



HWCGS Care (T/A Segal Gardens)

436 Fleet Lane, Parr, St Helens, nr Liverpool, Merseyside, WA92NH



Review Sheet

Last Reviewed
16 Apr '20Last Amended
16 Apr '20Next Planned Review in 12 months, or
sooner as required.

Business impact



MEDIUM IMPACT

Changes are important, but urgent implementation is not
required, incorporate into your existing workflow.

Reason for this review

Scheduled review

Were changes made?

Yes

Summary:

This policy has been updated to outline the interaction between paternity leave and furlough leave given the current COVID-19 crisis. This policy confirms the statutory minimum procedure that the service must follow when an employee is going or coming back from a period of paternity leave.

Relevant legislation:

- Paternity and Adoption Leave (Amendment) (No. 2) Regulations 2014
- Paternity and Adoption Leave (Amendment) Regulations 2014
- Paternity and Adoption Leave Regulations 2002
- Employment Act 2002
- General Data Protection Regulation 2016
- Data Protection Act 2018

Underpinning
knowledge - What have
we used to ensure that
the policy is current:

- Author: Government, (2016), *Paternity pay and leave*. [Online] Available from: <https://www.gov.uk/paternity-pay-leave/overview> [Accessed: 16/4/2020]
- Author: Government, (2016), *Statutory Paternity Pay and Leave: employer guide*. [Online] Available from: <https://www.gov.uk/employers-paternity-pay-leave/entitlement> [Accessed: 16/4/2020]

Suggested action:

- Encourage sharing the policy through the use of the QCS App
- Share 'Key Facts' with all staff
- Ensure the policy is discussed in planned supervision sessions with relevant staff
- Ensure relevant staff are aware of the content of the whole policy



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1. Purpose

1.1 This policy sets out the eligibility criteria for an employee to take paternity leave as well as the arrangements for taking it.

1.2 HWCBS Care (T/A Segal Gardens) ensures that any employee wishing to take parental leave will not be discriminated against or subjected to a detriment for doing so.

1.3 Employees should be aware that, in some cases, they will be entitled to opt into the Shared Parental Leave Scheme which provides more flexibility to both the employee and their partner to share leave and pay. Details can be found in the Shared Parental Leave Policy and Procedure.

1.4 Should the employee have adopted a child and be looking to take paternity leave in respect of the adoption, this policy should be read in conjunction with the Adoption Policy and Procedure.

1.5 To support HWCBS Care (T/A Segal Gardens) in meeting the following Key Lines of Enquiry:

Key Question	Key Lines of Enquiry
SAFE	S3: How does the service make sure that there are sufficient numbers of suitable staff to support people to stay safe and meet their needs?
WELL-LED	W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed?

1.6 To meet the legal requirements of the regulated activities that HWCBS Care (T/A Segal Gardens) is registered to provide:

- | Paternity and Adoption Leave (Amendment) (No. 2) Regulations 2014
- | Paternity and Adoption Leave (Amendment) Regulations 2014
- | Paternity and Adoption Leave Regulations 2002
- | Employment Act 2002
- | General Data Protection Regulation 2016
- | Data Protection Act 2018



2. Scope

2.1 The following roles may be affected by this policy:

- | All staff

2.2 The following Service Users may be affected by this policy:

- | Service Users

2.3 The following stakeholders may be affected by this policy:

- | Family



3. Objectives

3.1 To ensure that all employees are aware of the eligibility criteria, notification requirements and pay entitlements should they wish to take paternity leave.

3.2 To ensure that employees comply with their obligations in relation to notification requirements should they wish to take a period of paternity leave.



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4. Policy

4.1 This policy only applies to employees. It does not apply to workers, volunteers, contractors or agency workers.

4.2 HWCGS Care (T/A Segal Gardens) does not operate a contractual paternity pay scheme but will honour its statutory obligations that are in force from time to time.

4.3 This policy applies to employees regardless of gender, subject to the entitlement provisions set out in the Procedure section.

4.4 This policy does not form part of an employee's contract of employment and may be amended at any time.

4.5 Definitions are applicable throughout this policy and employees should familiarise themselves with the Definitions section before reading through the main body of the policy.

4.6 Any data collected as part of this policy will be processed in accordance with current data protection legislation, the Privacy Notice issued to staff and the Data Security and Data Retention Policy and Procedure in place at HWCGS Care (T/A Segal Gardens).



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5. Procedure

5.1 Entitlement to Paternity Leave

All employees, regardless of gender, are entitled to take paternity leave subject to meeting the eligibility requirements.

Employees are eligible to take paternity leave if they are caring for a child or supporting the child's other parent in the following circumstances:

- | On the birth of a child where either:
 - | The employee is the child's biological father and the employee expects to have some responsibility for the child's upbringing, or
 - | The employee is the mother's partner and the employee expects to have main responsibility with the mother for the child's upbringing
- | On the birth of a child to a surrogate mother where the employee or their partner is the child's biological parent and the employee or their partner expects to obtain a parental order giving both the employee and their partner responsibility for the child
- | Where a child is placed with the employee and/or their partner by an adoption agency and the employee expects to have main responsibility with their partner for the child's upbringing
- | Where a child is placed with the employee and/or their partner under a fostering or adoption arrangement and the employee expects to have main responsibility with their partner for the child's upbringing

For further details of how paternity leave is applicable when adopting, fostering for adoption or in surrogacy cases please refer to the Adoption Policy and Procedure. Employees may wish to consider adoption leave instead in these circumstances. Only one parent can take adoption leave so the employee should discuss this with their partner. Employees are not able to take both paternity leave and adoption leave.

An employee must have been continuously employed by HWCGR Care (T/A Segal Gardens) for at least 26 weeks ending with:

- | In birth cases, the week immediately before the 14th week before the Expected Week of Childbirth
- | In adoption cases, the week in which the employee or their partner is notified by an adoption agency that they have been matched with a child

5.2 Timing and Length of Paternity Leave

Paternity leave must be taken as either one or two consecutive weeks. Paternity leave cannot be taken in instalments.

An employee can take paternity leave on the day of the child's birth or placement or at any time, provided that it must end within 56 days (eight weeks) of this date, or within 56 days of the first day of the Expected Week of Childbirth or Expected Week of Placement if the child is born or placed earlier than expected.

5.3 Notification

In birth cases, the employee must provide written notice to HWCGR Care (T/A Segal Gardens) of their intention to take paternity leave no later than the end of the 15th week before the Expected Week of Childbirth or as soon as the employee reasonably can do so.

In adoption cases, the employee must provide written notice to HWCGR Care (T/A Segal Gardens) of their intention to take paternity leave no later than 7 days after the employee and/or their partner received notification that they had been matched with a child or as soon as the employee reasonably can do so.

The written notice should state:

- | The Expected Week of Childbirth or the Expected Placement Date
- | The date the employee would like the paternity leave to start bearing in mind the timing section above; and
- | Whether the employee intends to have one or two weeks' leave

HWCGR Care (T/A Segal Gardens) reserves the right to require a signed declaration from the employee which confirms that the employee is taking paternity leave to care for the child or support their partner in caring for the child.

Should it be necessary to vary the original start date, the employee must provide HWCGR Care (T/A Segal Gardens) with written notice. This written notice should be given:

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- | In respect of a child's birth:
 - | Where the employee wishes to vary the date of 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
 - | Where the employee wishes to vary the date of leave to start a specified number of days after the child's birth, at least 28 days (less the number of specified days) before the first day of the Expected Week of Childbirth; or
 - | Where the employee wishes to vary their leave to start on a specific date or a different date from originally specified, at least 28 days before that date
- | In respect of an adoption:
 - | Where the employee wishes to vary the date of leave to start on the day the child is placed with them for adoption, at least 28 days before the Expected Placement Date
 - | Where the employee wishes to vary the date of leave to start a specified number of days after the Expected Placement Date, at least 28 days (less the number of specified days) before the first day of the Expected Placement Date; or
 - | Where the employee wishes to vary their leave to start on a specific date or a different date from originally specified, at least 28 days before that date

If the employee is unable to provide 28 days' written notice, then the employee must ensure that HWCGS Care (T/A Segal Gardens) is notified of the change as soon as reasonably possible.

5.4 Paternity Pay

HWCGS Care (T/A Segal Gardens) does not operate a contractual paternity pay scheme. Any employee wishing to take paternity leave will, therefore, be entitled to statutory paternity pay (SPP) so long as, during the Relevant Period, the employee's average weekly earnings are not less than the lower earnings limit. This limit changes from time to time. Please see the reference section of this policy for a link to the up-to-date figures.

SPP is paid either at a prescribed rate set by the Government each year or at 90% of the employee's average weekly earnings calculated over the Relevant Period if this is lower. Please see the Underpinning Knowledge section of this policy for a link to the up-to-date prescribed rate.

5.5 Terms and Conditions

The employee will continue to be entitled to all terms and conditions of their employment during their period of paternity leave, except those related to pay.

In particular, the following shall continue:

- | Benefits in kind
- | Annual leave entitlement; and
- | Pension benefits

5.6 Annual Leave

The employee's entitlement to annual leave will continue to accrue during a period of paternity leave at the rate specified in their contract of employment. Should paternity leave be taken close to the end of the annual leave year at HWCGS Care (T/A Segal Gardens), so that it continues into the next annual leave year, any annual leave that cannot reasonably be taken by the employee before starting their paternity leave can be carried over into the next annual leave year.

Any annual leave carried over must be taken within three months of returning to work following a period of paternity leave.

The employee is encouraged to speak with their manager in good time before starting paternity leave to outline their annual leave plans. The procedure for booking annual leave is as set out in the Annual Holiday Policy and Procedure.

5.7 Pensions

During paternity leave, HWCGS Care (T/A Segal Gardens) will continue to make any employer contributions that the employee would have received based on the earnings the employee would have received had they not been on paternity leave, provided that the employee continues to make contributions based on the SPP that they are receiving.

Should the employee wish to increase their contribution to their pension to make up the difference between contributions when being paid full salary and contributions when being paid SPP, the employee must speak with their manager in good time before the start of paternity leave.

5.8 Returning to Work

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An employee should normally be entitled to return to the same job after paternity leave on the same terms and conditions the employee held before commencing paternity leave.

However, if the employee has also exercised their right to parental leave of at least four weeks before or after a period of paternity leave and it is not reasonably practicable for the employee to return to the same job, HWCGS Care (T/A Segal Gardens) may provide you with another suitable alternative role on terms and conditions which are not less favourable.

If the employee is also taking SPL in respect of the same child, please see the Shared Parental Leave Policy and Procedure at HWCGS Care (T/A Segal Gardens) for information about their rights to return to work.

5.9 Paternity Leave and Furlough

In the event an employee is on furlough leave immediately prior to starting their paternity leave, their paternity leave will start as normal and they will no longer be on furlough leave. Similarly, if an employee is already on paternity leave at the point that HWCGS Care (T/A Segal Gardens) decides that they would otherwise be placed on furlough leave, the paternity leave will continue and furlough leave will not be applicable.

In the event an employee is shortly due to return from paternity leave into a role which HWCGS Care (T/A Segal Gardens) would otherwise have placed on furlough leave, HWCGS Care (T/A Segal Gardens) will ensure it communicates with this employee in good time ahead of their scheduled return date and, in the event there continues to be no work to offer them once they return, HWCGS Care (T/A Segal Gardens) will agree with the employee that they will be placed on furlough leave. For further information about furlough leave please see the Furlough Policy and Procedure.

**6. Definitions****6.1 Partner**

- | An individual (whether of the same or a different sex) with whom another individual lives in an enduring family relationship but who is not the individual's parent, grandparent, sister, brother, aunt or uncle

6.2 Expected Week of Childbirth

- | The week (beginning on a Sunday) in which the employee's doctor or midwife expects the employee's child to be born

6.3 Expected Placement Date

- | The date that the child is expected to be placed into the employee's care with a view to adoption

6.4 Relevant Period

- | In relation to birth, the eight-week period ending with the 15th week before the Expected Week of Childbirth
- | In relation to adoption, the eight-week period before the week in which the employee or their Partner were notified of being matched with the child

6.5 SPL

- | Shared Parental Leave

6.6 Furlough Leave

- | A period of absence from work where the individual will be paid at least 80% of their employment costs (inclusive of employer national insurance contributions and employer pension contributions) and HWCGS Care (T/A Segal Gardens) will reclaim these costs under the CJRS

6.7 CJRS

- | COVID-19 Job Retention Scheme being the scheme set up by the Government to fund the employment costs of all individuals designated as furloughed workers

**Key Facts - Professionals**

Professionals providing this service should be aware of the following:

- | Paternity leave applies to employees of either gender
- | Paternity leave is applicable to a traditional birth, adoption and surrogacy
- | Paternity pay is payable at a rate prescribed by the Government and which can change year-on-year



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Key Facts - People affected by the service

People affected by this service should be aware of the following:

- HWCGS Care (T/A Segal Gardens) appreciates that an employee taking paternity leave may impact on that employee providing the service to you. HWCGS Care (T/A Segal Gardens) will ensure that as much notice is given of any changes in personnel and that consistency and quality of care is maintained



Further Reading

As well as the information in the 'underpinning knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

Money Advice Service Guidance - Paternity leave and pay:

<https://www.moneyadviceservice.org.uk/en/articles/paternity-leave-and-pay>

ACAS Guidance - Paternity leave and pay:

<http://www.acas.org.uk/index.aspx?articleid=1806>

ACAS Guidance - Your paternity leave, pay and other rights:

<https://www.acas.org.uk/your-paternity-rights-leave-and-pay>



Outstanding Practice

To be 'outstanding' in this policy area you could provide evidence that:

- HWCGS Care (T/A Segal Gardens) makes provisions for contractual paternity pay over and above the rate of SPP
- HWCGS Care (T/A Segal Gardens) ensures that employees who opt to take advantage of paternity leave are aware of their right to request flexible working should they be eligible on their return to work
- HWCGS Care (T/A Segal Gardens) ensures that they have a discussion with the employee shortly before their return to work to update the employee of any changes during their absence, ensuring that any training needs are addressed and discussing any changes to working arrangements, if any
- The wide understanding of the policy is enabled by proactive use of the QCS App
- HWCGS Care (T/A Segal Gardens) ensures there is a dialogue with Service Users to ensure that the employee's intention to take a period of leave and the arrangements for cover are fully communicated



Forms

The following forms are included as part of this policy:

Title of form	When would the form be used?	Created by
Paternity Notification Form - PA05	For an employee to notify the employer of their intention to take paternity leave.	QCS

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Please complete all sections:

Date: *[insert]*

To: *[insert name], [hr department or line manager]*

Re: Request for Paternity Leave

I, *[name of employee]*, *[job title and department]*, write to give notice that intend to take Paternity Leave in relation to the birth of my child and confirm that:

- My Child is due week beginning / or was born on the week which began *[date]*
- I intend to take *[one week OR two consecutive weeks']* Leave
- ***[Please confirm which applies]*** I would like my Leave to commence:
 - On the date on which my child is born.
 - [.....] ***[please insert number]*** days after my Child’s date of birth;
 - On [.....] ***[please insert date]*** which I can confirm is not earlier than the first day of the week when my Child is due.

Please ensure my information remains confidential.

.....
[Employee's name]

.....
[Employee's department]

.....
[Insert date]