



# Shared Parental Leave

**Approved by: Trust Board**

**Last reviewed: July 2018**

**Next review due: July 2019**

# SHARED PARENTAL LEAVE

## 1. Key Points

This policy and procedure outlines the statutory right to take Shared Parental Leave and Shared Parental Pay to care for a child due to be born or placed for adoption on or after 5th April 2015. The following legislation applies to this policy:

- the Shared Parental Leave Regulations 2014
- the Shared Parental Pay (General) Regulations 2014
- the Maternity and Adoption Leave (curtailment of statutory rights to leave) Regulations 2014
- Employment Rights Act 1996 (Chapter 1B, section 75E to 75K)
- Children and Families Act 2014
- Equality Act 2010

## 2. Introduction

Shared Parental Leave (SPL) is an additional type of family leave that enables eligible employees to choose how they share the care of their child during the first year of birth or adoption. Parents taking SPL will have the opportunity to share up to 50 weeks' leave should they wish to do so as well as 37 weeks' Shared Parental Pay (ShPP). Employees will still have the option of requesting other types of family leave including statutory maternity, adoption and ordinary paternity leave. Therefore, this policy should be read in conjunction with the [Carers Guide](#).

## 3. Scope

This policy is written and approved at board level, but applies to all employees who meet the eligibility criteria of schools, settings, and services, hereafter the 'organisations', within The Claxton Trust.

It has been created using a model policy created by Herts for Learning and has therefore been produced in consultation with external advisors and the professional associations/trade unions.

This policy does not apply to agency workers or self-employed contractors.

This policy does not form part of any employee's contract of employment and we may amend it at any time.

## 4. Policy

Eligible employees can choose to access the SPL system if the mother/joint adopter brings their maternity/adoption leave and pay to an end early. They can do this by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail (reduce) their leave at a specified future date.

The other parent does not have to work for the school but they must satisfy the minimum employment and earnings criteria.

### 4.1 Eligibility Criteria

To be entitled to SPL employees must:

- be either the mother, father, or joint adopter of the child, or the partner of the mother or joint adopter (for ease of reference the partner/father of the child will be referred to as the other parent).
- have (or share with the other parent) the responsibility for the care of the child at the time of the birth/placement for adoption

- have at least 26 weeks' continuous service at the 15th week before the Expected Week of Childbirth (EWC)/matching date
- be working for the school in the week before any SPL is due to start
- the mother/joint adopter of the child must be/have been entitled to statutory maternity/adoption leave or entitled to statutory maternity/adoption pay or maternity allowance
- have ended or given notice to curtail any maternity/adoption entitlements
- notified the organisation of their entitlement and provided additional evidence if requested to do so

In addition, the other parent must:

- have at least 26 weeks' employment (employed or self-employed) out of the 66 weeks before the EWC/matching date
- have average weekly earnings of at least £30 (this figure may change annually) during at least 13 of the 66 weeks leading up to the EWC/matching date.

A partner is someone who lives with the mother or joint adopter and the child in an enduring family relationship, excluding the mother or joint adopter's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

If both parents qualify for shared parental leave they can choose the following options:

- take leave at the same time
- the mother/joint adopter could return to work and allow the other parent to take the balance of their leave
- take turns in using the leave

#### **4.2 Entitlement to Shared Parental Pay (ShPP)**

In addition to the eligibility criteria outlined above, if employees wish to claim shared parental pay (ShPP) they must meet the following criteria:

- have average weekly earnings equal to or above the Lower Earnings Limit in the 8 weeks before the 15th week before the EWC/matching date
- the mother / adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have curtailed their maternity/adoption or maternity allowance pay period
- intend to care for the child during the week in which ShPP is payable
- remain in continuous employment until the first week of ShPP has begun
- have provided the correct notification in accordance with the rules set out below

ShPP is a statutory weekly rate which is set by government each tax year (currently £138.18-rising to £140.98 from 02/04/17---01/04/18) or 90% of the employee's normal weekly earnings if this is lower). Unlike Statutory Maternity Pay (SMP), there is no provision for employees to be paid 90% of their earnings for the first six weeks of statutory ShPP. Therefore, if an employee is receiving SMP at the higher rate of 90% of her earnings and switches to ShPP within the first six weeks of her SMP period, she will move to the lower rate of pay.

The total amount of Statutory ShPP is 39 weeks. As two weeks compulsory leave must be taken by the mother/joint adopter, which will be paid at SMP or Statutory Adoption Pay (SAP), in practice a maximum of 37 weeks' statutory ShPP is payable. This will be reduced by the number of weeks' statutory maternity/adoption pay or maternity allowance already taken by the mother or joint adopter. Any entitlement to claim statutory ShPP requires the employee to be absent from work during each week that ShPP is paid to them, except in certain circumstances such as using "Shared Parental Leave in Touch (SPLIT)" days. Payment for such SPLIT days includes payment for any statutory entitlement and does not extend the ShPP period.

## 5. Using SPL

SPL is only available if the mother/joint adopter curtails their maternity/adoption leave before using their full entitlement of 52 weeks. After the birth/placement of a child, it is compulsory to take at least two weeks' maternity/adoption leave, which may not be shared with the other parent. In terms of adoption, SPL cannot begin until two weeks after the start of statutory adoption leave. Therefore, in the majority of cases eligible parents will have the opportunity to share 50 weeks' of SPL.

The number of weeks available as SPL will be reduced by the number of weeks' maternity or adoption leave that has already been taken by the mother or joint adopter (or the number of weeks' statutory maternity/adoption pay or maternity allowance already taken if the mother or joint adopter is not entitled to statutory maternity/adoption leave). For example, the mother could take 6 weeks' maternity leave then end her maternity leave early by returning to work. The remaining maternity leave (46 weeks) would be converted to SPL and available for the other parent to take.

SPL must be taken in blocks of at least one week and used within one year beginning with the date of the baby's birth or the child's placement for adoption.

Paternity leave can be taken by the biological father of the child or the mother's husband or partner (including same sex relationships). Refer to the Carer's Guide for further information. The entitlement to take up to two weeks ordinary paternity leave in a single block, within eight weeks following the birth or adoption of a child, will still be available. This can be taken at the same time as the mother is on SPL. Once the other parent takes SPL the right to ordinary paternity leave is lost.

Employees can choose to take SPL as:

- one continuous block or
- in multiples of complete weeks

SPL may begin on any day of the week for example, starting on a Tuesday and ending the following Monday. Employees are entitled to three periods of SPL; their original notification and two additional requests, which includes requests to vary a period of leave that has already been arranged.

### 5.1 Multiple births / adoptions

An employee is not entitled to extra SPL or ShPP if they are expecting more than one child. The entitlements are, like maternity leave, the same as if the employee was expecting one child. This also applies to multiple adoptions that occur in a single placement.

### 5.2 Continuous leave

A notification for continuous leave must be taken as a single block of leave in consecutive weeks (for example, six weeks in a row).

An employee has the right to take a continuous block of leave notified in a single notification so long as it does not exceed the total number of weeks of SPL available to them.

### 5.3 Discontinuous leave

A notification for leave may involve requesting two or more periods of leave that includes breaks between the leave where the employee returns to work.

In general, a period of leave notification should set out a single continuous block of leave but all requests for discontinuous leave will be considered on a case by case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

For further details on how to apply for SPL, please refer to the Procedure in Section 6.

#### **5.4 Variations to agreed periods of SPL**

Employees are entitled to vary a period of leave provided that they have informed the Headteacher in writing at least eight weeks before the start date. If the request is to vary leave already booked the new start date cannot be sooner than eight weeks from the date of the variation request. Such requests will usually count as a new notification reducing the employee's right to book/vary a period of SPL by one.

For further details on how to vary SPL, please refer to the Procedure in Section 6.

#### **5.5 Terms and conditions during SPL**

#### **5.6 Contractual benefits**

An employee remains employed by the school whilst on SPL. With the exception of salary (which is replaced by the pay provisions outlined in this policy) employees remain entitled to

all contractual benefits including:

- Annual leave entitlements
- Employer pension contributions

#### **5.7 Holidays**

Employees using SPL will continue to accrue their contractual holiday entitlements. Before an employee starts SPL, the Headteacher, or line manager where appropriate, should discuss appropriate arrangements for taking any holiday entitlements.

#### **5.8 Returning from SPL**

Employees returning to work immediately after a period of SPL which was 26 weeks or less (including any statutory maternity/adoption leave they may have taken to care for the same child) are entitled to return to work in the same job that they left.

Employees returning to work from a period of SPL which was 26 weeks or more (including any maternity/adoption leave they may have taken to care for the same child) will normally be entitled to return to the job in which they were employed before any absences. If that is not reasonably practicable for the school, then employees will return to another job which is both suitable and appropriate in the circumstances.

Where the employee's post is at risk due to an organisational change, employees will be informed under the provisions of the restructure and reductions in staffing guidance.

### **6. Procedure**

#### **6.1 Notification requirements**

The notification requirements for SPL and ShPP are very specific and detailed. Therefore, employees must follow the requirements as detailed below.

All the notification forms can be found in the Shared Parental Leave toolkit.

## 6.2 Notice of intention to take SPL and curtail maternity/adoption leave and pay

All employees of the school who wish to take SPL must complete and submit a Notice of intention to take Shared Parental Leave form to their Headteacher, 8 weeks' prior to taking a period of SPL.

If the mother/joint adopter works for the school they must complete Part 3 of the Notice of intention to take SPL form giving 8 weeks' notice of the date on which their maternity/adoption leave and pay is to end (or the date on which maternity/adoption pay is to end if s/he is not entitled to maternity/adoption leave). If the mother is **only** entitled to maternity allowance her notice of curtailment must be submitted to Jobcentre Plus.

Notice of curtailing maternity/adoption leave is usually binding, but may be revoked before the curtailment date in the following circumstances:

- if neither parent is entitled to SPL or ShPP
- if the curtailment notice was given before the birth and is revoked within six weeks of the birth or 8 weeks after submitting the request (whichever is later). In this situation another curtailment notice can be submitted
- if one parent dies

Employees are required to provide the following information within their notification of intention to take SPL form:

- their name and the other parent's full name
- the start and end dates of the mother's or joint adopter's maternity/adoption leave (or the start and end dates of the statutory maternity/adoption pay or maternity allowance period if the mother/joint adopter is not entitled to statutory leave)
- the expected date of birth/placement and the actual date of birth/placement (if the written notice is given after the birth/placement)
- the amount of SPL and ShPP available and an indication of how much each parent intends to take
- an indication of the start and end dates of the periods of SPL and ShPP that they intend to take
- a signed declaration that they meet the eligibility conditions and are entitled to SPL, the information provided is accurate and they will notify the school immediately if they cease to meet the conditions for entitlement

The employee must also ensure the other parent completes a signed declaration (Part 6 of the Notice of intention to take SPL form) confirming:

- his or her name, address and National Insurance number
- their relationship to the child
- that s/he meets the eligibility criteria and had at the date of the child's birth or placement for adoption the main responsibility for the child, along with the employee
- that they consent to the amount of SPL/ShPP that the employee intends to take
- they will immediately inform their partner should they cease to satisfy the eligibility conditions

## 7. Supporting documents

Employees will need to supply one of the following documents with their notice of intention to take SPL form:

- a copy of the child's birth certificate or where one has not been issued, a declaration confirming the time and place of birth

- in cases of adoption, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption
- in surrogacy situations, intended parents will be issued with a Parental Order

In cases where the child is not yet born this information must be provided as soon as reasonably practicable after the birth but before the employee wishes to take a specific period of SPL and ShPP.

### **7.1 Requesting further evidence of eligibility**

The school may also request the name and business address of the other parent's employer. Any such request will be made by the headteacher or line manager as appropriate within 14 days of receiving the employee's notice of intention to take SPL form. Employees' must respond to the request for evidence within 14 days (or within 14 days of the birth of the baby if the request was made before the child was born). If the other parent is not employed, this must also be declared.

### **7.2 Notice to take a specific period of SPL and ShPP**

When completing the notice of intention to take shared parental leave form employees have the option to provide dates for SPL and make them binding. If they do so employees are entitled to submit a maximum of two further notifications. The employee must complete a Notice of Intention to take Shared Parental Leave form prior to taking any periods of SPL. Each form must be submitted at least eight weeks before the start of a period of leave, stating the dates of the leave and the dates on which ShPP will be claimed, if applicable.

If the first notification is given prior to the birth of a child, the notice may express the start date in relation to the date of birth, for example 'starting two weeks after the baby is born for a period of four weeks'.

## **8. Confirmation of SPL**

If a continuous period of leave is requested in each notification for SPL, employees will be entitled to take that period of leave and this will be confirmed in writing.

If more than one period of leave is requested in a single notification, the school will seek to accommodate the request but this cannot be guaranteed. The headteacher, or line manager as appropriate, will discuss the request with the employee to determine if it can be accommodated.

If no agreement is reached within two weeks of the notice being submitted and the request is refused employees can:

- take the discontinuous periods of leave requested in one continuous block, beginning on the original start date
- take the continuous block starting on a new date, as long as the new date is no sooner than eight weeks from the date of the original notification and the Headteacher is notified of the new date within five days of the end of the two week period
- withdraw the notice on or before the 15th day after the notice was submitted (in which case it will not be counted as one of the three period of leave notices)

The headteacher's decision will be confirmed in writing.

## **9. Varying a period of leave**

Employees are entitled to submit a request to vary a period of leave in the following ways:

- vary the start or end date as long as the variation is requested at least eight weeks' before the original start date and the new start date
- vary or cancel the amount of leave requested at least eight weeks' before the original start date
- request that a single period of leave become a discontinuous period of leave, or vice versa.

Where the variation is to take a continuous period of SPL employees will be entitled to do so. Where the variation is to take a discontinuous period of SPL the school has a two week period to consider the request. If the request is refused employees can take the leave as a continuous block, on the original date or a new date or withdraw the notice as long as the time limits set out above are met.

A variation will count as one of the three periods of leave notices unless:

- it is made as a result of the child being born earlier or later than the expected week of childbirth
- a notice requesting discontinuous leave is withdrawn by the employee on or before the 15th day after the notice was submitted
- the headteacher has requested the variation

Requests to vary a period of leave must be submitted on the Notice to cancel or vary a period of shared parental leave form.

## **10. Keeping in touch during SPL**

Employees may be asked to attend work on occasional days during their SPL period. These days could be for training or to attend departmental meetings. These are known as "Shared Parental Leave in Touch" (SPLIT) days. Employees may work for up to 20 days without bringing their SPL to an end, but work during SPL will not have the effect of extending either the SPL or ShPP. If an employee does any work, they will be paid their normal rate of pay inclusive of any statutory ShPP entitlement. Employees are under no obligation to work during SPL and the school is under no obligation to offer work.

The 20 SPLIT days available during SPL are in addition to the 10 KIT days available to the mother/joint adopter during maternity and adoption leave.

## **11. Special circumstances and further information**

In certain situations an employee's rights and entitlements regarding SPL and ShPP may change. For example, if the baby is born before the EWC or the partner is no longer caring for the child. In these circumstances, the employee and/or their Headteacher should contact Serco Payroll and HR Transactions, or alternative provider, for further guidance.