



Shared Parental Leave Policy 2018 - 22

	Date	Signed
Agreed by Trust Board:	July 2018	Chair of Board James Hargrave
Lead:	HR Committee	
Review date:	June 2022	

Shared Parental Leave Policy

Rationale:

Becoming a parent is one of the most exciting and wonderful experiences of your life and spending quality time with your child in those important first months can help you to develop a bond with your child that will last a lifetime. This has a positive impact on your child and the family unit.

Shared Parental Leave and Pay helps eligible parents to combine work with family life.

Aims:

This Shared Parental Leave Policy (SPL) sets out the statutory rights and enhanced benefits for employees in relation to shared parental leave and pay.

This policy enables eligible mothers, fathers, partners and adopters to choose how to share time off work in the first year after their child is born or placed. This could mean that an eligible mother or adopter may now choose to reduce their maternity/adoption leave early and opt in to SPL.

Scope:

This policy covers all employees at All Saints School Trust.

Throughout this policy the term 'partner' includes same sex partners.

Who is Entitled to Shared Parental Leave?

SPL can only be used by the mother/ primary adopter and **one other person**:

- the father of the child (in the case of birth) **or**
- the spouse, civil partner or partner of the child's mother/adopter

Both parents must share the main responsibility for the care of the child at the time of the birth/ placement for adoption.

Additionally an employee seeking to take SPL must satisfy each of the following criteria:

- be an employee

- the mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or to statutory maternity/adoption pay or maternity allowance.
- the mother/adopter must have curtailed or given notice to curtail any maternity/adoption entitlements
- the employee must still be working for the organisation at the start of each period of SPL
- the employee must pass the '*continuity test*', requiring them to have a minimum of 25 weeks' service at the end of the 15th week before the child's expected due date/matching date (for surrogate parents, it is the due date of birth that applies)
- the employee's partner must meet the '*employment and earnings test*' requiring them to have worked for any part of at least 26 weeks in the 66 weeks leading up to the child's expected due date/matching date and have average weekly earnings of at least £30 in any 13 of those weeks (this is correct as of 2018 but may change annually).
- the employee must correctly notify the organisation of their entitlement and provide evidence as required.

Sometimes only one parent will be eligible. For example a self-employed parent will not be entitled to SPL themselves but they may still pass the employment and earnings test so their partner, if they are an employee, may still qualify.

If both parents are employees and both meet the qualifying requirements then there will be a joint entitlement and the parents will have to determine how to divide the leave entitlement once the mother has decided to curtail their maternity/adoption leave.

What is the Entitlement to Shared Parental Leave?

SPL can commence as follows:

The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child.

The adopter can take SPL after taking at least two weeks of adoption leave.

The father/partner can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or Shared Parental Pay (ShPP)).

Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL. Both parents can be on leave at the same time – the mother could be on maternity leave and, if she has curtailed her maternity leave from a future date, the father or partner could be taking SPL, or they could both be on SPL.

A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of up to 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

If the mother/adopter is not entitled to maternity/adoption leave but is entitled to statutory maternity/ adoption pay or maternity allowance, they must reduce their entitlement to less than the 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL.

SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see section on notice requirements below).

SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

An employee is not entitled to extra SPL if they are expecting more than one child. The entitlements are the same: this also applies to multiple adoptions that occur in a single placement.

Shared Parental Pay (ShPP): Eligibility and Entitlements:

1) Who is eligible for shared parental pay?

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must satisfy each of the following criteria:

- the mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance
- the mother/adopter must have reduced their maternity/adoption pay period or maternity allowance period
- the employee must have average weekly earnings in the eight weeks leading up to and including the 15th week before the child's expected due date/matching date, not less than the lower earnings threshold applicable in that week (currently £111 per week)
- the employee must intend to care for the child during each week in which ShPP is payable
- the employee must be absent from work on SPL during each week in which ShPP is paid (apart from Shared Parental Leave In Touch (SPLIT) days)
- the employee must remain in continuous employment until the first week of ShPP has begun
- the employee must give proper notification.

2) What is the entitlement to shared parental pay?

a) Statutory ShPP

Eligible employees may be entitled to take up to 37 weeks statutory ShPP while taking SPL. The number of weeks available will depend on the number of weeks by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

Statutory ShPP is based on a rate set by the Government for the relevant tax year.

b) Enhanced ShPP

The school applies its enhanced rate of occupational maternity pay to employees on SPL. The same criteria will apply: that the employee should have at least 1 years' continuous Trust employment at the 11th week before the expected week of childbirth, or the adoption match.

The current rate of enhanced pay for eligible employees (except Teachers) is 12 weeks at half pay following the period of 90% pay, plus statutory pay (unless half pay plus statutory pay exceeds normal pay).

The current rate of enhanced pay for eligible Teachers is 4 weeks at full pay, 2 weeks at 90% pay and 12 weeks at half pay, plus statutory pay (unless half pay plus statutory pay exceeds normal pay).

Shared parental pay can be paid in three ways:

- paid as it falls due (with regular pay)
- as a lump sum upon the return to work
- as a lump sum after the return to work

If the mother or adopter returns to work in advance of the date given on the pay curtailment notice (see section on notice requirements), this does not generate an additional entitlement to more weeks of ShPP: the entitlement is based on the curtailment date.

As with occupational maternity pay, if an employee does not return to work following shared parental leave, or leaves within 13 weeks of the end of shared parental leave, then they will need to repay the enhanced element of shared parental pay received, although not the statutory part.

The Trust only pays ShPP to its own employees, not to partners of employees.

Taking Shared Parental Leave and Pay:

Timescales, roles and responsibilities are covered in this document however further practical guidance to help and support the employee in taking shared parental leave, as well as template documentation, can be obtained from the Trust's HR team/caseworker.

Notice requirements:

The notice that parents must give to the relevant employer to be able to take shared parental leave is made up of three elements:

- A 'leave curtailment notice' from the mother setting out when she proposed to end her maternity leave (unless the mother has already returned to work from maternity leave)
- A 'notice of entitlement and intention to take shared parental leave' from the employee,

- A 'period of leave notice' from the employee setting out the start and end date of each period of shared parental leave that he/she is requesting.

Timescales, Roles and Responsibilities:

Employees:

- Are encouraged to have early conversations with their line manager about taking shared parental leave
- Should provide a written 'notice of entitlement and intention to take shared parental leave' 8 weeks before any period of shared parental leave starts.
- Should provide written notification of entitlement to shared parental pay and curtailment of maternity/adoption pay 8 weeks before any period of shared parental pay starts (can be included in the above notification)
- Should be aware that, whilst the dates and periods of leave, can be varied, the 'leave curtailment notice' itself is binding, unless there are exceptional circumstances.
- Should give a 'period of leave notice' 8 weeks before their desired start date (can be given at the same time as the notice of entitlement to SPL).
- Can give up to three 'period of leave notices' as long as 8 weeks' notice is given before the period of leave requested in that notice starts. This entitlement includes providing variations to any notice already given.
- Can, in any 'period of leave notice' request either a single period of leave (which will be granted provided the notice is given in time) or two or more discontinuous periods of leave (which will not necessarily be granted)

Managers

- Should be open to having early conversations with their employee about their plans to take shared parental leave
- May request further evidence of eligibility within 14 days of the entitlement notification being given
- Should seriously consider any notifications given by the employee to take shared parental leave
- May apply discretion in exceptional circumstances, for example where timescales cannot be met or greater flexibility is required in terms of the number of notices allowed
- Cannot turn down a 'period of leave notice' which requests a single period of continuous leave
- Can turn down a 'period of leave notice' which requests two or more periods of discontinuous leave but should consider all requests fully, setting out their reasons for refusing and seeking to agree an alternative.

- Must respond in writing to any notifications (including variations) within 14 working days.

Contact During Shared Parental Leave:

Before an employee's SPL begins, their line manager will discuss the arrangements for them to keep in touch during their leave. Their line manager should maintain reasonable contact with the employee from time to time during their SPL. This may be to ensure the individual is aware of vacancies, team changes, training and redundancy and restructures; to discuss the employee's plans to return to work; to discuss SPLIT days or any other arrangements or training to ease the return to work; or to update them on developments at work during their absence.

Shared Parental Leave in Touch (SPLIT) Days:

An employee can agree to work for the Trust (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as Shared Parental Leave In Touch or SPLIT days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

The Trust has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's SPL. Any work undertaken is a matter for agreement between the Trust and the employee. An employee taking a SPLIT day will receive full pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of SPL.

An employee, with the agreement of the Trust, may use SPLIT days to work part of a week during SPL. The Trust and the employee may use SPLIT days to effect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

Returning to Work After Shared Parental Leave:

The employee will have been formally advised in writing of the end date of any period of SPL. The employee is expected to return on the next working day after this date, unless they notify otherwise. If they are unable to attend due to sickness or injury, normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date, they must provide at least 8 weeks' written notice to vary the leave and the date of early return. This will count as one of the employee's notifications.

On returning to work after SPL, the employee is entitled to return to the same job on the same terms and conditions of employment as if they had not been absent, if their total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less.

If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

If the employee also takes a period of unpaid parental leave of 4 weeks or less this will have no effect on the employee's right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.

If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

Further Information and Support:

This is a non-contractual policy.

There are a number of forms which can be obtained from HR to help employees and manager(s) through the process.

The gov.uk website also has eligibility checklists and an online calculator to help prospective parents calculate their eligibility for shared parental leave and their pay entitlements.

Any issues or queries should be clarified with the Trust's HR team/caseworker.

Guidance available on the ACAS and BIS websites:

ACAS guidance: <http://www.acas.org.uk/media/pdf/1/c/Shared-Parental-Leave-a-good-practice-guide-for-employers-and-employees.pdf>

BIS guidance: <https://www.gov.uk/government/publications/shared-parental-leave-and-pay-employers-technical-guide>

Related Policies:

This policy should be read in conjunction with other school policies related to maternity, paternity and adoption.

Period of Review:

This policy will be reviewed every 4 years or sooner should statutory guidance change.

Document History

Version	Date	Comments
Issue 1	June 2018	Based on SCC Model Policy