



## Shared Parental Leave Policy (Teachers & Support Staff)

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### Purpose

This policy sets out shared parental leave and pay provisions for Teachers and School Support Staff and the arrangements for requesting such leave and pay.

### Scope

The policy applies to all Teachers and Support Staff employed in schools and services maintained by the County Council.

### Shared Parental Leave & Pay

SPL gives employees with caring responsibilities for babies or newly adopted children the opportunity to share up to 52 weeks' leave should they wish to do so. Parents taking SPL can take leave in separate blocks, returning to work in between blocks, and can be on leave at the same time. Eligible employees are entitled to submit up to three 'period of leave' notices and are entitled to take SPL on those dates if a continuous period of leave is requested.

**It is advised that an employee and manager have an informal discussion prior to the employee giving formal notification of their intention to take SPL, so that statutory and contractual entitlements to other types of leave and pay can be discussed and to ensure that plans for any discontinuous periods of leave can be considered as early as possible.**

### Notes:

- The right to take SPL is in addition to the statutory right to take Paternity Leave (PL) on the birth or adoption of a child, which is subject to separate qualifying criteria.

- SPL should not be confused with ordinary parental leave, which is unaffected by SPL. Ordinary parental leave is the entitlement to up to 18 weeks' unpaid leave for either parent (or a person responsible for a child) whilst a child is under 18 years of age.

Requests for SPL which are not made in accordance with the statutory notification requirements (set out below) will be given reasonable consideration but may not be granted.

### **Entitlement to SPL**

To be entitled to SPL, an employee must:

- Be the mother, father, or main adopter of the child, or the partner of the mother or main adopter (each will be referred to in this policy as a parent);
- Have (or share with the other parent) the main responsibility for the care of the child;
- Have at least 26 weeks' Local Government continuous service at the 15<sup>th</sup> week before the expected week of birth or at the week in which the main adopter was notified of having been matched for adoption with the child (known as the 'relevant week'); and
- Still be in continuous employment until the week before any SPL is taken.

In addition, the other parent must:

- Have at least 26 weeks' employment (employed or self-employed) out of the 66 weeks prior to the relevant week; and
- Have average weekly earnings of at least £30 during at least 13 of the 66 weeks prior to the relevant week.

If the other parent meets those conditions, but does not qualify for SPL, an employee may be entitled to the whole SPL period – the main advantage being the ability to request leave in different blocks and return to work in between those blocks.

Note:

- Adoptive parents in surrogacy arrangements and local authority foster parents who have adopted a child placed with them under the 'fostering to adopt' arrangements, who have claimed adoption leave or pay, will be entitled to SPL if the qualifying criteria set out above is met.

The statutory notification and information requirements detailed below must also be followed.

### **Amount and Timing of SPL**

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

The maximum of 52 weeks' SPL will be reduced by the number of weeks' maternity or adoption leave that has already been taken by the mother or main adopter (or the number of weeks' statutory maternity/adoption pay or maternity allowance already taken if the mother or main adopter is not entitled to statutory maternity/adoption leave).

After the birth of a child it is compulsory to take two weeks' maternity leave (four weeks for new mothers who work in a factory), so in the majority of cases working parents will have the opportunity to split 50 weeks of SPL.

SPL is in addition to the statutory right to two weeks' paternity leave for fathers and partners. If an employee wishes to take paternity leave they must do so before they take any SPL.

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

In addition to the requirements regarding entitlement to leave outlined above, if an employee wishes to claim ShPP they must have average weekly earnings equal to or above the Lower Earnings Limit for National Insurance contributions over the eight week period ending with the relevant week.

A maximum of 39 weeks' ShPP is payable, and this will be reduced by the number of weeks' statutory maternity/adoption pay or maternity allowance already taken by the mother or main adopter. ShPP is a standard weekly rate (currently £172.48) or 90% of the employee's normal weekly earnings if this is lower.

The statutory notification and information requirements detailed below must be followed.

If both parents want to share the SPL and ShPP

Both parents must meet the same eligibility criteria to get SPL and ShPP. You must:

- have been employed continuously by the same employer for at least 26 weeks by the end of the 15th week before the due date
- stay with the same employer until you start your SPL

To be eligible for ShPP, you must each earn on average at least £123 a week.

### **Notification Requirements**

The notification requirements for SPL and ShPP are detailed and very specific. To ensure that the required information and declarations are provided, a template form has been developed for employees to use.

#### **Notification of Entitlement and Intention of Take SPL and ShPP**

Employees must notify the Headteacher (or on the case of a Headteacher making the request, the Chair of Governors) in writing at least eight weeks before the start date of the first period of SPL. The written notice must contain the following information:

- The employee's name and other parent's name;
- The start and end dates of the mother's or main adopter's maternity/adoption leave (or the start and end dates of the statutory maternity/adoption pay or maternity allowance period if the mother/main 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 (this may be varied by a subsequent written notice signed by both parents);
- An indication of the start and end dates of the periods of SPL and ShPP that the employee intends to take. This indication is not binding and can be amended at a later date;
- A declaration that the employee meets the conditions for entitlement to SPL, the information provided is accurate and that the employee will notify the Headteacher/Chair of Governors immediately if they cease to meet the conditions for entitlement; and
- A declaration from the other parent containing his or her name, address and National Insurance number, confirmation that s/he meets the employment and earnings conditions, consents to the amount of leave the employee intends to take and will immediately inform the Headteacher/Chair of Governors if s/he ceases to satisfy the employment and earnings conditions.

### Notice of Curtailment of Statutory Maternity/Adoption Leave and Payments

At the same time that a notice of entitlement and intention to take SPL is submitted, the mother/main adopter must give his or her employer a leave and pay curtailment notice giving eight weeks' notice of the date on which 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 (and not maternity leave) her notice of curtailment must be submitted to Jobcentre Plus. Her maternity allowance cannot be reinstated, so she is in effect giving consent for her partner to take the whole of any ShPP entitlement.

Notice of curtailment is usually binding, but may be revoked in the following circumstances:

- If it becomes apparent that 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 (in this case another curtailment notice can be submitted); or
- If the other parent dies.

### Notice to Take a Specific Period of SPL and ShPP

In practice, at least the first period of SPL will be identified in the initial notice of entitlement and intention to take SPL. An employee is entitled to submit a maximum of a further two 'period of leave' notices. Each notice must be given 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 'period of leave' notice is given prior to the birth of a child, the notice may express the start date in relation to the date of birth (e.g. 'starting two weeks after the baby is born for a period of four weeks').

### Confirmation of SPL and ShPP

If a continuous period of leave is requested in each period of leave notice, the employee 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 period of leave notice, the employee's manager will seek to accommodate the request wherever possible but this cannot be guaranteed. The manager will discuss the request with the employee to determine if it can be accommodated. If it

cannot be accommodated, there may be an alternative pattern of leave which can be agreed, or the request may be refused. The manager's decision will be confirmed in writing.

If no agreement is reached within two weeks of the period of leave notice being submitted the employee 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 later than the original start date, and you notify the school of the new date within five days of the two week period referred to above; or
- Withdraw the request at any time up to the 15<sup>th</sup> day after it was originally made. If the request is withdrawn in these circumstances it will not count as one of the employee's three requests.

### **Varying a Period of Leave**

An employee is 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; or
- Request that a single period of leave become a discontinuous period of leave, or vice versa.

A variation will count as one of the employee's three period of leave notices unless:

- It is made as a result of the child being born earlier or later than the expected week of childbirth;
- The School has requested the variation; or
- The School has agreed to accept more than three period of leave notices.

The usual eight-week notice requirement may be modified if the child is born early and the new start date for the period of leave is the same length of time following the birth as in the original notice. In this case notice to vary the start date should be given as soon as reasonably practicable after the birth of the child.

### **Evidence Requirements**

The School may request a copy of the child's birth certificate and the name and address of the other parent's employer.

In the case of adoption, the School may request the name and address of the other parent's employer, along with evidence confirming the following:

- The name and address of the adoption agency;
- The date that the main adopter was notified of having been matched for adoption with the child; and
- The date on which the adoption agency expects to place the child.

Any such request will be made by the School within 14 days of receiving the employee's notice of entitlement and intention to take SPL and ShPP. The employee must respond to the request for evidence within 14 days (or within 14 days of the birth of the child if the School's request was made before the child was born).

If a birth certificate has not yet been issued, the employee must sign a declaration stating that fact along with the date and location of the child's birth. If the other parent has no employer, this must also be declared.

### **Rights During SPL**

An employee on SPL has the right to the continuation of all contractual terms and conditions of employment, except normal remuneration. Although not entitled to be paid, the employee may qualify for ShPP (see above).

### **Contact During SPL**

The School may maintain reasonable contact with an employee during SPL. This may be to discuss with the employee their plans for their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

An employee on SPL may work for up to 20 days without bringing the SPL to an end (these are known as Shared Parental Leave in Touch (SPLIT) days), but work undertaken during SPL will not have the effect of extending the employee's SPL period. Any work undertaken will be paid at the employee's normal rate of pay inclusive of any ShPP entitlement.

The 20 SPLIT days available during SPL are in addition to the 10 Keeping in Touch (KIT) days available during maternity and adoption leave.

### **Redundancy During SPL**

Where a suitable alternative position exists, an employee whose job becomes redundant while they are on SPL is entitled to be offered (before the end of their employment under the existing contract) this in preference to other candidates who are not on maternity/adoption or shared parental leave.

### **Returning to Work Following SPL**

If an employee wishes to return early from SPL, or extend the period of their SPL, they must notify the School at least eight weeks before both the original end date and the new end date.

An employee is entitled to return to the same job they had before taking SPL where their total statutory leave taken in relation to that child (e.g. other periods of SPL in addition to ordinary maternity/adoption or paternity leave) is 26 weeks or less.

If an employee has taken more than 26 weeks' statutory leave, any additional maternity/adoption leave or ordinary parental leave of more than four weeks, they are entitled to return to the same job, or where this is not reasonably practicable for the School to another job which is both suitable and appropriate for the employee in the circumstances. Again, if the employee's position is made redundant, the employee is entitled to be offered a suitable vacancy if one exists.