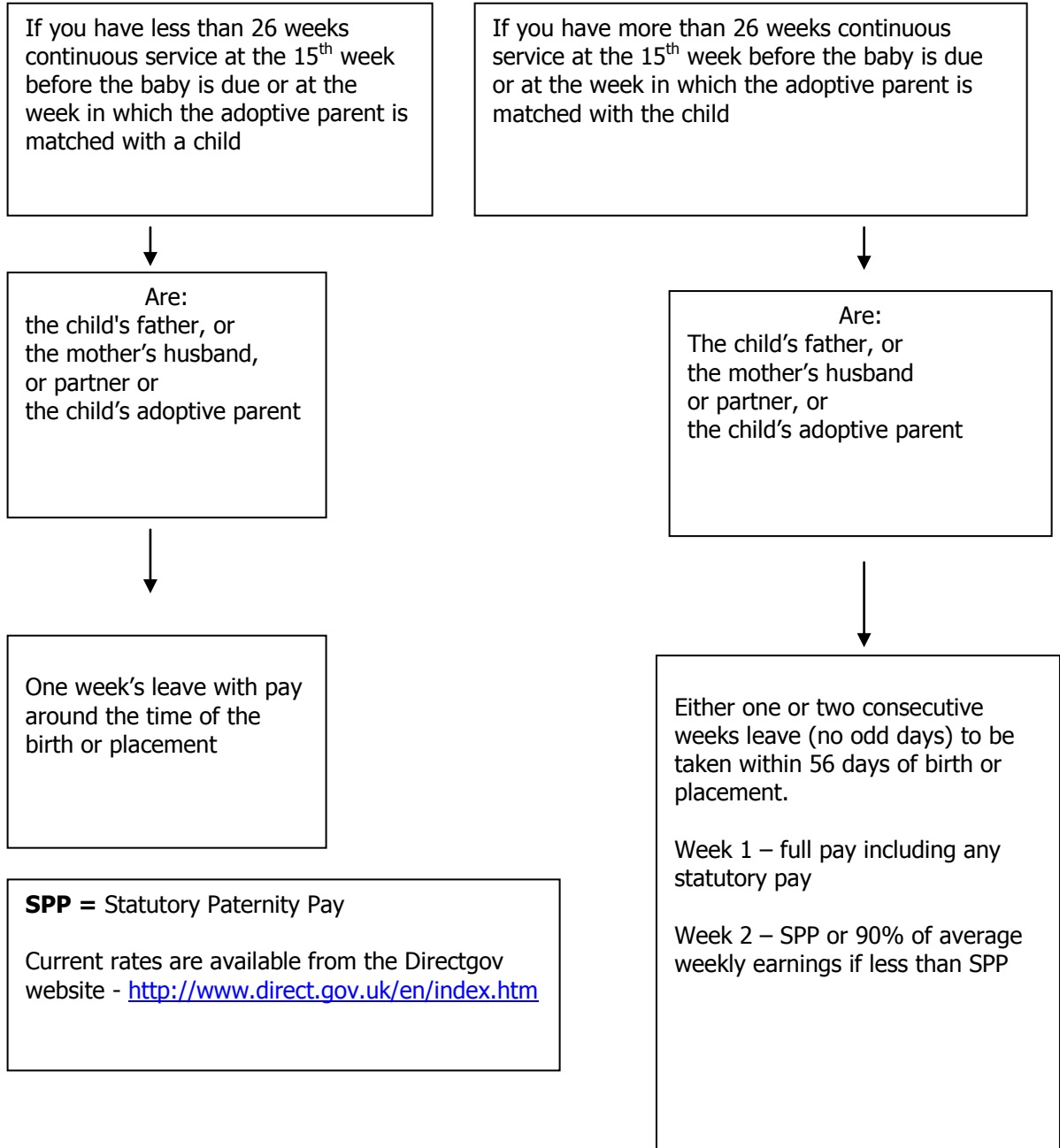
Returning to work

We will deal with any requests by employees to change their working patterns (such as working part-time) after paternity leave on a case-by-case basis. We will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the College. It is helpful if requests are made as early as possible. Please refer to our flexible working request policy.

If you do not intend to return to work or are unsure, it is helpful if you discuss this with us as early as possible. If you decide not to return you should submit your resignation in accordance with your contract. Once you have done so you will be unable to change your mind without our agreement.

This does not affect your right to receive SPP.

Appendix 1 – Paternity and Adoption Support Scheme Eligibility and Entitlements



Document Change History

- Major review of the policy by solicitors (Foot Anstey) – May 2014.
- Review of policy by solicitors (Foot Anstey) – January 2015. Policy updated by Foot Anstey to reflect changes in the law and/or the introduction of SPL (Shared Parental Leave). Shared Parental Leave is a form of leave that may be available if your child is expected to be born on or after 5 April 2015 or where an adoption agency places a child with you and/or your partner on or after 5 April 2015.