

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

FAMILY LEAVE (SCHOOL BASED EMPLOYEES)

Covers:

- **Paternity leave – eligibility and pay**
- **Time off ante natal appointments**
- **Shared Parental leave – eligibility and pay**
- **Arrangements for shared parental leave**
- **Parental leave and time off for dependants**
- **Foster carers leave**
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ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

PATERNITY AND SHARED PARENTAL LEAVE SCHEME
(SCHOOL BASED EMPLOYEES)

1. Introduction

1.1 These guidelines outline the paternity and parental leave scheme that applies to all school based working parents employed by the Council. They reflect the provisions of the Employment Rights Act 1996, as amended by the Employment Relations Act 1999 and the Employment Act 2002. The details of these rights are set out in supporting regulations: the Maternity and Parental Leave etc Regulations 1999, the Maternity and Parental Leave (Amendment) Regulations 2001, the Additional Paternity Leave Regulations 2010 and Parental Leave Regulations 2013, the Shared Parental Leave Regulations 2014 and the Parental Bereavement (Leave and Pay) Act 2018.

2. Paternity leave - eligibility

2.1 Employees must satisfy certain conditions in order to qualify for paternity or parental leave.

2.2 In respect to **paternity leave (maternity)** they must:

- Have or expect to have responsibility for the child's upbringing.
- Be the biological father of the child or the mother's husband or partner or civil partner.
- Have worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due.
- Give notice in accordance with Paragraph 5.

2.3 Whilst in respect to **paternity leave (adoption)** they must:

- Have or expect to have responsibility for the child's upbringing.
- Be the adopter's spouse or partner or civil partner.
- Have worked continuously for their employer for 26 weeks ending with the week in which the adopter is notified of being newly matched with a child.
- Give notice in accordance with Paragraph 5.

2.4 In respect to **parental** leave they may be any partner who cares for a child but for whom they may not have legal parental responsibility and have completed one year's service with the Royal Borough.

3. Length of ordinary paternity leave

3.1 Eligible employees can choose to take either one week or two consecutive weeks' ordinary paternity leave (not odd days). Where the employee is taking two weeks paternity leave there can be no break between the two weeks. The employee can choose to start his/her leave:

- From the date of the child's birth (whether this is earlier or later than expected), or
- From a chosen number of days or weeks after the date of the child's birth (whether this is earlier or later than expected), or
- From a chosen date later than the first day of the week in which the baby is expected to be born.

3.2 Leave can start on any day of the week on or following the child's birth but must be completed:

- Within 56 days of the actual date of birth of the child, or
- If the child is born early, within the period from the actual date of birth up to 56 days after the first day of the expected week of birth.

3.3 Only one period of leave is available to employees irrespective of whether more than one child is born as the result of the same pregnancy.

4. Paternity leave - pay

4.1 During the first week of paternity leave the employee will be paid their normal weekly pay, inclusive of their entitlement of Statutory Paternity Pay (SPP). In the second week most employees will be entitled to SPP. The rate of SPP is the same as the standard rate of Statutory Maternity Pay (SMP) or 90% of average weekly earnings if this is less than the rate of SMP.

4.2 To qualify for SPP earnings must have been over the lower earnings limit for the eight weeks prior to the end of the 15th week before the expected week of childbirth or matching.

5. Notice of intention to take paternity leave

5.1 An employee must inform the school and council of their intention to take paternity leave by the end of the 15th week before the baby is expected, unless this is not reasonably practicable. The employee must complete either the paternity leave request form at Appendix A below or in the case of adoption Appendix B below, providing the following information:

- The week the baby is due (please provide a copy of the form Mat B1 which the expectant mother will have been given) or the date

the child is expected to be placed (please provide a copy of the matching certificate which confirms the expected placement date).

- Whether they wish to take one- or two-weeks' leave.
- When they want their leave to start.
- Signed the declaration on the paternity leave form.

- 5.2 An employee can change his/her mind about the date on which he/she wants his/her leave to start providing he/she tells his/her manager at least 28 days in advance (unless this is not reasonably practicable).

Please note, paternity leave must be taken before any period of shared parental leave can commence.

6. Time off for ante natal appointments

- 6.1 The right to unpaid time off of up to 6.5 hours on up to two occasions applies to:

- The husband or civil partner of the pregnant woman.
- The partner, including same sex partners, who live with the woman.
- The father of the expected child.
- A parent of the expected child by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008 (HFEA) (same sex partner treated as parent in case of assisted reproduction).
- A potential applicant for a parental order under section 54 of HFEA in respect of the expected child (surrogacy cases).

7. Shared parental leave – eligibility

- 7.1 In order to qualify for shared parental leave both partners must meet the eligibility criteria.
- 7.2 For further explanation, please refer to the FAQ section in Appendix C.

8. Shared parental leave – pay

- 8.1 This section sets out the basic points in relation to pay for shared parental leave.
- 8.2 Statutory shared parental leave pay is available for a maximum of 37 weeks within the first year of the baby's birth.
- 8.3 Statutory shared parental leave pay is paid at the same lower rate of statutory maternity pay.
- 8.4 For further explanation, please refer to the FAQ section in Appendix C.

9. Shared parental leave – arrangements

9.1 This section sets out the basic points in relation to shared parental leave. For further explanation, please refer to the FAQ section in Appendix C. Form to request Shared Parental Leave can be found in Appendix D.

- It is compulsory for mothers to take two weeks maternity leave after the birth of the baby.
- In order to take shared parental leave, maternity/adoption leave/pay (excluding compulsory maternity leave) must be terminated early.
- Shared leave can be taken in up to 3 blocks of time within the 52 weeks.
- Parents can take periods of concurrent shared leave, providing the correct notice has been given.

10. Parental leave and time off for dependants

10.1 An employee is entitled to 18 weeks' (unpaid) parental leave to care for his/her child even if he/she may not have legal parental responsibility e.g. foster parents or grandparents who have a significant parenting role. Parental leave can be taken up to the child's 18th birthday.

10.2 Parental leave is for each child, so if there is a multiple birth each parent will get 18 weeks leave for each child.

10.3 The leave might be taken simply to enable the employee to spend more time with his/her young children. Examples of the way parental leave might be used:

- To spend more time with the child in early years.
- To accompany a child during a stay in hospital.
- Checking out new schools.
- Settling a child into new childcare arrangements.
- To enable a family to spend more time together, e.g. taking the child to stay with grandparents.

11. Notice to take Parental Leave

11.1 An employee should attempt to give as much notice as possible, with normally a minimum of seven days' notice. Whilst the notice does not have to be in writing it would be beneficial for record purposes if the attached "Parental Leave Form" was completed (see Appendix E).

11.2 A manager will not unreasonably refuse requests for parental leave. If it is necessary to postpone parental leave taking into account the exigencies of the service, any postponement will be for the minimum time possible and for no longer than three months. The school will also give reasons in writing for any postponement and the dates when the leave can be taken within seven days of the request being made.

12. Flexibility

- 12.1 An employee will be allowed to take parental leave in a number of ways:
- A single block of up to 18 weeks.
 - Complete weeks.
 - Part weeks.
- 12.2 Alternatively, if the requirement for parental leave is likely to be more than is going to be covered by 18 weeks then an employee may wish to consider reducing hours of work (part-time working) and/or term time only working. More details of these two options are contained in the Flexible working policy and the associated framework documents.

13. Dependant Care

- 13.1 A manager may grant unpaid dependent leave to an employee in special circumstance such as an accident or sudden illness. This right to dependant leave is afforded by s57 of the Employment Rights Act 1996. It gives an employee a right to “reasonable amount of time off “during working hours. An employee is entitled to be permitted by his/her employer to take a reasonable amount of time off during the employee's working hours in order to take action, which is necessary:
- To provide assistance on an occasion when a dependant falls ill, gives birth or is injured or assaulted.
 - To make arrangements for the provision of care for a dependant who is ill or injured.
 - In consequence of the death of a dependant (see para 15 and 16).
 - Because of the unexpected disruption or termination of arrangements for the care of a dependant.
 - To deal with an incident which involves a child of the employee and which occurs unexpectedly in a period during which an educational establishment which the child attends is responsible for them.
 - The governors at Trinity St Stephen Church of England First School agree that staff will be entitled to a total of one paid day per academic year for these reasons. Beyond this leave will be unpaid.
- 13.2 The employee must advise his/her manager the reason for the absence as soon as reasonably practicable, and how long it is expected to last.
- 13.3 In relation to this section "dependant" means:
- A spouse or partner.
 - A child.
 - A parent.
 - A person who lives in the same household as the employee, this could be an elderly aunt or grandparent. It does not include

tenants or boarders or someone who lives in the household as an employee, such as a live-in housekeeper.

- Any person who reasonably relies on the employee for assistance on an occasion when the person falls ill or is injured or assaulted or makes arrangements for the provision of care in the event of illness or injury.

This provision is over and above paid special/compassionate leave that may be granted by a manager.

14. Foster Carers Leave

14.1 This provision applies to employees who:

- Are applying to become foster carers.
- Are approved foster carers and have a child in placement.
- Are an approved kinship carer and have at least three months service with the council.

14.2 Employees must:

- Have continuous service with the council of at least one year.
- Provide evidence of their application to become a foster carer.
- Provide a notice of acceptance as a foster carer.
- Provide evidence of any placement.

14.3 Paid time off will be:

- For assessment and initial training prior to approval as a foster carer – up to three days
- Attendance at panel for approval – one day.
- Child review meetings, annual foster carer review meeting, settling a child into a placement and training – up to five days.

14.4 Leave for assessment and initial training prior to approval as a foster carer and attendance at panel for approval would be a one-off allowance. The remaining five days is available over a 12-month period on an annual basis.

14.5 Requests for time off should be discussed initially with the Line Manager and then requested in writing. Leave will be approved on a discretionary basis taking into account the individual circumstances and service needs.

15. Special/Compassionate Leave

14.1 This provision is normally applied in respect to death/serious illness of an immediate member of the family. Paid special leave will be granted for up to five days depending on the circumstances.

14.2 The following are general guidelines on what can be granted:

- Spouse, parent or child – up to five days
- Other close relative – up to three days

- 14.3 Any period in excess of five days may be granted in exceptional circumstances only and with the prior approval of the Head Teacher.

16. Parental bereavement leave

- 16.1 In April 2020, new Regulations were introduced that provided for Statutory Parental Bereavement Leave and pay. In implementing the Regulations, the school/council has decided to be as flexible as possible to support any employee who unfortunately finds themselves in this situation.
- 16.2 If an employee suffers the loss of a child under the age of 18 or the stillbirth of a child 24 weeks or more into the pregnancy, there is an entitlement to two weeks leave with full pay regardless of their length of service. Some employees may qualify for Statutory Parental Leave pay, which will be offset against normal pay.
- 16.3 The definition of 'parent' in this context includes adoptive parents, foster carers, guardians and kinship carers.
- 16.4 Under the regulations, leave can be taken as two consecutive or two individual weeks within 56 weeks of the date of the death of the child. However, the school will be as flexible as possible and consider requests on a case by case basis for individual days or periods of less than one week.
- 16.5 Managers are required to record the dates of Parental Bereavement Leave on the form that can be found in Appendix G. A copy of the form, should be emailed to payroll.manager@rbwm.gov.uk
- 16.6 Managers are advised to contact the HR Business Partner team for advice as to how best to support an employee in this situation.

17. Protection from detriment and dismissal

- 17.1 No employee will suffer unfair treatment or dismissal for taking, or seeking to take, statutory paternity or parental leave. If an employee believes they have been treated unfairly should raise the matter in the first place through the Royal Borough's Grievance Procedure.

18. Further help

- 18.1 Should you have any questions, please contact HR. Refer to Appendix F for a glossary of terms relating to family leave.
- 18.2 For further information - <https://www.gov.uk/browse/working/time-off>

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

Paternity Leave

Name: _____ Employee no: _____

Business Unit / School: _____

1 I am intending to take one/two weeks paternity leave
(delete as appropriate)

2 The baby is due in the week beginning: _____

(if the baby is has already been born, please show actual date of birth
_____)

I intend to start my paternity leave on: _____

I am due back at work on: _____

3 You must be able to tick all four boxes to get paternity leave and Statutory Paternity Pay.

I declare that: -

- a) I am
 - the baby's biological father, or
 - married to the mother, or
 - living with the mother in an enduring relationship, but am not an immediate relative

- b) I have responsibility for the child's upbringing

- c) I will take time off work to support the mother or care for the child

- d) I enclose a copy of the mother's Mat B1

Signed _____ Date _____

Head Teachers signature

Signed _____ Date _____

Please give a copy of this form to your Head Teacher and send the original to HR at Town Hall, St Ives Road, Maidenhead. If you have any queries, please contact HR.

The school and council support the [Lift the baby campaign](#)

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

Paternity Leave (Adoption)

Name: _____ Employee no: _____

Business Unit / School: _____

1 I am intending to take one/two weeks paternity leave (delete as appropriate)

The adoption agency told the person adopting the child that they had been matched with the child on: _____

The child is expected to be placed on: _____

(if the child has been placed, please enter the date the child was placed:

I intend to start my paternity leave on: _____

I am due back at work on: _____

You must tick this box if you are adopting a child with your partner

I declare that I am adopting the child with my partner and I want to receive Statutory Paternity Pay and paternity leave not Statutory Adoption Pay and adoption leave.

4 You must be able to tick all three boxes to get paternity leave and Statutory Paternity Pay.

I declare that: -

e) I am

- married to the person adopting the child, or
- living with the person adopting the child in an enduring family relationship, but am not an immediate relative

f) I have responsibility for the child's upbringing

g) I will take time off work to support the [person adopting the child or care for the child

Signed _____ Date _____

Head Teachers signature

Signed _____ Date _____

Please give a copy of this form to your Head Teacher and send the original to the HR Unit at Town Hall, St Ives Road, Maidenhead. If you have any queries, please contact the HR Unit.

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SHARED PARENTAL LEAVE

FREQUENTLY ASKED QUESTIONS

1. What is shared parental leave (SPL)?

This scheme allows 'parents' to share time off work during the first year after the child's birth or adoption.

2. Who can take shared parental leave?

Leave can be taken by mothers, fathers, adopters or their partners subject to the eligibility requirements.

3. Can I take shared parental leave even if my partner does not qualify?

Yes. You can use the shared parental leave arrangements to take your leave in a more flexible way however your partner must still meet certain eligibility criteria.

4. What are the time limits on taking leave?

Leave must be taken within the baby's first year.

5. What are the eligibility criteria?

For the child's mother:

- has at least 26 weeks' continuous employment by the end of the 15th week before the expected week of childbirth and remains in continuous employment with that employer until the week before any period of shared parental leave that she takes.
- has the main responsibility for the care of the child at the date of the birth (apart from the responsibility of her partner or the child's father) and intend to care for the child during SPL period.
- is entitled to statutory maternity leave in respect of the child.
- has curtailed her statutory maternity leave.
- has complied with the relevant notice and evidence requirements.
- For Shared Parental Leave Pay -has average earnings in the eight weeks ending with the relevant week of not less than the lower earnings threshold applicable in that week.

For the child's father or the partner of the child's mother:

- has at least 26 weeks' continuous employment by the end of the 15th week before the expected week of childbirth and remains in continuous employment with that employer until the week before any period of shared parental leave that he or she takes.
- has the main responsibility for the care of the child at the date of the birth (apart from the responsibility of the mother) and intend to care for the child during SPL period.
- has complied with the relevant notice and evidence requirements.
- For Shared Parental Leave Pay - has average earnings in the eight weeks ending with the relevant week of not less than the lower earnings threshold applicable in that week.

In addition both parties need to satisfy the employment and earnings test:

Have been employed or self employed for any part of at least 26 weeks of the 66 weeks immediately before the expected week of childbirth and have average weekly earnings in any 13 of those 66 weeks of at least £30.

Use this on line calculator to determine your eligibility:

[Eligibility calculator](#)

6. How much time can be taken?

The maximum amount of SPL is 50 weeks, whilst the maximum shared parental leave pay (ShPP) is 37 weeks.

Mothers must take a compulsory two weeks leave after the birth of the baby.

7. How can the leave be taken?

The leave can be taken in up to three blocks of time during the first year. It can only be taken in whole weeks.

8. How much is shared parental leave pay?

Statutory Shared Parental Leave Pay is available for a maximum of 37 weeks and is payable at the same lower rate of Statutory Maternity Pay (SMP), or 90% of your average earnings, whichever is lower. Check the current rate [Shared Parental Leave and Pay: What you'll get - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

9. What are the notification rules?

If you are taking maternity/adoption leave in order to take SPL you must do one of the following:

- End your maternity/adoption leave by returning to work.
- Give 'binding notice' of the date you will end your maternity/adoption leave.
- End your maternity/adoption pay.

Anyone wishing to take SPL must give at least 8 weeks notice of their intention to take leave.

10. How can I notify you that I want to take SPL?

In Appendix D, you will find a form that you and your partner need to complete. Due to the complexity of the potential variations in the taking of SPL, it is recommended that you discuss your plans for shared parental leave with your line manager and HR at the earliest opportunity. Please contact the HR Business Partner team.

11. Can you refuse my request for SPL?

Providing you have submitted your request at least eight weeks before you intend to start your SPL, want to take it as a continuous period of leave and have complied with the notification requirements, then we cannot refuse.

12. What evidence will you want as my employer that my partner qualifies for shared parental leave?

The form in Appendix D, requires both you and your partner to declare that you qualify for SPL and ShPP. The regulations allow an employer to ask for the details of the partner's employer.

13. What happens to my maternity leave and pay?

If you opt to take SPL, then your maternity leave and pay end. You may then opt to receive ShPP.

14. What about Keeping in Touch (KIT) days?

In addition to the 10 KIT days for maternity leave, during SPL, there are an additional 20 days called Shared Parental Leave In Touch (SPLIT).

15. What about notification to return to work?

You will have already given an intended return to work date when you applied for SPL. This can be varied if you wish to take any remaining SPL.

16. Can I change my dates?

Once you have given notice to take SPL, you cannot change the dates unless you give at least 8 weeks notice.

17. How does this affect ordinary paternity leave?

Ordinary paternity leave will continue. However, it must be taken before any period of shared paternity leave begins.

18. Some examples of the way shared parental leave can work.

Example 1 - Time off together

Mother plans to take 26 weeks maternity leave. She gives 8 weeks notice before she starts her maternity leave, that she will return to work after 26 weeks leave.

This will leave 26 weeks for SPL and 13 weeks ShPP.

Father/Partner takes two weeks ordinary paternity leave and then takes 13 weeks SPL and ShPP whilst the baby's mother is also on maternity leave. Leaving 13 weeks unpaid SPL, that either parent can take within the first year.

Example 2 – Mother takes leave first, returns to work and father/partner takes leave.

Mother takes 26 weeks maternity leave and pay and returns to work. Father/ Partner takes 26 weeks SPL, 13 of which are paid at ShPP and 13 unpaid.

Example 3 – alternating leave between parents

Mother takes 18 weeks maternity leave and pay and returns to work. Father takes eight weeks SPL and ShPP and returns to work. Mother takes 13 weeks SPL and ShPP and returns to work. Father takes remaining unpaid SPL of 13 weeks.

There is scope for a huge range of leave combinations.

19. Who can I speak to for advice?

If you are considering taking SPL, you should discuss this first with your manager and then arrange for you both to meet with HR for advice.

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

Shared Parental Leave

Section 1

To be completed by RBWM employee, wishing to take Shared Parental Leave (SPL)

Full Name _____ Employee no _____

Service / School _____

Qualifying partners name (in full) _____

EWC date _____ Baby's birth date _____

Start date of maternity leave _____

End date of maternity leave _____

Number of weeks SPL available _____

Number of weeks Shared Parental Leave Pay (ShPP) available _____

My SPL will commence on _____ and end on _____

I intend to take _____ weeks SPL and _____ weeks ShPP.

Further information _____

I confirm that I am sharing the childcare responsibility with the above mentioned qualifying partner during the SPL period and that the information given above is accurate. I understand that a false declaration will be treated as a disciplinary matter.

Signed _____ Date _____

Please turn over for the declaration by the qualifying partner.

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Section 2

To be completed by the qualifying partner of the RBWM employee, wishing to take shared parental leave

Full Name _____ NI Number _____

Address _____

I confirm that all the information given in the above sections is accurate and that:

I satisfy the qualifying requirements for taking Shared Parental Leave and Statutory Shared Parental Leave Pay;

I am the father/mother of the child or married to/the civil partner or partner of the above named RBWM employee;

I agree to share with the above named RBWM employee Shared Parental Leave and Statutory Shared Parental Leave Pay;

If required by RBWM I will supply a copy of the birth certificate and the name and address of my employer within 14 days of the request;

I agree to RBWM processing my information in relation to the administration of Shared Parental Leave and Statutory Shared Parental Leave Pay;

Signed _____ Date _____

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

Parental Leave

Name: _____ Employee no: _____

Business Unit / School: _____

You are entitled to up to 18 weeks' (unpaid) parental leave to care for your child even if you do not have legal parental responsibility e.g. you are a foster parents or grand-parents who have a significant parenting role. Parental leave can be taken up to the child's 18th birthday.

You should give as much notice as possible with a minimum of seven (7) days, giving the dates when the leave is to start and finish.

This form is designed to assist you in giving the information required to enable your manager to approve your request for parental leave on the dates you have requested.

Your manager will not unreasonably refuse your requests for parental leave. If it is necessary to postpone parental leave taking into account the exigencies of the service, any postponement will be for the minimum time possible and for no longer than 3 months. The school will also give reasons in writing for any postponement and the dates when the leave can be taken within 7 days of the request being made.

Parental leave can be requested as:-

- A single block of up to 18 weeks
- Complete weeks
- Part weeks

1 I request to take unpaid parental leave for _____ weeks

2 My parental leave will commence on: _____

3 My parental leave will end on _____

4 I have already had _____ weeks parental leave with this child since its birth or placement for adoption.

5 I declare that my relationship to the child is: -

Signed _____ Date _____

Head Teachers signature

Signed _____ Date _____

Please give a copy of this form to your Head Teacher and send the original to the HR Unit at Town Hall, St Ives Road, Maidenhead. If you have any queries, please contact the HR Unit.

Glossary of family leave

Leave type	Description
Maternity leave	Leave of up to 52 weeks year and statutory pay, and for qualifying staff enhanced occupational pay.
Adoption leave	As for maternity
Ordinary paternity leave	For fathers/partners, two weeks paid leave to be taken as a block, within 56 days of the birth.
Additional paternity leave	Only for babies due up to 4 April 2015, after 20 weeks maternity leave mother can transfer 2-26 weeks leave to father/partner.
Parental leave	For those with parental responsibility, up to 18 weeks unpaid leave until child's 18 th birthday.
Shared parental leave	Replaces Additional Paternity Leave. Mother can share up to 37 week's pay and 50 weeks leave with father/partner.
Dependant care	Reasonable unpaid time off to deal with events of dependants such as sudden illness or accident

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

Parental Bereavement Leave (PBL)

To be completed by the employee’s manager

Name _____

Employee number _____

The above-named employee has taken _____ days Parental Bereavement Leave (Insert number of days)

Leave was taken on the following dates:

Signed _____

Managers Name _____

Date _____

Please send this form to payroll.manager@rbwm.gov.uk