



SHARED PARENTAL LEAVE POLICY

Lead Person : Deputy Headmaster
Governing Body Committee : Resources Staff & Pay

Summary:

The school is committed to supporting parents to be, before, during and after they return from shared parental leave. This policy provides guidance on claiming statutory shared parental pay, obligations during shared parental leave and statutory and contractual shared parental leave entitlements.

This Shared Parental Leave Policy and Procedure does not form part of any employee's contract of employment and is entirely non-contractual. It may be amended, withdrawn, suspended or departed from at the discretion of the School at anytime. Everyone should ensure that they take the time to read and understand the content of this policy and procedure and act in accordance with its aims and objectives. If you need support reading and/or understating this policy and procedure, please speak with your line manager. All staff must ensure that they are familiar with and comply with and support the school's policies, procedures and guidance. Please be aware that the school requires at least 8 weeks notice before shared parental leave starts.

It is important to note that Shared Parental Leave can be taken in relation to Adoption or Maternity Leave, so when the mother and partner are referred to throughout the policy, mother also means adopter and partner also refers to the adopters partner.

This policy will be reviewed periodically, which will be at least every two years. When statutory law changes the policy is held automatically to have been amended by that change and will be updated as soon as practically possible.

This policy applies to the following employees:

- Support Staff
- teachers (Burgundy Book)

What is Shared Parental Leave?

Shared Parental Leave is a legal entitlement that provides both parents with the opportunity to consider the best arrangement to care for their child during the child's first year.

It consists of paid and unpaid time off work that you are entitled to when you have a baby.

When does Shared Parental Leave come in?

Shared Parental Leave came into force from 1st December 2014

The Shared Parental Leave Regulations 2014 will apply to babies due on or after the 5th April 2015 and children who are placed in adoption on or after the 5th April 2015

Does Shared Parental Leave just apply to pregnancy?

No, Shared Parental Leave can be taken by mothers who will be taking maternity leave and employees taking adoption leave. Shared Parental Leave rights also extend to employees engaged in surrogacy with some minor differences, further advice should be sought in surrogacy cases.

Throughout this policy we will refer to the 'mother' and 'partner'. When we use the term 'mother' we are also referring to the 'adopter' and when we use the term 'partner' we are referring to the 'adopter's partner'

How will Shared Parental Leave operate?

A mother who meets the eligibility criteria will be able to bring her maternity leave to an end and choose to take shared parental leave with her partner, who must also meet the relevant eligibility criteria.

The compulsory maternity leave period is reserved for the mother and therefore, the mother cannot end her maternity leave until two weeks after the birth.

The leave does not have to be taken in one continuous block; employees can return to work and take a further period of shared parental leave.

All leave must be taken in the first 52 weeks after birth.

What happens to Maternity/Adoption/Paternity Leave?

Parents will remain entitled to choose maternity, paternity and adoption leave.

However shared parental leave will replace additional paternity leave which will be abolished under the new regulations

Will shared parental leave impact maternity/adoption support?

No, maternity and adoption support will remain unchanged

What is the pay entitlement?

Statutory Shared Parental Pay (ShPP) will be paid to School employees who have chosen to move onto shared parental leave.

This is paid at the rate of £139.58 a week or 90% of an employee's average weekly earnings, whichever is lower.

An employee and their partner who move onto shared parental leave will be entitled to 39 weeks ShPP minus the amount of maternity/adoption pay that has been received. i.e. if the mother receives two weeks maternity pay prior to moving onto shared parental leave, 37 weeks of ShPP will remain.

A note on Eligibility

There is a two stage test for eligibility for shared parental leave.

An employee must be eligible in his or her own right and the employee's partner must also meet certain eligibility requirements.

Please see the eligibility criteria flow charts or visit the Government website to check your eligibility.

What are the mother's eligibility criteria for Shared Parental Leave?

A mother will be eligible for Shared Parental Leave if she:

- Has at least 26 weeks' continuous employment by the end of the 15th week before expected week of childbirth and remains in continuous employment with the School until the week before any period of shared parental leave she takes
- Has the main responsibility for the care of the child at the date of the birth (apart from the responsibility of her partner or the child's father)
- Is entitled to statutory maternity leave
- Has complied with the relevant notice and evidence requirements

In addition, her partner (i.e. the child's father or the mother's spouse, civil partner or partner) must:

- Have been employed or self employed during at least 26 of the 66 weeks before the expected week of childbirth
- Have an average weekly earnings of at least £30.00 for any 13 of those 66 weeks

Have the main responsibility for the child at the date of birth (apart from the responsibility of the mother)

What are the partner's eligibility criteria for Shared Parental Leave?

An employee does not have to be the father of a child to be eligible to take shared parental leave alongside the child's mother. Shared parental leave is available to the spouse, civil partner or partner of the child's mother, if he or she has, or expects to have, the main responsibility for the care of the child alongside the mother

An employee who is the partner of the child's mother will be eligible for shared parental leave if he or she:

- Has at least 26 weeks' continuous employment by the end of the 15th week before expected week of childbirth and remains in continuous employment until the week before any period of shared parental leave he or she takes
- Has the main responsibility for the care of the child at the date of the birth (apart from the responsibility of her partner or the mother)
- Has complied with the relevant notice and evidence requirements

In addition the child's mother must:

- Have been employed or self employed during at least 26 of the 66 weeks before the expected week of childbirth
- Have an average weekly earnings of at least £30.00 for any 13 of those 66 weeks
- Have the main responsibility for the child at the date of birth (apart from the responsibility of the employee)
- Be entitled to statutory maternity leave, statutory maternity pay or maternity allowance
- Have curtailed (ended) her maternity leave, or if she is not entitled to statutory maternity leave, curtailed her statutory maternity pay or maternity allowance.

What is curtailment?

Curtailment is notice to end maternity/adoption leave with the intention to use any remaining leave and pay through shared parental leave.

What is the notification process to take shared parental leave?

To move from maternity/adoption leave to shared parental leave follow the process steps below:

The mother must provide in writing their entitlement to shared parental leave and ShPP, including:

- Partner's name
- Maternity leave start and end dates
- The total amount of shared parental leave and ShPP available and how much each partner intend to take
- Confirmation that both partners are sharing childcare responsibilities

It must also include a signed declaration from the partner stating:

- Their name, address and national insurance number
- That they satisfy the qualifying requirements for shared parental leave and ShPP
- That they agree to the shared parental leave and ShPP

Once the manager has received this information they will ask for:

- A copy of the child's birth certificate (this can be provided up to 14 days after the child is born)
- The name and address of the partner's employer

Employees will have 14 days to provide this information with the exception of the birth certificate if the employee is notifying an intention to use shared parental leave prior to the baby being born/placed ..

Does the notification need to include the split of shared parental leave and pay?

Yes, once there is a decision to take shared parental leave the manager needs to be informed how the leave and pay will be taken.

There are two different ways to request leave:

Continuous leave request – This type of request is for a block of leave e.g. four weeks from the 1st of September to the 29th of September;

Discontinuous leave request – This type of request is for several blocks of leave that are requested all at once e.g. four weeks from the 1st of September to the 29th of September and four weeks from 1st of November to the 29th of November

There is also the opportunity to take the unpaid part of shared parental leave before the paid part, so if a block of leave is requested the employee must state whether they wish it to be paid or unpaid, e.g. Four weeks from the 1st of September to the 29th of September unpaid and four weeks from the 1st of November to the 29th of November paid.

Can shared parental leave dates be changed?

Yes, but eight weeks' notice is required of any changes to the initial plan for shared parental leave.

Can the manager refuse a request for shared parental leave?

Managers can't refuse a continuous period of leave and can only refuse a discontinuous period of leave if it compromises the effective operation of the service. The manager has two weeks from the request submission to review and approve, decline or discuss in further detail with the employee.

The employee is allowed to submit three separate leave notices. Therefore can take three separate blocks of leave, provided that the manager is given a separate notice of each period of leave, at least eight weeks before it starts.

If a discontinuous leave request is not approved within the two weeks the employee can withdraw the request within 15 days of making the request

What happens if a discontinuous leave is not approved within the two weeks?

If, following discussion in the two week period, there is no agreement on the continuous leave request and the employee hasn't withdrawn the request within the 15 days of submitting it the leave request will be automatically bunched together into a continuous leave and taken from the date of the discontinuous request.

e.g. The request is four weeks from the 1st of September to the 29th of September and four weeks from the 1st of November to the 29th of November. The request is not approved or withdrawn so the request is transformed to a continuous block of leave from the 1st of September to the 27th of October.

This cannot be withdrawn and must be taken.

How can shared parental leave be used?

There are many variations in the use of shared parental leave however it must be taken in blocks of at least one week

Below are two examples of potential shared parental leave formats:

1. An employee ends her maternity leave after 12 weeks, leaving 40 weeks (of the total 52 week entitlement) available for shared parental leave. Both the mother and partner are eligible, and decide that the partner will take a 20 week block followed by the mother taking the remaining 20 weeks
2. The mother is a school employee but will only receive statutory pay for both maternity leave and shared parental leave. The father's employer pays full pay for the entire shared parental leave period. The parents want to maximize their income while caring for their baby. They therefore decide that the mother will take six weeks maternity leave at the higher rate of statutory pay (90 per cent of her actual earnings). The mother will then end her maternity leave early and return to work, and the father will take shared parental leave for the remaining 46 weeks during which his employer will pay him in full.

Can both parents take shared parental leave at the same time?

Yes. If both meet the eligibility criteria they have the opportunity to take shared parental leave the best way for them.

For example: The mother ends her adoption leave after two weeks leaving 50 weeks of shared parental leave for her and her partner to take. They decide to split the remaining 50 weeks in half and take them at the same time. So each person receives 25 weeks shared parental leave.

Can a mother's partner begin a period of shared parental leave while mother is still on maternity leave?

Yes, if the mother has provided her employer with a maternity leave curtailment notice, and all the relevant eligibility criteria and notice requirements are satisfied, the mother's partner can begin a period of shared parental leave while the mother is still on maternity leave.

If an employee takes shared parental leave with his or her partner, who is responsible for paying the employee's partner?

If shared parental leave is taken, it is the employer of the partner who is responsible for paying the partner.

An employee does not have the right to transfer entitlement to enhanced pay to his or her partner.

Can same sex couples take shared parental leave?

Yes. An employee can take shared parental leave with his or her spouse, civil partner or partner.

Partner is defined as someone (whether of a different sex or the same sex) who lives with the employee in an enduring family relationship (but who is not his or her child, parent, grandchild, grandparent, sibling, uncle, aunt, niece or nephew).

Are income tax, national insurance and pension contributions payable shared parental pay?

Statutory shared parental pay is subject to income tax and national insurance in the same way as normal pay. If the employee is part of the Local Government Pension Scheme or Teachers Pension Scheme they will pay pension contributions on the statutory shared parental pay received.

During unpaid shared parental leave an employee can normally choose whether or not to pay pension contributions. Where contributions are not paid, the period is not counted as service and therefore is not included in future pension benefit calculations

How does an employee keep in touch during shared parental leave?

Employees are entitled to work up to 20 days during shared parental leave. These are called SPLiT days (shared parental leave in touch days).

These are in addition to the ten 'keeping in touch' (or KIT) days already available to those on maternity or adoption leave

SPLIT days can be used where both parties feel it would be beneficial for the employee to attend a work related activity or assist in the employee's return to work. KIT and SPLIT days are optional and there is no obligation on the employer to offer or the employee to agree to them. However the manager will keep the employee updated on everyday work issues, how and when contact is maintained may be agreed in advance of the leave period being taken.

Can the decision to move onto shared parental leave be cancelled?

Once a mother has given notice to end maternity/adoption leave and either parent has informed their entitlement to take shared parental leave then the notice to end maternity leave is binding and cannot be withdrawn unless:

- Within eight weeks of the mother submitting notice to end their maternity/adoption leave it transpires that neither parent qualifies for shared parental or Shared Parental Pay (ShPP).
- When notice was given before birth, it may be withdrawn without a reason up to six weeks following the birth
- The mother's partner dies

What is the entitlement to annual leave and bank holidays?

The entitlement is the same as it would be had the employee remained at work.

Can the employee attend training while on shared parental leave?

If it is agreed between the employee and the manager that attendance at a training course is necessary, then it will be taken as one of the SPLIT days.

What happens if the post is made redundant whilst the employee is on shared parental leave?

The school will try to re-deploy. Whenever possible, suitable alternative employment will be offered, with a period of temporary pay protection if appropriate.

While every reasonable effort will be made to offer alternative employment, if no suitable vacancy exists the employee will be made redundant. Employees are reminded that the unreasonable refusal of an offer of suitable alternative employment will lead to loss of entitlement to a redundancy payment.

If an employee is made compulsorily redundant whilst on shared parental leave and as a result unable to fulfil the requirement to return to work for three months, there would be no requirement to pay back ShPP received.

If an employee chooses to apply for voluntary redundancy whilst on shared parental leave and this is accepted, they may be required to repay any ShPP already received.

However if an employee applies (and are accepted) for voluntary redundancy after they have returned to work following shared parental leave they will not be required to repay

any ShPP previously received, provided three months employment is completed between the return to work date and the date which employment with the school ends.

What happens to statutory shared parental pay if the employee is made redundant?

For employees made redundant whilst on shared parental leave, who qualify statutory shared parental leave pay,, they will receive the notice pay due under the redundancy policy or any remaining ShPP (whichever is the larger) will be paid to the employee.at the end of their employment.

Shared parental leave and employment will finish at the end of the redundancy notice period if redeployment is not achieved.

What are the return to work arrangements?

Employees must return to work for three months in order to keep ShPP payments.

Employees who wish to work different days or hours on their return will need to make a flexible working request. Where a return to work is agreed on a different basis or take parental leave or a career break immediately after shared parental leave, the employee will still need to return to work for three months to keep ShPP payments.

What happens if an employee decides not to return to work?

They must resign in writing giving the appropriate notice. If they do not return to work for three months they will not be entitled to ShPP. If ShPP has already been received it will have to be paid back.

Eligibility Tests

Continuity of Employment Test (for employee claiming Shared Parental Leave)

The individual has worked for the same employer for at least 26 weeks at the end of the 15th week before the child's expected due date/matching date and is still working for the employer at the start of each leave period.

(Same length of service as needed to qualify for statutory maternity pay)

Employment and Earnings Test (for the other parent)

In the 66 weeks up to the baby's expected due date/matching date, the person has worked for at least 26 weeks and earned an average of at least £30.00 (as of 2015) a week in any 13 weeks.

(Same earnings as needed to qualify for maternity allowance)

Lower Earnings Limit Test (for employee claiming Shared Parental Pay)

The individual must have earned above the 'Lower Earnings Limit' (currently £111.00 per week) in the eight weeks leading up to and including the 15th week before the child's due

date/matching date and still be employed with the same employer at the start of the first period of SPL/ShPP.

(Same earnings as needed to qualify for statutory maternity pay)

Reviewed November 2015

Approved Full Governors December 2015

Next Review : November 2017