



Shared Parental Leave Policy & Procedure for all School Staff

Policy Level	Trust	Ref No	HR23
Approved by	Executive Team	Approved date	Spring Term 25
Responsibility	HR	Next review	Spring Term 27
Reviewed by	V Gavin	Date Issued	March 2025

Document Control	
Title	Shared Parental Leave Policy for all Schools Staff (New Policy)
Related Policies/Guidance	Employment Rights Act 1996, Employment Relations Act 1999, Employment Act 2002, Work and Families Act 2006, Shared Parental Leave Regulations 2014 other “family friendly” policies, Attendance Management Policy, Equalities guidance
Review	Every 2 years September 2027
Author	HR and People, One Education Ltd & V Gavin HR & People Manager
Date adopted by Trust Board	February 2025

Equality Statement: - Under the public sector equality duty (PSED), all schools/academies must have due regard to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited by the Equality Act 2010; to advance equality of opportunity between those who share a relevant protected characteristic and those who do not share it and to foster good relations across all protected characteristics. This means schools/academies must take into account equality considerations when policies are being developed, adopted and implemented.

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1. Introduction

- 1.1 This policy sets out the statutory right under the Shared Parental Leave Regulations 2014 for eligible employees to take Shared Parental Leave in order to care for a child following birth or adoption.
- 1.2 Shared Parental Leave enables an eligible parent to curtail their maternity/adoption leave and pay and share the untaken balance with their partner as Shared Parental Leave and Pay.
- 1.3 There is the opportunity for eligible employees to share up to 50 weeks leave as Shared Parental Leave, and up to 37 weeks as Shared Parental Pay.
- 1.4 The Trust Board recognises that Shared Parental Leave offers families greater flexibility in making their care arrangements following the birth or adoption of a child. Employees are encouraged to consider whether Shared Parental Leave is the right option for them and their families.
- 1.5 **Shared Parental Leave does not replace statutory maternity leave, statutory adoption leave and ordinary paternity leave and therefore, this policy should be read in conjunction with these policies.**
- 1.6 Ordinary Parental Leave is unaffected by Shared Parental Leave and employees should therefore refer to the Trust's separate Leave of Absence Policy.

2. Scope

- 2.1 **This policy applies to all Trust employees**, subject to them meeting the eligibility criteria.

3. Shared Parental Leave (SPL)

- 3.1 Shared Parental Leave is only available if the mother/biological mother/main adopter ends their maternity/adoption leave prior to having taken their full entitlement to leave (52 weeks). The number of weeks available as SPL (maximum 50) will be reduced by the number of weeks of maternity or adoption leave that has already been taken.
- 3.2 Employees must take 2 weeks compulsory maternity/adoption leave and therefore, Shared Parental Leave cannot start until two weeks after the start of statutory maternity/adoption leave. Eligible employees are therefore entitled to share up to 50 weeks SPL.
- 3.3 SPL must be taken in blocks of at least one week and used within a year from the date of the baby's birth, or in the case of adoption, from one year of the date of placement.

4. Eligibility for Shared Parental Leave

- 4.1 SPL is available to eligible employees and their partners providing that they share responsibility for the child:
- at birth;
 - from the child's due date or birth date if using a surrogate; or
 - from the date the child is placed with them if adopting or fostering to adopt.
- 4.2 A partner is defined as the father of the child, or the person who, at the date of the child's birth, is married to, the civil partner of, or the partner of the mother/biological mother/main adopter. This includes someone of either sex, who lives with the mother/biological mother/main adopter and the child in an enduring family relationship but who is not their child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.
- 4.3 For employees to be eligible to take SPL, both the employee and their partner must meet certain eligibility criteria. **The main birth parent/ main adopter must be entitled to statutory maternity/ adoption leave in respect of the child.** There is a different eligibility criteria for birth parents and criteria for adoptive parents or parents using a surrogate
- 4.4 Birth parents are eligible for Shared Parental Leave (SPL) if they:
- share responsibility for the child at birth; and
 - meet work and pay criteria - these are different depending on which parent wants to use the shared parental leave and pay.
- 4.5 Adoptive parents or parents using a surrogate are eligible for SPL if they share responsibility for the child from:
- the child's due date or birth date if using a surrogate/the date the child is placed with them, if adopting or fostering to adopt; and
 - meet work and pay criteria - these are different depending on which parent wants to use the shared parental leave and pay.
- 4.6 Employees are not eligible for SPL if they started sharing responsibility for the child after the child was born/ placed for adoption.
- 4.7 In order to be eligible, both parents must comply with the relevant maternity/adoption leave curtailment requirements (or have returned to work before the end of statutory maternity leave) and shared parental leave notice and evidence requirements.
- 4.8 If both parents qualify to take SPL, they can determine how to take their SPL by choosing one of the following options:
- taking SPL at the same time (subject to requests for discontinuous leave being approved),
 - taking it in turns to take SPL (subject to requests for discontinuous leave being approved),
 - or mother/ main adopter returns to or adoption leave and takes SPL at a later date
 - Mother/ main adopter returning to work and transferring the balance of the leave to their partner.

5. Eligibility for Shared Parental Pay (ShPP)

- 5.1 Eligible employees will be entitled to receive statutory Shared Parental Pay for a maximum of 37 weeks, shared between both partners. The rate of statutory Shared Parental Pay is set by the government each tax year.
- 5.2 In order to be eligible for Shared Parental Pay, in addition to the eligibility requirements for SPL, the employee must meet the following criteria:
- Have average weekly earnings equal to or above the Lower Earnings Limit (LEL) in the 8 weeks before the 15th week before the Expected Week of Confinement (EWC) or matching date (in the case of adoption).
 - The mother/main adopter must be entitled to statutory maternity/adoption pay or maternity allowance and must have curtailed their maternity/adoption pay or maternity allowance; and
 - Follow the correct notification procedure (as set out below)
- 5.3 The employee's partner must also:
- Have worked for at least 26 of the 66 weeks prior to the birth/placement of the child
 - Have average weekly earnings of at least the maternity allowance threshold for any 13 weeks of the 66 weeks before the birth/placement of the child
- 5.4 If both the employee and their partner wish to share SPP, they must both have earnings equal to or above the Lower Earnings Limit (LEL) in the 8 weeks before the EWC or matching date.

6. Notification requirements for SPL

- 6.1 The mother/biological mother/main adopter must provide their employing organisation with notice of curtailment of their maternity/adoption leave before any period of SPL can commence. If the employee of the trust is the mother/main adopter, this notice must be given in writing, at least 8 weeks prior to the proposed return to work date.
- 6.2 If the employee has given a notice of curtailment, they cannot cancel ('revoke') it, unless:
- the notice was given before birth, as it can be revoked up to 6 weeks after the birth or adoption placement start date;
 - the other parent dies;
 - it turns out neither parent was entitled to SPL or ShPP.
- 6.3 It is important to note that the mother/biological mother/main adopter cannot go back on to maternity/adoption leave or pay once they has taken a period of SPL.
- 6.4 The employee, whether the mother/biological mother/main adopter or partner, must provide the trust with at least 8 weeks' notice of their intention to take any shared parental leave and/or pay, of their entitlement to take this. This notification can be submitted by the mother/main adopter at the same time as their curtailment notification.

6.5 The employee must notify the Academy Lead/Line Manager of the following information (notice of entitlement):

- Name of the mother/biological mother/main adopter.
- Name of the partner.
- Expected week of birth.
- The number of weeks that the mother/biological mother/main adopter took maternity or adoption leave (or will have taken, where notice has been given to curtail the leave on a specific future date);
- how many weeks of shared parental leave and pay is available to the employee and their partner;
- how much shared parental leave each partner intends to take;
- a non-binding indication of how the employee will take the shared parental leave that is available to them;
- a declaration that the information provided is accurate and correct;
- A signature of the employee
- a declaration that should the employee cease to care for the child, they will immediately inform the trust.

6.6 The employee's partner must provide a written declaration to the Academy Lead/Line Manager confirming that they:

- meet the eligibility criteria;
- have shared responsibility for the care of the child
- consent to the amount of SPL leave the employee intends to take;
- consent to the trust processing information about them for the purposes of Shared Parental Leave.

6.7 Within 14 days of the request to take SPL, the trust may request information regarding the name and address of the partner's employer, which the employee is obligated to provide. The trust may also request a copy of the child's birth certificate.

6.8 The employee has 14 days in which to respond to the employer's request for information.

7. Requests for periods of SPL, including variation of leave dates

7.1 Periods of SPL can be taken in up to 3 separate blocks. The employee must give at least 8 weeks' written notice of the start and end date of each requested period of SPL

7.2 SPL must be taken in blocks of at least one week's leave.

7.3 An employee can provide a **maximum** of up to **three** periods of leave notices to:

- take continuous leave; or
- take discontinuous leave.

7.4 The employee can vary or cancel their proposed SPL dates following the submission of a period of leave notice, provided that they submit a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence.

8. Continuous Leave

8.1 Continuous leave is defined as one continuous period of SPL.

8.2 If an employee submits one leave request for continuous leave, they will be entitled to take this provided that this does not exceed the total number of weeks of SPL that they are entitled to.

9. Discontinuous Leave

9.1 Discontinuous leave is defined as discontinuous periods of SPL.

9.2 There is no automatic entitlement for a discontinuous leave request to be agreed and the trust will consider all requests on a case-by-case basis, taking into account the requirements of the specific academy/Site at the time of the request.

9.3 Within 14 calendar days of the period of leave notice for discontinuous leave, the Academy Lead/Line Manager may:

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

9.4 If the Academy Lead/ Line Manager is unable to agree to the pattern of leave requested, the Academy Lead/Line Manager (or nominee), will meet with the employee within 14 days to discuss the request.

9.5 If no agreement can be reached within the two-week discussion period, and the discontinuous leave request is refused, the employee is entitled to take the total amount of leave requested in the notice as a continuous period of leave. This period of continuous leave can:

- start on the start date of the first period of leave requested in the period of leave notice;
or
- Commence on a new start date. This date must be no sooner than 8 weeks from the original start date proposed. If the employee wishes to vary the start date of their leave, they must notify the Academy Lead/Line Manager within five days of the end of the two-week period,

9.6 The employee may withdraw a notice which requests discontinuous periods of shared parental leave on or before the 15th day after the notice was given unless the employer and employee have agreed to periods of leave

9.7 A notice for discontinuous leave that has been withdrawn, when no agreement has been reached on or before the 15th calendar day after they originally gave it, does not count towards the total number of requests for leave that an employee can make.

10. Cancelling a leave request

- 10.1 An employee may on occasion need to cancel a period of Shared Parental Leave. Employees may cancel a period of SPL, provided that a written declaration is submitted by the employee.

11. Variation to Leave

- 11.1 Parents who are both entitled to SPL can change the amount of leave each of them will take.
- 11.2 They must both agree and sign each other's notices of entitlement with the updated amount of SPL they're each entitled to.
- 11.3 They should tell their employers as soon as possible.

12. Keeping in touch during SPL (SPLIT DAYS)

- 12.1 The trust may maintain reasonable contact with employees during SPL. Examples of reasonable contact are to discuss employees' plans for their return to work or to update them on important developments at work during their absence.
- 12.2 An employee can agree to attend work for up to 20 days during SPL, without bringing their SPL to an end. These days are known as 'Shared Parental Leave in touch' days, or SPLIT days. Undertaking a SPLIT day will not extend the period of SPL.
- 12.3 Any work carried out on a SPLIT day shall constitute a day's work for these purposes. Working for part of a day will count as one day. Trust employees will be paid for any SPLIT days in accordance with their normal rate of pay.
- 12.4 The trust cannot require any employee to carry out any work, and employees have no right to undertake any work, during their Shared Parental Leave. Any work undertaken is entirely a matter for mutual agreement between the trust and the employee. Once the SPLIT days have been used up the employee will lose a week's ShPP for any week in which they agree to work for the trust.
- 12.5 SPLIT days are in addition to any KIT (Keeping in touch days) undertaken during maternity leave.**

13. Statutory Annual Leave

- 13.1 An employee who takes SPL must be able to take the 28 days' statutory annual leave (or pro-rata equivalent) at a time outside of their SPL. An employer must not treat any part of the SPL period as annual leave.
- 13.2 Employees who are employed on all year-round contracts, will be permitted to take their statutory annual leave either within term time or during school holiday periods, subject to usual leave authorisation from the Academy Lead/Line Manager.

- 13.3 For term time only employees, the statutory annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question, i.e. both before and after the SPL period. On return from SPL, an employee must be allowed to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate their leave in that leave year.
- 13.4 Where the return from SPL is so close to the end of the leave year that there is not enough time to for the employee to take all their annual leave entitlement, an employee must be allowed to carry over any balance of their leave to the following leave year. An employee can be required to take this during the remaining periods of school closure after the 28 days' annual leave for that leave year has been accommodated.
- 13.5 It is not possible for either the employee or the trust to decide to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year, i.e. in school closures or in term time.

14. Multiple Births

- 14.1 There is no additional entitlement to leave or pay for multiple births

15. Premature birth

- 15.1 If the baby is born more than 8 weeks' early, the employee does not need to give the usual 8 weeks' notice to book or change leave dates.
- 15.2 The employee should give the necessary notices to their employer as soon as they can.
- 15.3 If the employee needs to change SPL dates already booked as a result of the premature birth, it will not count as one of the employee's 3 notices to vary SPL.

16. Child or Parent Bereavement

- 16.1 If the child dies, the employee can still take the SPL they've booked. They can also either:
- decide to take less SPL
 - change discontinuous leave into one block of continuous leave
- 16.2 The employer might ask for 8 weeks' notice before the employee returns to work.
- 16.3 The employee cannot book any new blocks of SPL.
- 16.4 An employee cannot apply for SPL after the death of a child. The birth parent can still get maternity or adoption leave and the partner could still be eligible for statutory paternity leave.
- 16.5 If an employee is eligible for SPL and the other parent dies, they can:
- still take SPL as planned
 - transfer and use any SPL due to be taken by the parent who died

- 16.6 If the employee wants to book another block of SPL or to change dates of booked SPL, they do not need to give 8 weeks' notice but should tell the employer as soon as they can.
- 16.6 If the employee has already made 3 notices to book or change SPL, they will be permitted to make one more in these exceptional circumstances.
- 16.7 The employee may also qualify for parental bereavement leave/pay. Please refer to the trust's Leave of Absence Policy.

17. Returning to work

- 17.1 An employee's right to return to work after SPL is the right to return to the same job in which they were employed under their original contract when the period of SPL is added to any other period of SPL or statutory leave taken by the employee in relation to the same child, is 26 weeks or less.
- 17.2 If the employee is returning to work from SPL and the period of leave taken is more than 26 weeks when added to any other period of statutory leave taken in relation to the same child, 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 practical to permit a return to the same job, the employee has the right to return to another job that is suitable and on terms not substantially less favorable.

18. Flexible working

- 18.1 Employees are entitled to make a request to vary their contract to be able to work more flexibly and often employees are motivated by wanting to spend more time with their children, or for reasons of child care.
- 18.2 There is no automatic entitlement to return to work following SPL on an adjusted working pattern, however, all requests will be considered reasonably in line with the trust's Flexible Working policy.

19. Continuous service

- 19.1 SPL is regarded as continuous service and does not constitute a break in service even when unpaid. Any period of unpaid leave does not count towards pensionable service in the assessment of retirement benefits.
- 19.2 During the time that an employee is receiving Shared Parental Pay, National Insurance, Income Tax and pension contributions (where applicable) will be deducted from the gross pay.
- 19.3 For the purpose of this scheme, a week's pay shall be treated as the amount payable to the employee under the contract of employment. If there are significant variations in the

employee's salary, the average salary over the 12 weeks preceding the date of absence shall be treated as a week's salary.

- 19.4 Continuous service is calculated as service as a teacher or support staff employee with one or more local authorities without a break in service.

20. Salary sacrifice

- 20.1 Employees who have sacrificed salary in return for benefits (e.g. childcare vouchers) may wish to review the arrangements in advance of their SPL. Advice should be sought from the trust's payroll provider or the salary sacrifice benefit provider at the earliest opportunity.

21. Redundancy Protection Period

21.1 Shared Parental Leave

- 21.1.1 The redundancy-protected period starts on the day a period of shared parental leave begins. If the employee takes:

- less than 6 weeks leave - the protected period ends on the last day of the block of leave.
- 6 weeks or more of continuous leave - the protected period ends 18 months from the date of the child's birth.

- 21.1.2 If the employee takes discontinuous leave, the redundancy-protected period finishes at the end of each period of shared parental leave.

- 21.1.3 An employee who has already taken adoption or maternity leave will have the redundancy-protected period of that specific type of leave.

21.2 Suitable Alternative Employment

- 21.2.1 In terms of a redundancy situation, if there are any suitable alternative vacancies an employer must offer them to employees who have this redundancy protection, as they have priority over other employees.

- 21.2.2 If there are not enough suitable vacancies for everyone who has this redundancy protection, the employer will have to decide who is most suitable for the role(s) they have. This may include considering employees: -

- Skills
- Job Knowledge
- Experience

Further advice:

The Academy Lead/Line Manager (or nominee) should seek advice from HR if they have any queries about the content or implementation of this policy.

Notifications of entitlement to pay and leave may be undertaken on behalf of the trust by the trust's payroll provider. The school must ensure that all relevant documentation is provided in a timely manner to the payroll provider.

Relevant Associated Policies

- ✓ Attendance Management Policy
- ✓ Leave of Absence Policy
- ✓ Maternity Leave Policies
- ✓ Flexible Working Policy
- ✓ Parental Leave Policy
- ✓ Adoption Leave policy