

Family Friendly Policy

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Policy Disclaimer

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- **ANY REFERENCE TO THE CEO ALSO NOW REFERS TO THE DEPUTY CEO**

1. Introduction

- 1.1 WHMAT recognises that the rights and responsibilities of employees and their managers can be complicated in the event of maternity, paternity and adoption. The Purpose of this Policy is a) to explain the relevant processes and requirements to affected staff; b) to encourage consistency & fairness in the treatment of staff across WHMAT; and c) to provide an opportunity for WHMAT employees to integrate the development of a career with family responsibilities.
- 1.2 This document sets out the rights and responsibilities of employees, HR and their managers when staff are pregnant and wish to benefit from maternity leave, adoptive leave, shared parental leave and/or ordinary parental leave.

2. Scope

- 2.1 The Policy applies to all eligible employees employed by WHMAT.

3. Principles & Definitions

- 3.1 Maternity, paternity and adoptive leave provisions refer to the leave and pay to which employees may be entitled, and their right to resume employment with WHMAT, following the period of leave.
- 3.2 All employees have the right not to be subjected to a detriment on the grounds of pregnancy, childbirth or maternity, irrespective of hours of work or service and have the right to demand a written statement of the reasons for dismissal, if dismissed while pregnant.
- 3.3 "Expected week of childbirth" means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.
- 3.4 For statutory purposes, "qualifying week" means the 15th week before the expected week of childbirth.
- 3.5 For the purpose of this Scheme (as distinct from statutory rights) continuous teaching service shall be defined as continuous service as a teacher employed by one or more local authorities and/or governing bodies of voluntary aided and foundation schools maintained by local authorities and with Washwood Heath Multi Academy Trust.

4. Antenatal care

- 4.1 All pregnant employees, irrespective of length of service, have a statutory right to reasonable paid time off work to keep appointments for antenatal care prescribed by a doctor, midwife, nurse or health visitor. This will include scans and other essential appointments. Relaxation and/or parent craft classes may be included at the discretion of WHMAT, if they are recommended by a midwife or GP.

- 4.2 To be entitled to take time off for antenatal care, the employee is required to produce a certificate from their doctor, registered midwife or health visitor, stating that she is pregnant (MATB1). Except in the case of the first appointment, the employee should also produce evidence of the appointment, such as MAT B1 (if available) and appointment card to their line manager and/or cover. This request should be made in good time before the appointment, unless there are exceptional circumstances (See Special Leave of Absence policy for form to complete or letter in employee toolkit). The employee should factor in travelling and waiting time to their leave request and, wherever possible, try to request appointments as near to the start or the end of the working day as possible. This should help cover arrangements to be made and cause less disruption for pupils.
- 4.3 The right is to take paid time off during working hours and the employee will not be asked to make the time up at another time.
- 4.4 Part-time employees are encouraged to make their antenatal appointments outside of working hours or on non-working days if this is possible. However, WHMAT recognises that employees do not always have control over the timing and/or date of appointments with medical professionals.
- 4.5 An expectant father, or the partner or husband of a pregnant employee, is entitled to unpaid time off to accompany the pregnant woman to up to two antenatal appointments. The time off is limited to six and a half hours for each appointment, unless WHMAT chooses, at its discretion, to allow more than this (see SLOA Policy for form to complete or letter in employee toolkit).
- 4.6 If an employee requests time off to accompany a pregnant woman to an antenatal appointment, WHMAT does not have the right to request evidence of the appointment in the form of an appointment card as this will belong to the pregnant woman, rather than to the father or to her partner. However, it can ask the employee to provide a written confirmation that:
- 4.6.1 He or she is the child's father, expectant spouse, civil partner or partner
 - 4.6.2 That the purpose of the time is to accompany the expectant mother to an antenatal appointment
 - 4.6.3 That the appointment in question has been made on the advice of a registered doctor, registered nurse or registered midwife; and
 - 4.6.4 The date and time of the appointment.

(See sample letter in employee toolkit)

5. Maternity leave entitlements

- 5.1 Maternity leave and pay are separate entitlements (for pay see 6 below).

- 5.2 All employees are entitled to take up to one year's (52 weeks') maternity leave, regardless of length of service with WHMAT.
- 5.3 Although it is up to employees to decide how much of the 52 weeks' maternity leave they wish to take, the law requires that a minimum of two weeks' leave from the date of childbirth must be taken.
- 5.4 Maternity leave can commence at any time from the 11th week before the expected week of childbirth. If a pregnant employee becomes sick with a pregnancy-related illness during the four weeks before the expected date of childbirth/due date, and has not started her maternity leave, her maternity leave will begin automatically on the day following the start of the absence.
- 5.5 If an employee gives birth before the commencement of maternity leave, they should notify their line manager or HR or as soon as is reasonably practical that they have given birth and the date the baby was born. In these circumstances, maternity leave will start automatically on the day after the birth.
- 5.6 Employees will not qualify for sick pay whilst they are on maternity leave.
- 5.7 Employees are not eligible to work whilst receiving Statutory Maternity Pay (with the exception of the 10 optional keeping in touch days (see below at 13.0)).

6. Maternity pay entitlements

- 6.1 Entitlement to maternity pay will depend on a) whether it is occupational or SMP b) length of service and c) whether or not the employee returns to work following the period of maternity leave for the requisite minimum periods.

Informing WHMAT of pregnancy

- 6.2 All pregnant employees must notify their line manager in writing of their pregnancy at least 15 weeks before their expected week of childbirth, unless there are exceptional circumstances. This should state when they wish to start their maternity leave (see template in toolkit). In addition, all employees seeking occupational or statutory maternity pay must provide HR with a MATB1 (Maternity Certificate) as soon as possible during the pregnancy. The MATB1 is issued by a doctor or midwife no sooner than the 20th week before the baby is due (see model in toolkit).
- 6.3 HR will then ensure that an employee's details are uploaded on to the HR portal via a maternity transactional form. This generates a letter from Schools HR Services confirming the details of the statutory and occupational maternity pay entitlements and notification requirements (see sample in toolkit). Schools HR will also ensure that payroll has the correct information for paying maternity pay.
- 6.4 Within 28 days of receiving this notification at 6.2, HR will inform you of your 'expected date of return', calculated on the assumption that the pregnant employee will take the maximum amount of leave (52 weeks). If, however, a pregnant employee wishes to return from their maternity leave earlier than this 'expected date of return', they are not required to indicate

this at the start of their maternity leave. The employee can choose to notify HR during their maternity leave that they wish to return earlier than this date, provided that they give 21 days notice (see model letter in toolkit).

- 6.5 In order to receive maternity pay under the Birmingham Teachers' Maternity Scheme, pregnant teachers must declare in writing that they intend to return to work after the period of maternity leave. If they later decide not to return, they will be required to repay part of their occupational maternity pay (see further at 6.12 below).
- 6.6 Employees who decide not to return after their maternity leave period will need to give notice of their intention to resign to their line manager, copied to HR. Normal notice periods apply (see toolkit).
- 6.7 All employees can take advantage of whichever right, statutory or occupational, is the more favourable to them, effectively mixing the statutory and occupational schemes (see further below).

Occupational Maternity Pay - Teachers

- 6.8 WHMAT currently adopts the Birmingham Teachers' Maternity Leave Scheme. However, to be eligible to receive Occupational Maternity Pay (OMP), which is inclusive of Statutory Maternity Pay (SMP), employees must:
- 6.8.1 have completed at least 1 years' continuous teaching service, regardless of the number of hours worked by the 11th week before the baby is due:
- Weeks 1 – 8 – Full pay (offset against SMP or MA payments)
- Weeks 9 – 18 – ½ pay plus SMP except where ½ pay plus SMP exceeds full pay
- Weeks 19 – 39 – SMP only and
- 6.8.2 return to work at WHMAT, in a full or part-time capacity, for at least 13 weeks following their period of maternity leave
- 6.8.3 Employees with at least 6 months' continuous teaching service but less than one years' continuous teaching service at the 11th week before the EWC will qualify for Occupational Maternity Pay (OMP) of 18 weeks at ½ pay **plus one of the following depending on service and average earnings:**

EITHER

If the employee has 26 weeks' continuous teaching service at the 15th week before the EWC and average earnings in the 8 weeks ending with the 15th week before the EWC are equal to the lower earnings limit, then the employee will qualify for SMP in addition to 18 weeks OMP at half pay. In these circumstances pay will be:

Weeks 1- 18 = ½ pay plus SMP, without deduction, except where ½ pay plus SMP (or MA) exceeds full pay. (Employee cannot receive any more than full

pay).

Weeks 19-39 = SMP only, at £145.18 per week (or 9/10ths if this is less)

OR

ii) If the teacher has less than 26 weeks continuous service at the 15th week before the EWC, or their average earnings in the 8 weeks ending with the 15th week before the EWC is lower than the lower earnings limit, then the employee will not be eligible for any SMP and her pay will be OMP only if they have the necessary continuous teaching service.

6.9 WHMAT reserves the right to reclaim all the non-statutory elements of pay if an employee fails to return for the period of time at 6.12. Eligibility to Statutory Maternity Pay (SMP) remains unaffected, regardless of whether the individual returns

Requirement to return to work for 13 weeks

6.12 It is important to note that a condition of entitlement to maternity pay under the Birmingham Teachers' Maternity Scheme is that employees return to work after the birth for a period of at least 13 weeks. This period includes school holidays and half terms. If an eligible employee does not return for this period, then WHMAT is entitled to reclaim part of the maternity pay paid to them. This means clawing back some of their maternity pay insofar as it exceeds the amount payable as Statutory Maternity Pay.

6.13 'The teacher's subsequent obligation, whether she is full-time or part-time or is changing her contractual hours of employment on her return to work, is to return to her job for at least thirteen weeks (including periods of school closure) as a qualifying condition for the benefits of this Scheme. This requirement may be reduced at the discretion of the employer

Statutory Maternity Pay (SMP) – Teachers

6.15 Staff who comply with the above length of service criteria (i.e. who have completed at least 26 weeks' continuous service with WHMAT, regardless of the number of hours worked, into the 15th week before the baby is due) but who indicate before the commencement of their maternity leave that they do not wish to return to work, will receive 39 weeks Statutory Maternity Pay only (provided that their earnings also reach the government's Lower Earnings Limit for National Insurance Contributions).

6.16 Statutory Maternity Pay is determined by the government as follows:

6.16.1 6 weeks' x Higher Rate SMP (9/10 of average weekly earnings); and

6.16.2 33 weeks' x Lower Rate SMP (A flat payment reviewed by the government each year. or 90% of the employee's average weekly earnings, whichever is lower.)

Unpaid leave / maternity allowance

6.17 Staff who have less than 26 weeks' continuous service at the 15th week before the baby is due will not be entitled to Statutory Maternity Pay, but may be entitled to a state Maternity Allowance which can be claimed via the individual's local Job Centre Plus office. Such staff are also entitled to up to 52 weeks' unpaid Maternity Leave as outlined in the maternity leave entitlements section above (at least 2 weeks of which must be taken from the date of childbirth).

Statutory Maternity Pay (SMP) – Support Staff

6.18 To qualify for SMP, eligible support staff must have:

6.18.1 Worked for WHMAT for at least 26 weeks prior to the 15th week before their baby is due;

6.18.2 Been earning an average amount which at least equals the lower earnings limit which applies on the Saturday at the end of the qualifying week; and

6.18.3 Given WHMAT evidence of the date their baby is due (MatB1 Form); and

6.18.4 Given WHMAT at least 28 days' notice that they wish to claim SMP (most women give notice for maternity leave and pay at the same time i.e. at the latest by the 15th week before their due date)

6.18.5 Stopped work.

6.19 If the employee satisfies the conditions at 6.18, they will receive:

6.19.1 6 weeks' pay at 90% of their average earnings; and

6.19.2 for the remaining 33 weeks, the lower of either the standard rate of SMP, or 90 per cent of their average gross weekly earnings.

6.20 The SMP will normally start on the Sunday after the employee has begun their maternity leave, and will continue for 39 weeks (the maternity pay period).

6.21 If the employee returns to work before the end of the maternity pay period, their SMP will stop and, they will lose any outstanding amount.

6.22 Eligible employees get SMP regardless of whether or not they intend to go back to work. SMP is paid by WHMAT, who claims most of it back from the Inland Revenue. Employees have to pay tax and national insurance on their SMP. It can be offset against any other entitlements under an employee's contract, except for holiday pay.

Occupational Maternity Pay – Support Staff

6.23 Employees who have a) completed a minimum of 1 years' service at the eleventh week before the Expected Week of Childbirth (EWC) and b) who declare in writing that they intend to return to work, and return to work for WHMAT for a period of at least 12 weeks,

will for the subsequent 12 weeks', receive half a weeks' pay plus SMP, where eligible, without deduction, except by the extent to which the combined pay and SMP exceeds full pay.

- 6.24 It is important to note that a condition of entitlement to maternity pay under the *Green Book for Support Staff* is that employees return to work after the birth for a period of at least 12 weeks. This period includes school holidays and half terms. If an eligible employee does not return for this period, then WHMAT is entitled to reclaim part of the maternity pay paid to them. This means clawing back some of their maternity pay insofar as it exceeds the amount payable as Statutory Maternity Pay. Support Staff who are unable to complete the 12 weeks service for a reason which is in the hands of WHMAT, for example the expiry of fixed term contract, may, at the discretion of WHMAT, not be expected to repay the occupational element of their maternity pay.

Miscarriage & stillbirth

- 6.25 In the very sad and distressing case of a miscarriage prior to 24 weeks of pregnancy, consequent absence will be treated as sick leave and affected employees will receive sick pay for that period provided that they provide the necessary Fit Notes from their GP or consultant to cover any absence from day 8 onwards.
- 6.26 In the tragic circumstances of stillbirth, which is defined as taking place after 24 weeks of pregnancy, or of neonatal death, eligible employees will be entitled to the same maternity leave and pay as if the pregnancy had reached full term. At any time during this period, they may give their employer 21 days notice of their intention to return to work (unless there are exceptional circumstances). Should they then not be fit to return to work on their notified day of return, e.g. due to postnatal depression, then they would be entitled to sick leave/pay in accordance with the usual sick pay provisions.

Maternity leave & Annual leave

- 6.27 Employees will continue to accrue annual leave during paid and unpaid maternity leave (this includes bank holidays). However, the rules differ slightly for teachers and support staff.
- 6.28 Teachers who return to work will not be able to take any outstanding leave accrued but untaken whilst on maternity leave on their return to work. This is because teachers have only statutory, rather than contractual leave entitlement (this amounts to 28 days under the Working Time (Amendment) Regulations 2007). Periods of school closure are long enough to cover leave accrued for both the previous and current years. However, all-year around support staff may be able to take any accrued but untaken annual leave, prior to their return to work, subject to agreement with the HOA or line manager.

7.0 Health & Safety Obligations for Pregnant Employees

- 7.1 Employers have specific legal obligations regarding the health and safety of pregnant employees in addition to their general health and safety obligations to all employees.
- 7.2 Under the *Management of Health & Safety at Work Regulations 1999*, as soon as an employee has notified her employer in writing that she is pregnant, the employer is required to carry

out a “risk assessment” which assesses the specific risks that she may face at work as a result of being pregnant. Risks should be identified and discussed, and appropriate steps agreed to minimise them (see toolkit for risk assessment templates). Line managers will be responsible for carrying these out, with the support of HR as necessary.

- 7.2 The outcome of the risk assessment may indicate an adjustment in work activities to remove the hazard for the period of pregnancy and breast feeding. Where this is not possible for operational or research reasons, then the individual will need to be found alternative duties of an appropriate nature. If this is not feasible then the individual may need to be suspended from work on paid leave for as long as necessary to protect their health and safety.
- 7.3 Line Managers should retain a copy of the completed paperwork, ensuring that HR and the employee also have a copy. It is the responsibility of the Line Manager to review the risk assessment each trimester, or at the request of the employee, to ensure that new risks are discussed and minimised. A copy of the risk assessment will be retained on the HR file.
- 7.4 If an employee returns to work following a period of maternity leave and confirms in writing to their line manager or HR, that they are breastfeeding, a risk assessment will be offered and completed as above. This duty applies for as long as the mother chooses to breastfeed.

8.0 Employee’s obligations

- 8.1 In order to qualify for maternity leave and maternity pay, and to safeguard the right to return to work, the employee must:
 - 8.1.1 notify their line manager and Human Resources in writing of the date they intend to start the maternity leave and whether it is their intention to return to work after the birth of the child. This notification should be given no later than the end of the 15th week before the expected week of childbirth by completing a maternity leave form and submitting it to Human Resources via the employee's line manager; and
 - 8.1.2 provide Human Resources with the Maternity Certificate (Form MATB1). Ideally this will be submitted along with the maternity leave form. If that is not possible, Form MATB1 must be submitted as soon as the employee receives it from their doctor/midwife (usually in or soon after the 20th week before the expected week of childbirth); and
 - 8.1.3 give 28 calendar days’ written notice to their line manager if they wish to change the start date of the maternity leave; and
 - 8.1.4 after the birth of the child, respond in writing within a reasonable period, to a written request from WHMAT confirming whether they still intend to return to work; and
 - 8.1.5 give at least 21 days notice of any changes to their return to work date (failure to give this notice may lead to a postponement of return until 21 days have elapsed); and
 - 8.1.6 return to work at the end of their period of entitlement to maternity leave, unless they have chosen to return early or to resign; and
 - 8.1.7 return for at least 12 weeks (support staff), 13 weeks (teachers) in order to retain the additional occupational maternity pay elements of the Green Book (Support Staff)

and Birmingham Maternity Leave Scheme (Teachers). Employees are entitled to retain the statutory element even when they do not return to work, or do not return for the requisite periods.

9.0 Salary progression

- 9.1 Upon returning to work after maternity or adoptive leave, the employee's salary will be reviewed to take into account any increment or general increase which would have applied had they not been on maternity leave. Each employee's appraisal will be considered on its merits and based on individual circumstances (for further detail see WHMAT Appraisal FAQs for teachers and support staff available from HR).

10.0 Benefits & Continuity of service

- 10.1 The contract of employment continues throughout maternity leave. This means that all of a pregnant employee's terms and conditions of employment apply during their statutory maternity leave period of 52 weeks (except for normal pay).
- 10.2 Continuity of service will not have been broken by an unpaid period of absence under the maternity provision, therefore entitlement to periods of notice, holidays and sick leave which accrued at the beginning of maternity leave will not be lost.
- 10.3 If pregnant employees are already in receipt of child-care vouchers prior to starting your maternity leave, you will be entitled to keep being paid during your statutory maternity leave period.
- 10.4 Pregnant employees are also entitled to free NHS dental treatment and NHS prescriptions while they are pregnant and for a year after the baby's birth.

11.0 Maintaining contact before & during maternity leave

- 11.1 Line Managers should invite pregnant employees to a "pre-maternity leave meeting" at least 2 weeks' before they are due to start maternity leave, unless there are exceptional circumstances. HR may attend but this is not obligatory as it is just an informal management meeting. The aim is to clarify when the employee will be leaving, their likely return date (if known) and how they would prefer contact to be maintained whilst they are away.
- 11.2 WHMAT reserves the right to maintain reasonable contact with employees during maternity leave. It is recommended that employees and line managers make arrangements to maintain reasonable contact during maternity leave in order to keep the employee informed of important developments at work, discuss plans for returning to work, etc. Managers should draw particular attention to any changes in structures within the department and ensure the individual is aware of any possible promotion opportunities. Individuals should also ensure that they keep themselves informed as appropriate (e.g. by regularly reviewing the vacancies at www.washwoodmat.com).

12.0 Sickness absence

- 12.1 If an employee is absent from work during pregnancy owing to sickness, she will receive normal statutory or contractual sick pay in the same manner as she would during any other sickness absence provided that she has not yet begun ordinary maternity leave. If, however, the employee is absent from work due to a pregnancy-related illness after the beginning of the fourth week before her expected week of childbirth, her maternity leave will start automatically on the day following the start of the absence.
- 12.2 If the employee is absent from work wholly or partly because of pregnancy during the four weeks before the expected week of childbirth, she must notify her line manager in writing of this as soon as reasonably practicable.

13.0 Keeping in touch (KIT) days

- 13.1 Employees may, by agreement with their line manager &/or HOA, undertake up to 10 days paid work, referred to as 'keeping in touch days' (KIT) days, during their maternity leave. Such days may be undertaken at any stage during the maternity period except during the first two weeks after the baby is born. The type of work undertaken is a matter for agreement between the employee and their line manager. The days may be used for any activity which would ordinarily be classed as work under the employee's contract, and could be particularly useful in enabling an employee to attend a conference, undertake a training activity or attend a team meeting. Keeping in touch days are optional and can only take place by agreement between both parties.
- 13.1 Keeping in touch days do not extend the statutory or occupational maternity pay period in any way. For instance, if a keeping in touch day occurs during a period of full pay, no additional payment will be made. If a keeping in touch day occurs during a period of half pay or SMP only, this will be effectively "topped up" so that the individual receives full pay for the day in question. Payment for keeping in touch days will only be made after completion of the day's work. Any work carried out on a day shall constitute a day's work, although payment will only be made for actual days worked.
- 13.2 Employees wishing to undertake a keeping in touch day should complete a keeping in touch day form, and forward this to their line manager in the first instance (see toolkit).

14.0 Returning to work after maternity leave

- 14.1 Employees may exercise the right to return to work at any time during the period of maternity leave, **except that they may not return to work within two weeks of the birth of the child.**
- 14.2 If they wish to return prior to the end of the maternity leave period, they should give at least 21 days notice, in writing, of their intended date of return (see letter in toolkit). If the employee fails to give the required notice, WHMAT may postpone the return to work for up to 21 days.
- 14.3 The employee has the right to return to the same job if returning to work from ordinary maternity leave. If, however, they are returning to work after a period of additional maternity

leave, they are entitled to return to either the same job or, if this is not reasonably practicable, to another suitable job that is on terms and conditions that are no less favourable.

- 14.4 Failure to return to work by the end of maternity leave will be treated as an unauthorised absence, with potential disciplinary implications, unless the employee is sick and produces a current medical certificate before the end of the maternity leave period.
- 14.5 If the employee decides during maternity leave that she does not wish to return to work, she should give written notice of resignation to her line manager as soon as possible and in accordance with the terms of her contract of employment.
- 14.6 While returning to work on the basis of an alternative working pattern or hours of work is not a right, WHMAT will give appropriate consideration to such requests, on either a temporary or permanent basis, from employees returning to work following maternity leave. They should submit a request in writing via a flexible working application form (see toolkit), as early as possible, but not later than 8 weeks before the notified date of return to work. Any change must be discussed and agreed with their manager. The possibility of flexible working arrangements, which may include arrangements for establishing a job share, may be discussed with their manager in conjunction with Human Resources. *WHMAT's Flexible Working Procedure* appears under the policies tab at www.washwoodmat.com.

15.0 Transfer of maternity leave/shared parental leave

- 15.1 Shared parental leave enables mothers to commit to ending their maternity leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date.
- 15.2 Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case WHMAT is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of separate blocks of leave (in which case the employee needs WHMAT's agreement).
- 15.3 To be able to take shared parental leave, an employee and his/her partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the mother curtailing her maternity leave.

Scope

- 15.4 Shared parental leave applies to WHMAT mothers or partners/fathers. If it is the mother who is employed by WHMAT, her partner must (where relevant) submit any notifications to take shared parental leave set out in this policy to his/her own employer, which may have its own shared parental leave policy in place, if he/she wants to take a period of shared parental leave. Similarly, if it is the partner who is employed by WHMAT (and not the mother), the mother must (where relevant) submit any notifications to take shared parental leave to her own employer. The mother and the partner should ensure that they are each liaising with their own employer to ensure that requests for shared parental leave are handled as smoothly as possible.

Amount of shared parental leave available

- 15.5 The amount of shared parental leave to which an individual is entitled will depend on when the mother brings her maternity leave period to an end and the amount of leave that the other parent takes in respect of the child. Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case WHMAT 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 WHMAT's agreement). A maximum of three requests for leave per pregnancy can normally be made by each parent.
- 15.6 The first two weeks following birth are the compulsory maternity leave period and are reserved for the mother. This means that the mother cannot curtail her maternity leave to take shared parental leave until two weeks after the birth, and the maximum period that the parents could take as shared parental leave is 50 weeks between them (although it will normally be less than this because of the maternity leave that mothers usually take before the birth). However, the mother's partner can begin a period of shared parental leave at any time from the date of the child's birth (but the partner should bear in mind that he/she is entitled to take up to two weeks' paternity leave following the birth of his/her child, which he/she will lose if shared parental leave is taken first).
- 15.7 The mother and partner must take any shared parental leave within 52 weeks of birth.

Eligibility for shared parental leave

- 15.8 For employees to be eligible to take shared parental leave, both parents must meet certain eligibility requirements.

Mother's eligibility for shared parental leave

The mother is eligible for shared parental leave if she:

- 15.8.1 has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the WHMAT until the week before any period of shared parental leave that she takes;
- 15.8.2 has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- 15.8.3 is entitled to statutory maternity leave in respect of the child; and
- 15.8.4 complies with the relevant maternity leave curtailment requirements (or has returned to work before the end of statutory maternity leave), and shared parental leave notice and evidence requirements.
- 15.9 In addition, for the mother to be eligible for shared parental leave, the partner must:
- 15.9.1 have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- 15.9.2 have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks; and
- 15.9.3 have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child.

Partner's eligibility for shared parental leave

15.10 The partner is eligible for shared parental leave if he/she:

15.10.1 has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the organisation until the week before any period of shared parental leave that he/she takes;

15.10.2 has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and

15.10.3 complies with the relevant shared parental leave notice and evidence requirements.

15.11 In addition, for the partner to be eligible for shared parental leave, the mother must:

15.11.1 have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;

15.11.2 have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks;

15.11.3 have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;

15.11.4 be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and

15.11.5 comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave).

Notice requirements

15.12 The notices that the parents must give to the relevant employer to be able to take shared parental leave are made up of three elements. They are:

15.12.1 a "maternity leave curtailment notice" from the mother setting out when she proposes to end her maternity leave (unless the mother has already returned to work from maternity leave);

15.12.2 a "notice of entitlement and intention" from the employee giving an initial, non-binding indication of each period of shared parental leave that he/she is requesting; and

15.12.3 a "period of leave notice" from the employee setting out the start and end dates of each period of shared parental leave that he/she is requesting.

15.13 The notice periods set out below (see [Mother's notice curtailing maternity leave](#), [Employee's notice of entitlement and intention](#) and [Employee's period of leave notice](#)) are the minimum required by law. However, the earlier the employee informs WHMAT of his/her intentions,

the more likely it is that WHMAT will be able to accommodate the employee's wishes, particularly if he/she wants to take periods of discontinuous leave.

- 15.14 Employees are advised that, if they have already decided the pattern of shared parental leave that they would like to take, they can provide more than one type of notice at the same time. For example, the mother could provide a maternity leave curtailment notice, notice of entitlement and intention and period of leave notice at the same time. Similarly, the partner could provide his/her notice of entitlement and intention and period of leave notice at the same time.

Mother's notice curtailing maternity leave

- 15.15 Before the mother or partner can take shared parental leave, the mother must either return to work before the end of her maternity leave (by giving the required eight weeks' notice of her planned return) or provide her employer with a maternity leave curtailment notice. The maternity leave curtailment notice must be in writing and state the date on which maternity leave is to end. That date must be:

- after the compulsory maternity leave period, which is the two weeks after birth;
- at least eight weeks after the date on which the mother gave the maternity leave curtailment notice to her employer; and
- at least one week before what would be the end of the additional maternity leave period.

- 15.16 The mother must provide her maternity leave curtailment notice at the same time she provides either her notice of entitlement and intention or a declaration of consent and entitlement signed by the mother confirming that her partner has given his/her employer a notice of entitlement and intention (see Employee's notice of entitlement and intention below).

Revocation of maternity leave curtailment notice

- 15.17 The mother can withdraw her notice curtailing her maternity leave in limited circumstances. The withdrawal of a maternity leave curtailment notice must be in writing and can be given only if the mother has not returned to work. The mother can withdraw her maternity leave curtailment notice if:

- it is discovered that neither the mother nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother withdraws her maternity leave curtailment notice within eight weeks of the date on which the notice was given;
- the maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth; or
- the partner has died.

Employee's notice of entitlement and intention

- 15.18 The employee, whether the mother or the partner, must provide WHMAT with a non-binding notice of entitlement and intention. The employee's notice of entitlement and intention, which must be in writing and provided at least eight weeks before the start date of the first period of shared parental leave to be taken by the employee, must set out the following information.
- 15.19 If the employee is the mother, the notice of entitlement and intention must set out:
- the mother's name;
 - the partner's name;
 - the start and end dates of any statutory maternity leave taken or to be taken by the mother;
 - the total amount of shared parental leave available;
 - the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the mother);
 - how much shared parental leave the mother and partner each intend to take; and
 - a non-binding indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave).
- 15.20 The mother's notice of entitlement and intention must include a declaration signed by her that:
- she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
 - the information she gives in the notice of entitlement and intention is accurate; and
 - she will immediately inform WHMAT if she ceases to care for the child.
- 15.21 In addition, the mother's notice of entitlement and intention must include a declaration signed by her partner:
- specifying the partner's name, address, and national insurance number (or declaring that the partner does not have a national insurance number);
 - declaring that the partner satisfies, or will satisfy, the conditions set out above (see [Mother's eligibility for shared parental leave](#));
 - declaring that the partner is the father of the child, or is married to, the civil partner of, or the partner of, the mother;
 - declaring that the partner consents to the amount of leave that the mother intends to take; and
 - declaring that the partner consents to the mother's employer processing the information in the partner's declaration.
- 15.22 If the employee is the partner, the partner's notice of entitlement and intention must set out:
- the partner's name;
 - the mother's name;
 - the start and end dates of any periods of statutory maternity leave, statutory maternity pay or maternity allowance taken or to be taken by the mother;
 - the total amount of shared parental leave available;
 - the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the partner);
 - how much shared parental leave the partner and mother each intend to take; and

- a non-binding indication as to when the partner intends to take shared parental leave (including the start and end dates for each period of leave).
- 15.23 The partner's notice of entitlement and intention must include a declaration signed by the partner that:
- he/she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
 - the information given by the partner in the notice of entitlement and intention is accurate; and
 - he/she will immediately inform WHMAT if he/she ceases to care for the child or if the mother informs him/her that she no longer meets the requirement to have curtailed her maternity leave or pay period.
- 15.24 In addition, the partner's notice of entitlement and intention must include a declaration signed by the mother:
- specifying the mother's name, address, and national insurance number (or declaring that the mother does not have a national insurance number);
 - declaring that the mother satisfies, or will satisfy, the conditions set out above (see Partner's eligibility for shared parental leave) and she will notify the partner if she no longer qualifies for maternity leave, statutory maternity pay or maternity allowance;
 - declaring that the mother consents to the amount of leave that the partner intends to take;
 - declaring that she will immediately inform the employee if she no longer meets the requirement to have curtailed her maternity leave or pay period; and
 - declaring that the mother consents to the partner's employer processing the information in the mother's declaration.
- 15.25 Within 14 days of receiving a notice of entitlement and intention from the employee, whether the mother or partner, the organisation can request from the employee:
- a copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth - if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice); and
 - the name and address of the other parent's employer (or a declaration that the other parent has no employer).
- 15.26 The employee has 14 days from the date of the request to send the organisation the required information.

Variation or cancellation of notice of entitlement and intention

- 15.27 The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a notice of entitlement and intention, provided that he/she provides the organisation with a written notice. The written notice must contain:
- an indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave);
 - details of any periods of shared parental leave that have been notified through a period of leave notice;
 - details of any periods of statutory shared parental pay that have been notified in relation to periods where shared parental leave was not to be taken; and

- a declaration signed by the mother and the partner that they agree to the variation.

15.28 Any indication of leave intended to be taken that the employee provides in a variation of notice of entitlement and intention is non-binding until he/she provides a period of leave notice in relation to that period of leave. There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

Employee's period of leave notice

15.29 To take a period of shared parental leave, the employee must provide the organisation with a written notice setting out the start and end dates of each period of shared parental leave requested in that notice.

15.30 A period of leave notice must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave.

Variation or cancellation of period of leave notice

15.31 The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a period of leave notice, provided that he/she provides his/her employer with a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The written notice can:

- vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

Limit on number of requests for leave

15.32 The employee can provide a combined total of up to three period of leave notices or variations of period of leave notices per pregnancy, although the organisation may waive this limit in some circumstances.

Continuous period of shared parental leave

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

Discontinuous periods of shared parental leave

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

15.35 If the employee submits a period of leave notice requesting discontinuous periods of leave, the organisation, in the two weeks beginning with the date the period of leave notice was given, can:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested.

- 15.36 If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.
- 15.37 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. In that event, 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 the organisation 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.
- 15.38 Alternatively, if WHMAT 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. The employee can withdraw a period of leave notice 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.

Amount of shared parental pay available

- 15.39 Statutory shared parental pay is available for eligible parents to share between them while on shared parental leave. The number of weeks' statutory shared parental pay available to the parents will depend on how much statutory maternity pay or maternity allowance the mother has been paid when her maternity leave or pay period ends.
- 15.40 A total of 39 weeks' statutory maternity pay or maternity allowance is available to the mother. As there is a compulsory maternity leave period of two weeks, this means that a mother who ends her maternity leave at the earliest opportunity could share up to 37 weeks' statutory shared parental pay with her partner (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).
- 15.41 Any statutory 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.
- 15.42 It is up to the parents as to who is paid the statutory shared parental pay and how it is apportioned between them.

Eligibility for statutory shared parental pay

- 15.43 For employees to be eligible for statutory shared parental pay, both parents must meet certain eligibility requirements.

Mother's eligibility for statutory shared parental pay

- 15.44 The mother is eligible for statutory shared parental pay if she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with her employer until the week before any period of shared parental pay that she gets;
- has normal weekly earnings for a period of eight weeks ending with the 15th week before the expected week of childbirth of at least the lower earnings limit for national insurance contribution purposes;
- has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is absent from work and intends to care for the child during each week in which she receives statutory shared parental pay; and
- is entitled to statutory maternity pay in respect of the child, but the maternity pay period has been reduced.

15.45 In addition, for the mother to be eligible for statutory shared parental pay, the partner must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks.

Partner's eligibility for statutory shared parental pay

15.46 The partner is eligible for statutory shared parental pay if he/she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with his/her employer until the week before any period of shared parental pay that he/she gets;
- has normal weekly earnings for eight weeks ending with the 15th week before the expected week of childbirth of at least the lower earnings limit for national insurance contribution purposes;
- has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- is absent from work and intends to care for the child during each week in which he/she receives statutory shared parental pay.

15.47 In addition, for the partner to be eligible, the mother must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child; and
- be entitled to statutory maternity pay or maternity allowance in respect of the child, but the maternity pay period or maternity allowance period has been reduced.

Rights during shared parental leave

- 15.48 During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory shared parental pay if the employee is eligible for it.
- 15.49 This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue. Pension contributions will continue to be paid.

Contact during shared parental leave

- 15.50 WHMAT reserves the right to maintain reasonable contact with employees during shared parental leave. This may be to discuss employees' plans for their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.
- 15.51 An employee can agree to work for WHMAT (or to attend training) for up to 20 days during shared parental leave without that work bringing the period of his/her shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days.
- 15.52 WHMAT has no right to require employees to carry out any work and employees have no right to undertake any work during their shared parental leave. Any work undertaken, and the amount of salary paid for any work done on SPLIT days, is entirely a matter for agreement between employees and the organisation.
- 15.53 If you are entitled to receive statutory shared parental pay for any week during which you attend work for SPLIT days, you will still receive this in the usual way.

Returning to work following shared parental leave

- 15.54 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 leave or statutory paternity leave taken by the employee in relation to the same child, is 26 weeks or less.
- 15.55 If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory maternity or paternity leave taken in relation to the same child, 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 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 return to another job that is suitable and appropriate for him/her.

16.0 Reintroduction into the workplace following maternity

- 16.1 HR, in consultation with the employee's line manager, will write to the employee before her due date of return reminding her of the date that she is due back and setting out the arrangements for the return to work (see toolkit).
- 16.2 On the employee's first day back at work (or before the return date if this is the employee's preference), she should arrive at her normal start time and report immediately to the line

manager, who will be responsible for dealing with any housekeeping matters and ensuring that the employee settles in smoothly. Together, the manager and employee will put in place a return to work plan. This may include:

- arranging a catch-up meeting to update the employee on developments in her absence not previously notified to her, for example new members of staff and employee departures, technological developments and new or amended systems of work;
- discussing the arrangements for handing work back;
- arranging for the employee to meet with other work colleagues;
- enabling her to re-familiarise herself with the workload and the relevant systems of work;
- discussing any internal or external training needs or requirements and ensure that these are addressed as soon as possible after the employee's return;
- introducing the employee to any new members of staff; and
- discussing any other operational matters.

16.3 Work may be handed back to the employee on a gradual basis with the aim that she will be completely up to speed and handling a full workload within 2 weeks of her return from maternity leave, unless there are exceptional circumstances. If, however, the employee says that they do not wish to complete a phased return, full duties may be resumed from day 1.

17.0 Paternity Rights

Ordinary paternity leave

17.1 An employee whose wife, civil partner or partner gives birth to a child, or who is the biological father of the child, is entitled to two weeks' paternity leave provided that he/she has 26 weeks' continuous service by the end of the 15th week before the week in which the child is expected.

17.2 Paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either the adoptive father or the adoptive mother may take paternity leave where the other adoptive parent has elected to take adoption leave. To be eligible for paternity leave, the employee must have 26 weeks' continuous service ending with the week in which the child's adopter is notified of having been matched with the child for adoption.

17.3 To qualify for paternity leave, the employee must also have, or expect to have, responsibility for the upbringing of the child and be making the request to help care for the child or to support the child's mother (see form in employee toolkit).

17.4 Paternity leave is granted in addition to an employee's normal annual holiday entitlement. It must be taken in a single block of one or two weeks within eight 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 eight weeks of the expected date of childbirth. 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, as long as it has taken place within eight weeks of the birth or adoption.

- 17.5 Employees who wish to take both paternity leave and shared parental leave (see above) must take their period of paternity leave first. An employee cannot take paternity leave if he/she has already taken a period of shared parental leave in relation to the same child.

Notification of paternity leave

- 17.6 Where an employee wishes to request paternity leave in respect of a birth child, he/she must give his/her line manager 15 weeks' written notice of the date on which his/her partner's baby is due, the length of paternity leave he/she wishes to take and the date on which he/she wishes the leave to commence (see model letter in toolkit).
- 17.7 In the case of an adopted child, the employee must give written notice of his/her intention to take paternity leave no later than seven days after the date on which notification of the match with the child was given by the adoption agency. The notice must specify the date the child is expected to be placed for adoption, the date the employee intends to start paternity leave, the length of the intended paternity leave period and the date on which the adopter was notified of having been matched with the child (see model letter in toolkit).
- 17.8 If an employee subsequently wishes to change the timing of the paternity leave, he/she must give their line manager 28 days' written notice of the new dates. The employee must also, if so requested, complete and sign a self-certificate declaring that he/she is entitled to paternity leave and statutory paternity pay.

Statutory paternity pay

- 17.9 Pay during paternity leave will be 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 below the lower earnings limit for national insurance contributions will not be eligible for statutory paternity pay. Statutory paternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.
- 17.10 Statutory paternity pay can start from any day of the week in accordance with the date the employee starts his/her paternity leave.

Maternity or adoptive parent support leave (contractual)

- 17.11 As well as the right to statutory paternity leave and pay, WHMAT employees may be eligible for an additional contractual entitlement, known as Maternity or Adoptive Parent Support Leave. This amounts to 5 paid days at the normal rate of pay, rather than at the statutory figure at 17.9 below. To be eligible for this, the employee needs to be either a) the child's father/partner or nominated carer. A nominated carer is the person nominated by the mother to assist in the care of a child and to provide support to them at or around the time of birth.
- 17.12 Eligible employees may take whichever aspect of the statutory or contractual schemes is the most beneficial, but leave and pay is limited to a maximum of up to two weeks. Those eligible for statutory paternity leave may therefore take one week's maternity or adoptive parent support leave with full pay, and the following week as ordinary paternity leave with statutory paternity pay (a flat rate prescribed nationally by government or 90 per cent of salary if that is less than the national rate).
- 17.13 An employee can choose to take only one week, rather than two, but where two weeks are taken, they must be taken consecutively.

Time off for antenatal care

- 17.14 Employees have the right to take time off to accompany a pregnant woman with whom they are having a child at up to two antenatal appointments. However, this time off will be unpaid.
- 17.15 To be eligible to take this form of time off, the employee could be the husband or civil partner of the pregnant woman, or could be living with the pregnant woman in an enduring family relationship. In addition, the employee will be eligible for the time off if he is the biological father of the expected child. The antenatal appointment must be made on the advice of a registered medical practitioner, midwife or nurse. WHMAT expects that normally no more than half a day is needed for an antenatal appointment, but the employee's leave includes the time needed to travel to the appointment and any waiting time needed at the appointment, and can be for a maximum of six-and-a-half hours on each occasion.
- 17.16 Employees who would like to make a request for time off to accompany someone at an antenatal appointment should complete the special leave of absence request form in WHMAT's Special Leave of Absence Policy. The employee should endeavour to give his/her line manager as much notice as possible of when he/she needs the time off for the antenatal appointment and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

Miscarriage & stillbirth

- 17.17 Where the child is miscarried in the first 24 weeks of pregnancy, employees will not qualify for paternity leave. If, however, a stillbirth occurs after the 24th week of pregnancy, or the child is born alive at any time but only lives for a short time, the employee will still qualify for paternity leave and pay if he would otherwise have been eligible to take it.

18.0 Adoption Rights

Statutory Rights to Adoption Leave & Pay

- 18.1 Statutory adoption and paternity rights are available to new adoptive parents where a child is placed for adoption. The rights are also available to parents who have been deemed suitable to adopt a child where the parents have been 'fostering to adopt'.
- 18.2 Eligible employees may have an occupational right to adoption and paternity leave and pay as well as a statutory right. If so, they may combine these rights and take advantage of whichever 'provision' is more favourable. WHMAT varies its occupational maternity schemes to include adoption leave and pay
- 18.3 Adoptive parents who take statutory adoption leave and statutory paternity leave are entitled to share the adoption leave.

Statutory Adoption Leave

- 18.4 Statutory adoption leave is available to adoptive parents to prepare for adoption or to care for a newly placed adoptive child. Prospective adopters who are notified of having been matched with a child will be entitled to take statutory adoption leave if they:
- 18.4.1 have been matched with a child;
- 18.4.2 have notified the adoption agency that they agree that the child should be placed with them on the placement date; and

18.4.3 give notice and evidence to WHMAT.

18.5 The maximum length of statutory adoption leave is 52 weeks comprising ordinary adoption leave of 26 weeks and additional adoption leave of 26 weeks. Employees are entitled to 52 weeks' leave if the ordinary adoption leave did not end prematurely.

18.6 Employees may begin their adoption leave on the placement date or up to 14 days before the placement date. Where eligible employees have chosen to begin leave on the placement date and you are at work on that date, your leave begins on the following day.

Applying for Statutory Adoption Leave (SAL)

18.7 If you wish to apply for SAL, you must give your line manager written notice by letter or email of your intention to take it within 7 days of being notified of the match. The notice must state that you intend to take adoption leave, the date you wish your leave to begin and the expected date of placement (see model letter in toolkit).

18.8 You may change your leave start date by giving your employer 28 days' written notice.

18.9 Within 28 days of receiving notice of your intended adoption leave start date, WHMAT will notify you in writing of the date your leave will end and your entitlements. Adoption leave will last for 52 weeks unless you return to work early or the placement is disrupted.

Returning to Work after Statutory Adoption Leave

18.10 If you wish to return to work early, you must give your line manager or HR 8 weeks' notice of your intended return, failing which we reserve the right to postpone your return for up to 8 weeks or to the end of your leave entitlement if earlier. If the adoption is disrupted, your adoption leave will end 8 weeks after the week the disruption took place. Employees must still give their line manager/HR 8 weeks' notice of this disruption and of their early return.

Contract of employment

18.11 Your employment contract continues during your adoption leave. During ordinary adoption leave, your normal terms and conditions apply, except those relating to normal salary.

18.12 During additional adoption leave your terms and conditions relating to notice, redundancy and disciplinary or grievance apply.

18.13 If you return to work from ordinary adoption leave and there is no redundancy situation you are entitled to return to the same job on the same or improved terms and conditions. If a redundancy situation has arisen, you are entitled to be offered a suitable alternative position on terms which are not substantially less favourable.

18.14 If you return to work from adoption leave which immediately followed additional maternity leave or additional adoption leave or parental leave of more than four weeks, you are entitled to return to the same job or, if that is not reasonably practicable, to an alternative job on no less favourable terms and conditions.

Statutory Adoption Pay

18.15 Statutory Adoption Pay is a weekly payment made by WHMAT to eligible adoptive parents for up to 39 weeks. You will be entitled to Statutory Adoption Pay if:

- 18.15.1 the child is, or is expected to be, placed for adoption with you;
- 18.15.2 you have been continuously employed by WHMAT for at least 26 weeks ending with the week you are matched with the child;
- 18.15.3 you stop work;
- 18.15.4 your weekly earnings for the 8 weeks ending with the week you are notified of the match are at least £116.00; and
- 18.15.5 you have elected to receive Statutory Adoption Pay.

Applying for Statutory Adoption Pay

- 18.16 At least 28 days before you wish payment to begin, employees must give their line manager or HR written notice of the date they wish payment to start, the expected placement date and the actual placement date, if they wish payment to start on the placement date. Employees must supply their name and address, the name and address of the adoption agency, and the date they were notified of the match. Where employees are entitled to both adoption pay and leave, they may give notice in the same letter so long as they give notice within 7 days of the date after they were notified of the match and no less than 28 days before they wish payment to begin.
- 18.17 Employees may choose Statutory Adoption Pay to start on either the date the child is placed or on a specific date up to 14 days before the placement date. Statutory Adoption Pay will be paid on a weekly basis for 39 weeks or, if earlier, until the day they return to work, or for 8 weeks after the end of the week the placement is disrupted.

Rate of Statutory Adoption Pay

- 18.18 Eligible employees will receive 90 per cent of their average pay for the first six weeks of their adoption pay period. After that, they receive the lower of current adoption pay rate or 90 per cent of their weekly earnings.
- 18.19 Statutory Adoption Pay is not payable during a week if you work for WHMAT during any part of a week, the exception being if you complete up to 10 KIT days.

Statutory Paternity Leave for Adoption

- 18.20 Paternity leave for adoption is absence from work for the purpose of caring for a newly placed adoptive child or to support the main adopter. Employees are entitled to paternity leave for adoption if they:
 - 18.20.1 are the spouse or partner of the adopter;
 - 18.20.2 have responsibility for the child's upbringing;
 - 18.20.3 have been continuously employed by WHMAT for at least 26 weeks, ending with the week the child's adopter is notified of the match;
 - 18.20.4 have given notice and evidence to WHMAT.
- 18.21 The rights are also available to partners of adopters, where the parents have been 'fostering to adopt' and have been deemed suitable to adopt a child. Eligible employees may choose to take either one or two consecutive weeks' paternity leave. If eligible, they will receive

statutory paternity pay for one or two whole weeks. You may take paternity leave before the end of 56 days from the placement date.

- 18.22 Eligible employees wishing to take shared parental leave, should take their agreed paternity leave beforehand. If you take shared parental leave first, you will not be able to exercise your right to statutory paternity leave (see further at 15 above).

Time off to attend adoption appointments

- 18.23 Employees who are adopting a child are entitled to take time off to attend adoption appointments. (See toolkit).
- 18.24 Where an employee is part of a couple jointly adopting a child, the couple can elect for one of them to take paid time off to attend up to five adoption appointments (under s.57ZJ of the Employment Rights Act 1996). The other can elect to take unpaid time off to attend up to two adoption appointments (under s.57ZL of the Employment Rights Act 1996).
- 18.25 The purpose of the appointment is to enable the employee to have contact with the child (for example, to bond with him/her before the placement) or for any other purpose connected with the adoption (for example, to meet with the professionals involved in the care of the child).
- 18.26 The appointment must have been arranged by or at the request of the adoption agency. The time off must be taken before the date of the child's placement for adoption with the employee. WHMAT will ask the individual for proof of the date and time of the appointment and that the appointment has been arranged by or at the request of the adoption agency (for example, a letter or email from the adoption agency).

19.0 Ordinary Parental Leave

- 19.1 An employee is entitled to up to 18 weeks' unpaid parental leave per child if he/she is the birth or adoptive parent of a child who is under 18 years of age. To qualify for ordinary parental leave, employees must have completed at least one year's continuous service with WHMAT.

Rights during "ordinary" parental leave

- 19.2 Qualifying employees will be entitled to a maximum of 18 weeks' ordinary parental leave to be taken up until the child's 18th birthday. During ordinary parental leave, the employee will remain employed, although pay and most contractual benefits will be suspended. The right to accrue statutory holiday entitlement will, however, remain in place. Certain other terms of employment will remain in force. During parental leave employees will be entitled to the implied obligation of trust and confidence, and any terms and conditions of employment relating to:
- notice of termination;
 - redundancy compensation; and
 - disciplinary or grievance procedures.
- 19.3 Employees taking ordinary parental leave will be bound by the implied obligation of good faith, and any terms and conditions of employment relating to:
- notice of termination;

- disclosure of confidential information;
- the acceptance of gifts or other benefits; and
- participation in any other business.

Conditions of "ordinary" parental leave

- 19.4 WHMAT has adopted the default scheme for the taking of ordinary parental leave and the following conditions apply.
- 19.5 An employee may not exercise any entitlement to ordinary parental leave unless he/she has produced evidence of parenthood or parental responsibility. This could be in the form of a birth certificate or adoption papers.
- 19.6 The employee must give proper notice of the period of leave that he/she proposes to take. This notice must be given to the organisation at least 21 days before the date on which leave is to start and must specify the dates on which the period of leave is to begin and end.
- 19.7 Where the employee is the father of the child in respect of whom the leave is to be taken and he requests ordinary parental leave to begin when his child is born, his notice must specify the expected week of childbirth and the duration of the period of leave. The employee must give this notice at least 21 days before the expected week of childbirth.
- 19.8 Where the ordinary parental leave is in respect of an adopted child and is to begin on the date of the placement, the employee's notice must be given to WHMAT at least 21 days before the beginning of the week in which the child is to be placed for adoption, or as soon as is reasonably practicable thereafter. It must specify the week in which the placement is expected to occur and the duration of the period of ordinary parental leave requested.
- 19.9 WHMAT may postpone a period of ordinary parental leave (other than where parental leave has been requested immediately after childbirth or immediately after placement for adoption) where it considers that its business would be unduly disrupted if the employee were to take leave during the period requested. In such a case, WHMAT will allow the employee to take an equivalent period of ordinary parental leave beginning no later than six months after the commencement of the period originally requested. WHMAT will give notice in writing of the postponement stating the reason for it and specifying suggested dates for the employee to take parental leave. Such notice will be given no more than seven days after the employee's notice was given to WHMAT.
- 19.10 Employees may not take ordinary parental leave in blocks of less than one week (except in relation to a child who is disabled).
- 19.11 Employees may not take more than four weeks' leave in respect of any individual child in any year. For these purposes a year is the period of 12 months beginning when the employee first becomes entitled to ordinary parental leave in respect of the child in question, and each successive period of 12 months beginning on the anniversary of that date.

Return from "ordinary" parental leave

- 19.12 An employee who returns to work after a period of ordinary parental leave is entitled to return to the job in which he/she was employed prior to the absence if it was an isolated period of leave lasting four weeks or less. If the period of parental leave followed on immediately from

another period of statutory leave, the employee's right to return depends on the length of leave taken.

19.13 The employee has the right to return to the same job if the ordinary parental leave was the last of two or more consecutive periods of leave that did not include:

- a period of ordinary parental leave lasting more than four weeks; or
- any period of statutory leave that, when added to any other period of statutory leave (excluding ordinary parental leave) taken in relation to the same child, means that the total amount of statutory leave taken in relation to that child totals more than 26 weeks.

19.14 An employee who returns to work after a period of ordinary parental leave that does not fall into the above description, for example because it follows ordinary and additional maternity leave lasting more than 26 weeks, is entitled to return to the job in which he/she was employed prior to the absence, or, if that is not reasonably practicable, to another job that is both suitable and appropriate in the circumstances.

20.0 Surrogacy

20.1 A surrogate mother will be entitled to paid maternity leave provided that she meets the normal eligibility criteria (see above). What the birth mother plans to do with her baby after it is born has no impact on her right to maternity leave or to statutory maternity pay.

21.0 Policy Review

21.1 This Policy will be reviewed and amended every 24 months by WHMAT in line with employment legislation and HR good practice. The Director of HR will monitor the application and outcomes of this policy to ensure it is working effectively.