



# SHARED PARENTAL LEAVE PROCEDURE (For School-Based Employees)

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INVESTOR IN PEOPLE



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## **SECTION 1 | OUTLINE OF PROCEDURE**

### **1. INTRODUCTION**

- 1.1 As part of the school's family-friendly and work-life balance focus, this policy sets out the statutory rights for employees to shared parental leave and pay. This policy applies to both teaching and support staff in community and Voluntary Controlled schools following adoption by the Governing Body, whether they are the mother or the partner. This policy is also recommended for Voluntary Aided, Free Schools, Trust Schools and Academies for adoption.
- 1.2 Shared Parental Leave will enable eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption. This could involve returning to work for part of the time and then resuming leave at a later date. Eligible employees are able to volunteer to end their Maternity Leave/ Adoption Leave and /or pay early to create leave and pay which they can share with the child's father or their partner as Shared Parental Leave and Pay. Shared Parental Leave will enable working parents to share leave in the year after their child's birth or placement for adoption and to take leave in a more flexible way. In contrast to Maternity and Paternity Leave, eligible employees will be able to stop and start their Shared Parental Leave and return to work between periods of leave if they wish. This will allow both parents to be at home together, if this is what they choose.
- 1.3 The key points of this legislation are stated below:
- a) Qualifying mothers and adopters continue to be entitled to Maternity and Adoption rights, however they may also be able to choose to end this early and exchange it for Shared Parental Leave and Pay. They and their named partner will then need to decide how they want to share this new entitlement
  - b) Two weeks of paid Paternity Leave continues to be available to qualifying fathers and the partner of a mother or adopter. However, Shared Parental Leave has replaced the Additional Paternity Leave entitlement
  - c) These regulations came into force on 1 December 2014 and apply to eligible parents where a baby is due, or a child is placed for adoption, on or after 5 April 2015
- 1.4 Please refer to the Maternity Leave Procedure and the Adoption Leave Procedure for full details on the Council's arrangements.

## 2.0 HOW SHARED PARENTAL LEAVE OPERATES

- 2.0.1 Shared Parental Leave is designed to give parents more flexibility in how to share the care of their child in the first year following birth or adoption. Parents will be able to share a 'pot of leave', and can decide to be off work at the same time and/or take it in turns to have periods of leave to look after the child.
- 2.0.2 In some families, both parents will be employed and meet the qualifying requirements for Shared Parental Leave and Pay. In these circumstances, the parents will need to decide how to divide the leave and pay entitlement between them. Leave or pay taken by one parent will reduce the pool of leave and pay that is available to the other parent.
- 2.0.3 A mother is required to take a minimum of 2 weeks Maternity Leave immediately following the birth. Similarly adopters can't start their Shared Parental Leave until 2 weeks of Adoption Leave have been taken by them. The maximum number of weeks of Shared Parental Leave and Pay that could be available to the parents jointly is 50 weeks of leave and 37 weeks of pay (except in circumstances where the mother dies).
- 2.0.4 Shared Parental Leave and pay cannot begin before the birth (or placement for adoption) and must be taken within 1 year of the birth or the date that the child was placed with the family (i.e. the day before the child's first birthday or the first anniversary of the placement of an adopted child). It is important to note that once the employee has returned to work, from either Maternity Leave or Adoption Leave, the leave will terminate and cannot re-start.

### 2.1 Eligibility

- 2.1.1 To qualify, the mother or adopter must be entitled to some form of Maternity or Adoption entitlement, have given notice to curtail it and must share the main responsibility for caring for the child with the named partner. For a parent to be eligible to take Shared Parental Leave they must be an employee and they must pass the continuity of employment test. In turn, the other parent in the family must meet the employment and earnings test as follows:
- a) **Continuity of employment test:** the person must have worked for the same employer for at least 26 weeks at the end of the 15th week before the week in which the child is due (or at the week in which an adopter was notified of having been 'matched' with a child or adoption) and is still employed in the first week that Shared Parental Leave is to be taken
  - b) **Employment and earnings test:** the person must have worked for at least 26 weeks {not necessarily continuously} in the 66 weeks leading up to the due date or matched for adoption and have earned above the Maternity Allowance threshold \*{£30 per week as of 2015, however may change annually} in 13 of the 66 weeks

- 2.1.2 Where both parents satisfy these tests they will both be able to share the leave. However, a family can still use Shared Parental Leave even when only one parent actually meets the eligibility criteria. For example, a self-employed parent will not be entitled to take Shared Parental Leave however they could still pass the employment and earnings test allowing the other parent in the family to qualify.
- 2.1.3 Shared Parental Leave and pay will be available to birth mothers and adopters and the child's father/the mother's or adopter's partner. 'Partner' means a person who the mother or adopter is married to or in a civil partnership with; or a partner who the mother or adopter is living with or where they share the responsibility for the child at the time of the placement for adoption. Shared Parental Leave and pay will also be available to the intended parents in surrogacy arrangements, where they qualify for Adoption Leave and/or Pay.

## **2.2 Verifying an employee's eligibility**

- 2.2.1 It is the **employee's** responsibility to check that they are eligible for Shared Parental Leave and pay and the school should grant leave and pay based on the information and declarations provided by the employee. The school are not required to check or confirm the information given by the partner to determine whether the employee is eligible for Shared Parental Leave.
- 2.2.2 If it is subsequently discovered that Shared Parental Pay was incorrectly paid, the school can correct their records and may recover wrongly paid Shared Parental Pay from the recipient as an overpayment of salary, as applies to all statutory payments.
- 2.2.3 Apart from checking whether our own employee meets the continuity of employment and earnings criteria (as they would for Statutory Maternity Pay or Paternity Pay), a notice of entitlement to take Statutory Parental Leave or Share Parental Pay and the accompanying declarations will be sufficient evidence of a right to claim Statutory Parental Leave or Share Parental Pay.
- 2.2.4 The school can, within 14 calendar days of receiving the notice request a copy of the child's birth certificate (if one is available). In the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption.
- 2.2.5 The school can also request the contact details for the employee's partner's employer {name and address}. If a request is made then these details must be provided within 14 calendar days.

- 2.2.6 The school should take into account that the criteria for the employment and earnings test means that the partner could be self-employed or no longer employed and still meet the requirements.

### **3.0 PROTECTION FOR SEEKING TO TAKE OR TAKING SHARED PARENTAL LEAVE**

- 3.1 During Shared Parental Leave an employee is entitled to benefit from all of the terms and conditions of their employment except for remuneration. They are also bound by any obligations arising from the terms and conditions except the need to attend work.
- 3.2 If a redundancy situation arises while an employee is on Shared Parental Leave they, must be offered a suitable alternative vacancy if one is available.

### **4.0 STATUTORY PARENTAL LEAVE**

- 4.0.1 The mother or adopter decides whether to keep taking their Maternity or Adoption entitlement or to use Shared Parental Leave. If they choose to use their Shared Parental Leave, they can end their entitlement or give advance notice to curtail it. This advance notice means their partner could begin to take Shared Parental Leave while the mother or adopter is still on Maternity or Adoption Leave. The untaken weeks of Maternity or Adoption Leave can be taken as Shared Parental Leave if the mother/adopter or their partner is eligible for this, up to a maximum of 50 weeks.
- 4.0.2 Where a mother or adopter takes 51 weeks or more of the 52 weeks of Maternity or Adoption Leave that is available to him or her, then no shared parental leave can be created. It is only the untaken balance of their Maternity or Adoption Leave that can be taken as Shared Parental Leave.
- 4.0.3 Shared Parental Leave may be taken at any time within the period which begins on the date the child is born/date of the placement and ends 52 weeks after that date. An employee is entitled to submit three separate notices to book leave. Leave must be taken in complete weeks and may be taken either in a continuous period, please refer to section 4.1, Continuous Leave, which an employer cannot refuse, or in a discontinuous period, which the employer can refuse. If a request for discontinuous leave is made, please refer to section 4.2, Discontinuous Leave, is refused then the total amount of leave requested in the notice will automatically become a continuous block, unless it is withdrawn.
- 4.0.4 The amount of Shared Parental Leave and Pay available will depend on how much Maternity or Adoption Leave and pay has already been taken. Shared Parental Leave will be 52 weeks minus the number of weeks that the mother/adopter takes as Maternity/Adoption Leave.

#### 4.0.5 Shared Parental Leave can:

- a) start on any day of the week
- b) only be taken in complete weeks (so if Shared Parental Leave lasts for one week and begins on a Tuesday it will finish on the following Monday)
- c) be taken using **three** separate notices to book leave
- d) be taken by the partner, while the person is still on Maternity/Adoption Leave if the person reduces their entitlement to Maternity/Adoption Leave

4.0.6 If the person is not entitled to Maternity or Adoption Leave (for example because they are self-employed), they must have ended, or given notice to reduce, their Maternity/Adoption Pay period or Maternity Allowance period, for their partner to be eligible for Shared Parental Leave.

4.0.7 If an employee is eligible for, and intends to take Shared Parental Leave they must provide the school with a notice of entitlement to take Shared Parental Leave. The notice of entitlement must be submitted at least **eight weeks** before the employee intends to take a period of Shared Parental Leave.

4.0.8 The notice of entitlement to take Shared Parental Leave must include:

- a) how many weeks Maternity/Adoption Leave (or Maternity/Adoption Pay or Maternity Allowance if the mother/parent was not eligible for Maternity/Adoption Leave) has been/will be taken
- b) how much leave both parents are entitled to take
- c) how much leave each parent intends to take
- d) when they expect to take their leave
- e) the signatures of both parents

### 4.1 Continuous Leave

4.1.1 Continuous Leave is a period of leave that is taken in one block, for example, four weeks leave. The school cannot refuse any continuous leave requests made.

### 4.2 Discontinuous leave

4.2.1 Discontinuous Leave is a period of leave that is arranged around weeks where the employee will return to work, for example, an arrangement where the employee will work every other week for a period of three weeks. The school can consider and discuss with employee's such requests and can refuse these requests in line with operational needs.

## **5.0 SHARED PARENTAL LEAVE PAY**

- 5.0.1 Statutory Shared Parental Pay is paid at the nationally agreed rate or 90% of the average weekly earnings (whichever is lower) with effect from 5 April 2015. Please note that this is usually subject to annual review in April of each year.
- 5.0.2 If the mother or adopter curtails their entitlement to Maternity/Adoption Pay or Maternity Allowance before they have used their full entitlement then Statutory Shared Parental Pay can be claimed for any remaining weeks.
- 5.0.3 To qualify for Statutory Shared Parental Pay a parent must pass the continuity of employment test and have earned an average salary of the lower earnings limit of £111 for the 8 weeks' prior to the 15th week before the expected due date or matching date. The other parent in the family must meet the employment and earnings test.
- 5.0.4 If the employee intends to claim Shared Parental Pay, they must give their employer notice, which must include:
- a) how much Shared Parental Pay both parents are entitled to take
  - b) how much Shared Parental Pay each parent intends to take
  - c) when they expect to take Shared Parental Pay
  - d) a declaration from the employee's partner confirming their agreement to the employee claiming their amount of Shared Parental Pay
  - e) The notice to claim Shared Parental Pay be included within the notice of entitlement to take Shared Parental Leave
- 5.0.5 Statutory Shared Parental Pay will be created where an eligible mother or adopter chooses to bring their Maternity or Adoption Pay or Maternity Allowance to an end early, this is called reducing the Maternity or Adoption Pay period or the maternity allowance period.
- \*Currently set at £139.58 as at April 2015
- 5.0.6 The untaken Maternity or Adoption Pay or Maternity Allowance will become available as statutory shared parental pay, up to a maximum of 37 weeks.
- 5.0.7 Where a mother or adopter takes 38 weeks or more of Statutory Maternity or Adoption Pay or Maternity Allowance, then no Statutory Shared Parental Pay can be created.



## **6.0 APPLYING FOR SHARED PARENTAL LEAVE**

- 6.1 Employees wishing to apply for Shared Parental Leave can refer to the school's 'How to guide on Shared Parental Leave' for further information on the notification and booking arrangements along with cancelling and varying Shared Parental Leave. It also outlines how the school's management will consider any requests and the appropriate actions in line with statutory requirements. This guidance also outlines the Statutory Default Provisions.

## **7.0 WORKING ARRANGEMENTS DURING THE SHARED PARENTAL LEAVE**

### **7.1 Working and communicating during Shared Parental Leave**

- 7.1.1 Some contact during Shared Parental Leave periods will usually be beneficial for Managers and employees. Whether this is undertaken through Shared Parental Leave in Touch {SPLIT} days or pre-arranged phone contact is for both parties to consider.
- 7.1.2 Reasonable contact allows Managers and employees to keep up-to-date on changes within the workplace and to personal circumstances that can help ease the employee's return to work. The school has legal obligations to the employee while they are away from work and therefore should keep the employee informed about everyday issues for example, staffing changes and job opportunities. 'How and when' contact will take place should be discussed in advance of the leave period being taken and agreed upon.

### **7.2 Shared Parental Leave in Touch {SPLIT} days**

- 7.2.1 During Shared Parental Leave an employee and the school will be able to agree up to 20 Shared Parental Leave in Touch (SPLIT) days. There is no obligation on the school to offer these days or for an employee to agree to them. SPLIT days can be used in situations where both parties feel it would be beneficial for the employee to attend a work-related activity, for example a training session or a team meeting, or to work part of a week to help the employee return to their role in a gradual way.
- 7.2.2 Please note that employees will be reimbursed up to their full daily rate for each SPLIT day worked. Therefore, if an employee elects to work a 'Shared Parental Leave in Touch' {SPLIT} day, the employee will be paid the difference between the actual rate of pay that they are receiving for that day and their actual daily rate of normal pay.

### **7.3 Returning to work after Shared Parental Leave**

- 7.3.1 When an employee returns to work following a period of Shared Parental Leave they are entitled to return to the same job if their combined leave period (comprising of Maternity, Paternity, Adoption and Shared Parental

Leave) totalled 52 weeks or less. This is unaffected by unpaid Parental Leave of up to four weeks being taken as well.

## **8.0 ADDITIONAL SHARED PARENTAL LEAVE CONSIDERATIONS AND THEIR EFFECT ON SHARED PARENTAL LEAVE**

8.0.1 In certain situations an employee's rights and requirements to take Shared Parental Leave may change. Please see further details below:

### **8.1 Early birth**

8.1.1 If the child is born before their expected due date and the employee had booked to take Shared Parental Leave within the first eight weeks of the due date, they may take the same period of time off after the actual birth without having to provide eight weeks' notice, by submitting a notice to vary their leave as soon as is reasonably practicable. Unlike most other variation notices, this would not count as one of the employee's three notifications. Any leave arranged after the first eight weeks of the due date is still bound by the eight-week notice required to vary leave.

8.1.2 If the child is born more than eight weeks before their expected due date and the notice of entitlement to Shared Parental Leave and/or a notice to book Shared Parental Leave have not yet been given, then there is no requirement to give eight weeks' notice before the period of leave starts. The notices should be given as soon as is reasonably practicable after the actual birth.

### **8.2 Death of the child before or during birth, or within the first year**

8.2.1 Should the child die before the parents have submitted a notice of entitlement to take Shared Parental Leave then they cannot opt into Shared Parental Leave because a qualifying condition of taking leave is caring for a child. The mother will remain entitled to Maternity Leave and the mother's partner could still qualify for Statutory Paternity Leave.

8.2.2 If the parents have opted into Shared Parental Leave and they have booked leave, they will still be entitled to take the booked leave. No further notice booking leave can be submitted and only one variation notice can be given to reduce a period of leave or to rearrange a discontinuous leave arrangement into a single block of leave.

8.2.3 An employee who is absent on Shared Parental Leave may cancel agreed Shared Parental Leave and return to work by giving their employer eight weeks' notice of their return to work.

### **8.3 Partner no longer caring for the child**

- 8.3.1 If the circumstances of an employee who has booked Shared Parental Leave changes so that they will no longer be responsible for caring for the child (unless it is because the child has died), their entitlement to both Shared Parental Leave and Shared Parental Pay will immediately cease and they must advise the school.
- 8.3.2 If the employee has any Shared Parental Leave arranged within eight weeks of their entitlement ceasing, the school can still require them to take it as Shared Parental Leave if it is not reasonably practicable for the school to have the employee in work, for example because cover has been arranged. Any Shared Parental Leave weeks arranged after eight weeks of their entitlement ceasing must be cancelled.
- 8.3.3 If the remaining parent will be continuing to care for the child then they will still be eligible to take their Shared Parental Leave entitlement. If the other parent, who is no longer caring for the child had any Shared Parental Leave entitlement outstanding, the remaining parent will only be able to transfer it into their own entitlement if they can get the signed agreement of the other parent to a notice confirming a variation of leave entitlement.

### **8.4 Death of a parent during the child's first year**

- 8.4.1 If, either, parent dies and the other parent is taking, or is entitled to Shared Parental Leave then they will continue to be eligible. Any Shared Parental Leave that was due to be taken by the deceased parent may be transferred to the other parent if the other parent is eligible for Shared Parental Leave.
- 8.4.2 Should it be necessary for the other parent to take a further period of Shared Parental Leave or to vary pre-agreed leave then notice may be given as soon as is reasonably practicable if eight weeks' notice cannot be given. If they have already given three notices to take leave they must be allowed to submit one further notice to book/amend Shared Parental Leave.

### **8.5 Multiple births/adoptions**

- 8.5.1 An employee is not entitled to extra Shared Parental Leave or Shared Parental Pay if they are expecting more than one child. The entitlements are, like Maternity Leave, the same as if the employee was expecting one child. This also applies to multiple adoptions that occur in a single placement.