



Shared Parental Leave Policy and Procedure

Policy lead:	Janet Robinson
Last review date:	1 June 2021
Next review date:	1 June 2024
Approval needed by:	Finance and Staffing Committee

AIMS

The purpose of this Policy is to set out the statutory rights and responsibilities for those employees who would like to take Shared Parental Leave. This enables the parents of a child or children due or adopted on or after 5th April 2015 to share the leave to care for the child or children.

The policy is in accordance with the regulations which were introduced on 1st December 2014.

POLICY STATEMENT

The Learning Partnership recognises that employees may have questions or concerns relating to their rights to take Shared Parental Leave. It is the Trust's policy to encourage open discussions with employees to ensure that questions can be answered as quickly as possible.

PRINCIPLES

When an employee requests Shared Parental Leave, The Learning Partnership will apply this policy in a fair and consistent manner.

For clarity, the following terms will be used:

Mother is the maternal mother, or in the case of adoption the person who has elected to take statutory adoption leave.

Partner will refer to the father or the person who at the time of the birth or adoption, is married to, or the civil partner or partner of the mother. They are defined as a person who lives with the mother and the child in an enduring family relationship but are not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

Employees can share up to 50 weeks of Shared Parental Leave between the Mother and Partner. This excludes the statutory two weeks which must be taken immediately following the birth or the adoption by the Mother.

Employees can submit a maximum of three notices of their intention to take Shared Parental Leave. These can be as continuous blocks or alternatively request a discontinuous period which is subject to approval.

Where Shared Parental Leave Pay is payable, this will be paid at statutory rates.

The Learning Partnership will require employees to provide details of the employer of the Mother and Partner and reserve the right to contact the other employer to verify information.

Head Teachers / Managers are responsible for:

- Ensuring that their employees are fully aware of their employee rights and responsibilities relating to shared parental leave.
- Communicating regularly regarding updates and changes.
- Agreeing and maintaining a reasonable amount of contact during any period of absence due to shared parental leave.

Employees are responsible for:

- Ensuring that the correct notification is given to access shared parental leave.
- Agreeing and maintaining a reasonable amount of contact during leave.

EQUALITY

The Learning Partnership will ensure that, when implementing the Shared Parental Leave Policy no employee will be disadvantaged on the basis of their gender or transgender, marital status or civil partnership, racial group, religion or belief, sexual orientation, age, disability, pregnancy or maternity, social or economic status or caring responsibility. This means that the Policy may need to be adjusted to cater for the specific needs of an individual including the provision of information in alternative formats where necessary.

MONITORING & REVIEW

The Policy will be reviewed in the light of operating experience and/or changes in legislation.

PROCEDURE

Eligibility for Mothers (as defined above)

In order to be eligible for Shared Parental Leave, the **Mother** must:

- Have 26 weeks' continuous service by the end of the 15th week before the EWC for maternity or at the matching week for adoption, and have remained in continuous employment up to the week before any shared parental leave is taken; AND
- Have, at the time of the child's birth or adoption, the main responsibility for the care of the child; AND
- Be entitled to statutory maternity leave or statutory adoption leave; AND
- Have ended the entitlement to statutory maternity leave or statutory adoption leave by stopping or curtailing the leave at a specified future date, or returning to work.

It is important to note that in order for the Mother to be eligible, the Partner must also share the main responsibility for the Child and meet the employment and earnings test. This is currently having worked for at least 26 weeks in the 66 weeks leading up to the due date and have earned above the maternity allowance threshold of £30 a week in 13 of the 66 weeks.

Eligibility for Partners (as defined above)

In order to be eligible for Shared Parental Leave, the **Partner** must:

- Have 26 weeks' continuous service with the Trust by the end of the 15th week before the EWC for maternity or at the matching week for adoption, and have remained in continuous employment up to the week before Shared Parental Leave is taken AND
- Have at the time of the child's birth or adoption, the main responsibility for the care of the child (apart from the Mother).

It is also important to note that in order for the Partner to qualify, the Mother must also be entitled to Statutory Maternity Leave, Pay or Maternity Allowance, or Statutory Adoption Leave AND must have stopped or curtailed the entitlement or returned to work.

Curtailing or Ceasing Maternity Leave

Where a mother takes maternity leave or adoption leave, the date on which their maternity or adoption leave ends will be assumed to be at the end of the full entitlement to maternity or adoption leave. However, in order to qualify for Shared Parental Leave the Mother must have curtailed her maternity or adoption leave OR have returned to work. It is important to note that a Mother must take a minimum of two weeks' compulsory leave following the birth or adoption of a child, during which time they are not allowed to work.

In order to curtail or stop maternity leave or adoption leave, a Mother must submit a Notice of Curtailment of Leave Form no less than eight weeks before her intention to curtail her maternity or adoption leave. This can either be to commence Shared Parental Leave or alternatively return to work.

If a Mother changes her mind about curtailing her maternity leave, then she can submit a revocation notice only where either it is discovered that the Mother or Partner are not eligible for Shared Parental Leave, or where the Mother gave her leave curtailment notice before the birth of the baby

(in which case she has six weeks from the date of the birth of the child to change her mind) or where the Partner dies.

Intention of Taking Shared Parental Leave

Where a Mother or Partner intends to take Shared Parental Leave, they will need to provide no less than **eight weeks'** notice of this intention. They will need to complete the form (Notice of Shared Parental Leave Form) to confirm this intention, along with a copy of the child's birth or adoption certificate, or MATB1 form if not yet available.

This notice can be given before the birth or adoption of the child and where this is the case, they should indicate when they wish Shared Parental Leave to begin e.g. x number of days following the birth.

Employees can submit a maximum of three notices of their intention to take Shared Parental Leave.

Taking Shared Parental Leave

Whilst maternity leave is for a maximum period of 52 weeks, due to the restrictions of the Mother having to take a compulsory two weeks of maternity leave immediately following the birth or adoption, only a maximum of 50 weeks can be shared between the Mother and the Partner.

The number of weeks actually available to take as Shared Parental Leave is dependent upon how many weeks' maternity leave or adoption leave the Mother takes.

For example, if a Mother takes 10 weeks maternity leave (including the compulsory 2 weeks), then the remaining 42 weeks can be taken as Shared Parental Leave and shared between the Mother and Partner.

All Shared Parental Leave needs to be taken within 52 weeks of the birth or adoption of the child. It can be taken by both parents at the same time or alternatively at different times within the 52 weeks.

Leave can be taken in complete weeks only, with a minimum period of one week. It can be taken in one continuous period or alternatively discontinuous periods of leave.

Where an employee is seeking to take a continuous period of leave, they can do this without seeking any further consent, as long as they have provided the appropriate eight week notice period. However, it is important to note that where an employee is seeking to take discontinuous periods of leave, they will need to seek approval from their Manager. When an employee opts for this, the Head Teacher / Manager should arrange to meet with the employee within **two weeks** of the notice being submitted to discuss this further. Possible outcomes of this meeting could be:

- the leave request is approved; or
- alternative dates are proposed; or
- the leave request is refused.

If agreement cannot be reached during this two week period, then the employee is entitled to take the leave as a continuous period of leave and has five days (i.e. at the end of the third week) in which

to specify the date from which they wish to take the continuous period of leave. If the employee does not select a date, then the total period of leave requested will commence on the start date of the first period as one continuous period.

For example, an employee submits a request for discontinuous shared parental leave for weeks 13 & 14, 17 & 18, 21 & 22. Where the request is refused or where no agreement is reached, then the assumed position is that a period of continuous shared parental leave will begin on week 13.

Where a period of discontinuous leave is refused, managers will be expected to provide reasons based on business need.

Shared Parental Leave Pay

In order to be eligible for Shared Parental Leave Pay, in addition to meeting the eligibility criteria for Shared Parental Leave, the Mother must:

- Have average weekly earnings in the 8 weeks ending with the relevant week of not less than the lower earnings threshold applicable in that week.
- Intend to care for the Child during each week in which Shared Parental Pay is paid to them.
- Be entitled to Statutory Maternity or Adoption Pay and have reduced her maternity or adoption pay period.
- Be absent from work on Shared Parental Leave during each week in which Shared Parental Leave Pay is paid (except for certain periods e.g. Shared Parental Leave In Touch (SPLIT) days).

In order to be eligible for Shared Parental Pay, in addition to meeting the eligibility criteria for Shared Parental Leave, the Partner must:

- Have average weekly earnings in the 8 weeks ending with the relevant week of not less than the lower earnings threshold applicable in that week.
- Intend to care for the child during each week that Shared Parental Leave is paid to them.
- Be absent from work on Shared Parental Leave during each week in which Shared Parental Leave Pay.

A total of 39 weeks of Statutory Maternity Pay or Maternity Allowance is available for Mothers to take (including the two weeks' compulsory maternity leave which must be taken immediately following the birth of the child). A total of 39 weeks of Statutory Adoption Pay is available.

However, where a Mother submits a Leave Curtailment Notice, the remaining pay becomes Shared Parental Leave Pay and can be shared between both parents.

For example, if a Mother takes 10 weeks maternity leave (including the compulsory 2 weeks) and receives 10 weeks of maternity pay, then curtailing her maternity leave, then the remaining 29 weeks' pay will be Shared Parental Leave pay and can be shared between the Mother and Partner.

It is important to note that any entitlement to Occupational Maternity Pay will cease on the date that the Notice of Curtailment of Maternity Leave becomes effective.

Shared Parental Leave Keeping In Touch Days

In order for employees who opt to take Shared Parental Leave to maintain contact with work, the Mother or Partner can work for up to 20 days each as Shared Parental Leave Keeping in Touch (SPLIT) days. These are in addition to the 10 Keeping in Touch (KIT) days that are available to a Mother on maternity leave.

Whilst on Shared Parental Leave, the Trust cannot require employees to work. Similarly, employees are not able to insist that they are given work. Any arrangement is by mutual agreement. If employees do work it will not extend the period of Shared Parental Leave.

The pay employees receive for working a SPLIT day will be the number of hours worked at the basic hourly rate, less the weekly Shared Parental Leave Pay. The value of keeping in touch days worked in any one week will be offset against the Shared Parental Leave Pay paid.

If employees work more than twenty days during the Shared Parental Leave Pay period they will lose a week's Shared Parental Leave Pay for each week or part week of work done.

Where employees work outside of the Shared Parental Leave pay period (i.e. weeks 40 – 52) they will be paid their normal basic pay for the actual hours worked.

Hours worked will need to be agreed in advance of the work undertaken and the Manager should record this and arrange payment. The SPLIT payment will be paid in the following month.

Impact on the Local Government Pension Scheme

Support Staff employees who opt to take Shared Parental Leave should be aware that this will affect their membership of the Local Government Pension Scheme. Employees will have 30 days from their return from Shared Parental Leave in which to opt to buy back their lost pension. Further details can be obtained from <https://www.lgpsmember.org/>

If you are a member of the teachers' pension scheme, or who would have qualified to join the scheme during their absence, you are urged to contact Teachers' Pensions to obtain advice on their pension position during maternity leave or on termination of employment.

Exceptional Circumstances – Redundancy

Employees who are on Shared Parental Leave and are affected by a potential redundancy situation, will be consulted with regarding the proposals and given the opportunity during their leave to make any representations. If a redundancy situation occurs the employee will be offered a suitable alternative should there be one available. The employee will be advised of the procedure and the support available.

Contact

It is important that Head Teachers / Managers remain in contact with employees during Shared Parental Leave. Head Teachers / Managers will need to discuss issues such as returning to work, changes proposed within the office or to key activities of the business undertaken or support and general update on how things are developing in The Learning Partnership. This will not constitute "work".

Continuous Service

Shared Parental Leave counts as continuous service and therefore all entitlements under an employee's conditions of employment are maintained i.e. they will be entitled to annual leave, annual increments, salary awards.

Equality

The Learning Partnership will ensure that, when implementing the Shared Parental Leave Procedure, no employee will be disadvantaged on the basis of their gender or transgender, marital status or civil partnership, racial group, religion or belief, sexual orientation, age, disability, pregnancy or maternity, social or economic status or caring responsibility. This means that the procedure may need to be adjusted to cater for the specific needs of an individual including the provision of information in alternative formats where necessary.

Head Teacher / Managers Guidance

When an employee submits either a Notice of Curtailment Form and/or a Notice of Shared Parental Leave Form and the employee is taking a continuous period of shared parental leave, the forms should be sent to the Trust's payroll provider. Where a request is made for a discontinuous period of leave, advice and guidance should be sought from your HR advisor.

Further information can be obtained from <https://www.gov.uk/shared-parental-leave-and-pay>

Useful Links:

Shared Parental Leave Procedure
Maternity Leave Policy and Procedure
Paternity Leave Policy
Ordinary Parental Leave Policy
Flexible Working Policy
Adoption Policy and Procedure
Leave and Time Off Policy

