

Shared Parental Leave Policy & Procedure for all School Staff

Reviewed By	R. Leonard
Approved by/when	Trust Board October 2022
To be reviewed	October 2024

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 2020
Author	HR and People, One Education Ltd
Date adopted by Trust Board	September 2020

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.

Contents

1. <u>Introduction</u>	4
2. <u>Scope</u>	4
3. <u>Shared Parental Leave (SPL)</u>	5
4. <u>Eligibility for Shared Parental Leave</u>	5
5. <u>Eligibility for Shared Parental Pay</u>	6
6. <u>Notification requirements for SPL</u>	6
7. <u>Requests for periods of SPL, including variation of leave dates</u>	7
8. <u>Continuous Leave</u>	7
9. <u>Discontinuous Leave</u>	8
10. <u>Cancelling a leave request</u>	8
11. <u>Keeping in touch during SPL</u>	8
12. <u>Statutory Annual Leave</u>	9
13. <u>Multiple Births</u>	9
14. <u>Returning to work</u>	9
15. <u>Flexible working</u>	10
16. <u>Continuous service</u>	10
17. <u>Salary sacrifice</u>	10

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 a mother/main adopter to curtail their maternity/adoption leave and pay and share the untaken balance with their partner as Shared Parental Leave and Pay. There is the opportunity for eligible employees to share up to 50 weeks leave as Shared Parental Leave, and 37 weeks as Shared Parental Pay.
- 1.3 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 partner.
- 1.4 **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.**
- 1.5 Ordinary Parental Leave is unaffected by Shared Parental Leave and employees should therefore refer to the Trust's separate Leave of Absence Policy.
- 1.6 For the avoidance of doubt, in this policy any reference to a "school working day" will have the following meaning: -
 - (a) School Support Staff: -any day during an academic year when a school is normally open for educational purposes or when staff are in attendance for training purposes, and
 - i. in the case of staff contracted to work during term time only, excluding any day which falls on a Bank Holiday or within school holiday periods, and
 - ii. in the case of staff contracted to work all year round, excluding any day which falls on a Bank Holiday but including any day which fall within school holiday periods.
 - (b) School Teaching Staff: - any day during an academic year when a school is normally open for educational purposes or when staff are in attendance for training purposes but excluding any day which falls on a Bank Holiday or within school holiday periods

2. Scope

- 2.1 **This policy applies to all Trust employees**, whether they are the mother or partner, subject to them meeting the eligibility criteria.
- 2.2 For employees who wish to check whether they are eligible for Shared Parental Leave and Pay, they can do so via the Government Leave Calculator, <https://www.gov.uk/pay-leave-for-parents>
- 2.3 After checking eligibility on the Government calculator and making the decision to apply for Shared Parental Leave SPL, the employee is required to write to the employer to request the leave. The Government guidance directs the employee to template forms created by ACAS, the Advisory, Conciliation and Arbitration Service. The forms provide guidance and advice

for employees and employers and are available from the following link.
<https://www.acas.org.uk/shared-parental-leave-forms>

3. Shared Parental Leave (SPL)

- 3.1 Shared Parental Leave is only available if the mother/main adopter curtails their maternity/adoption leave prior to having taken their full entitlement to leave (52 weeks). The number of weeks available as SPL will be reduced by the number of week's maternity or adoption leave that has already been taken by the mother or main adopter.
- 3.2 Mothers/main adopters 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 leave, either as continuous leave or may request discontinuous leave.
- 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 their partner shares responsibility for the child at birth. 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. This includes someone of either sex, who lives with the mother and the child in an enduring family relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.
- 4.2 For employees to be eligible to take SPL, both the employee and their partner must meet certain eligibility criteria.
- 4.3 Employees are eligible for shared parental leave if they:
 - have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth, or by the end of the week that they are matched with a child, and remains in continuous employment with the school until the week before any period of shared parental leave that they take;
 - have, at the date of the child's birth/ placement for adoption, the main responsibility, apart from the partner, for the care of the child; and
 - comply with the relevant maternity/adoption leave curtailment requirements (or has returned to work before the end of statutory maternity leave), and shared parental leave notice and evidence requirements.

N.B. The mother/ main adopter must be entitled to statutory maternity/ adoption leave in respect of the child;

- 4.4 In addition, the other parent must:
 - have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth or by the end of the week they are matched with the child in cases of adoption.
 - have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks

- 4.5 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 returning to work and transferring the balance of the leave to their partner.

5. Eligibility for Shared Parental Pay

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
- Follow the correct notification procedure (as set out below)

5.3 The other parent 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

6. Notification requirements for SPL

6.1 The 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 school is the mother/main adopter, this notice must be given in writing, at least 8 weeks prior of the proposed return to work date.

6.2 It is important to note that the mother/main adopter cannot go back on to maternity/adoption leave or pay once she has taken a period of SPL.

6.3 The employee, whether the mother/main adopter or partner, must provide the school 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.

6.4 The employee must notify the Academy Lead of the following:

- the number of weeks that the mother or 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 him or her;
- a declaration that the information provided is accurate and correct;
- a declaration that should the employee cease to care for the child, they will immediately inform the school.

6.5 The employee's partner must provide a written declaration to the Academy Lead confirming that they meet the eligibility criteria and they consent to the amount of leave their partner intends to take. They must also provide consent to the trust processing information about them for the purposes of Shared Parental Leave.

6.6 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 school may also request a copy of the child's birth certificate.

6.7 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 The employee must give written notice of the start and end date of the requested period of SPL with at least 8 weeks' notice.

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

7.3 The employee can vary or cancel their proposed shared parental leave 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.

7.4 The written notice can:

- vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

7.5 An employee can provide a maximum of up to three period of leave notices or variations of period of leave notices per pregnancy/placement, although the Academy Lead may on occasion use their discretion to extend this.

8. Continuous Leave

8.1 Continuous leave is defined as leave taken as a single block in consecutive weeks.

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 two or more periods of leave, between which the employee will make a return to work.
- 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 in to account the requirements of the specific academy at the time of the request.
- 9.3 Within 14 calendar days of the period of leave notice for discontinuous leave, the Academy Lead 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 is unable to agree to the pattern of leave requested, the Academy Lead (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 can:
- Take the discontinuous leave as one continuous period of leave beginning on the original start date,
 - Take the continuous leave commencing 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 within five days of the end of the two-week period,
 - Withdraw the request on or before the 15th day after the original notice was submitted.
- 9.6 A notice for discontinuous leave that has been withdrawn, when no agreement has been reached, 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 a 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. Keeping in touch during SPL

- 11.1 The trust may maintain reasonable contact with employee's during SPL. Examples of reasonable contact are to discuss employee's plans for their return to work, or to update them on important developments at work during their absence.
- 11.2 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.
- 11.3 Any work carried out on a 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 work undertaken.

- 11.4 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 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.
- 11.5 **SPLIT days are in addition to any KIT (Keeping in touch days) undertaken during maternity leave.**

12. Statutory Annual Leave

- 12.1 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.
- 12.2 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.
- 12.3 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.
- 12.4 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.
- 12.5 It is not possible for either the employee or the school 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.

13. Multiple Births

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

14. Returning to work

- 14.1 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 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.
- 14.2 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.

15. Flexible working

- 15.1 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.
- 15.2 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 school's Flexible Working policy.

16. Continuous service

- 16.1 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.
- 16.2 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.
- 16.3 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.
- 16.4 Continuous service is calculated as service as a teacher or support staff employee with one or more local authorities without a break in service.

17. Salary sacrifice

- 17.1 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.

Further advice

The Academy Lead (or nominee) should seek advice from One Education HR & People 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 school by the school'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