



# Shared Parental Leave Policy

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Signed by Chair of Governors: Sally Birkbeck

*Sally Birkbeck*

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## Document History

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# Introduction

Employees who have a baby due on or after 5th April 2015 or in the case of adoption, are matched with a child on or after 5th April 2015, may be entitled to take shared parental leave.

Shared parental leave is created when a mother or primary adopter ends ('curtails') her maternity or adoption leave period.

Shared parental leave is then available to couples who meet the eligibility criteria to request to share the remaining maternity leave or adoption leave between them.

Employees can request to take any period of continuous shared parental leave which school cannot refuse. Alternatively employees can request a discontinuous period of shared parental leave which school will accommodate where possible. However any decision regarding discontinuous shared parental leave will be based on the business needs of the school.

## Eligibility

### Mother or primary adopter

If the employee is the mother or primary adopter and they want to take shared parental leave they must satisfy each of the following criteria:

- Be entitled to maternity or adoption leave and must have ended it either by returning to work before the end of their leave or stating their intention to end their maternity/adoption leave;
- Have caring responsibility for the child;
- Have continuous service of at least 26 weeks' before the 15th week before the baby is due. In the case of an adoption, they must have continuous service of at least 26 weeks ending with the week in which they are notified of being matched with a child for adoption;
- The employee's partner must meet the 'employment and earnings test'. This requires them in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned an average of at least £30 a week in any 13 of those weeks. (This amount is correct at April 2015 but may be subject to change in the future).
- Still be working for the school when they intend to take the leave;
- Provide a copy of the child's birth certificate or a document from the adoption agency that confirms the placement
- Comply with the notification requirements.

*N.B: Employees who are new mothers must take the minimum period of compulsory maternity leave (two weeks following the birth of the child, or four weeks for manual employees) before they can take shared parental leave. To qualify for shared parental pay the mother or primary adopter must meet the same eligibility conditions as required for shared parental leave and must also be entitled to statutory maternity pay or statutory adoption pay. The total amount of shared parental pay must not exceed the amount of the untaken statutory maternity or adoption pay.*

## Partner of the mother or primary adopter

If the employee is the partner of the mother or primary adopter and they want to take shared parental leave they must:

- Have caring responsibility for the child along with the mother or primary adopter;
- Have continuous service of at least 26 weeks' before the 15th week before the baby is due. In the case of an adoption, they must have continuous service of at least 26 weeks ending with the week in which they are notified of being matched with a child for adoption;
- Provide a copy of the child's birth certificate or a document from the adoption agency that confirms the placement;
- Comply with the notification requirements.

To qualify for shared parental pay the partner of the mother or primary adopter must meet the same eligibility conditions as required for shared parental leave and must also be entitled to statutory paternity pay.

The employee should provide the relevant information about their partner and provide a signed declaration from their partner confirming that they agree to share parental pay and they satisfy the eligibility requirements.

## Surrogacy

Surrogate parents with a Parental Order will be eligible for statutory adoption leave/pay and shared parental leave and pay if they meet the eligibility criteria.

Please note that in these cases the recipient surrogate parents must provide school with evidence of the intended arrangement. This should include a copy of the MAT B1, the Parental Order and the surrogacy agreement which must have been signed in the presence of a legal professional.

## Fraudulent Claims

The School will, where there is a suspicion that fraudulent information may have been provided or where the School has been informed by HMRC that a fraudulent claim was made investigate the matter under the School's Disciplinary Procedure.

## Shared Parental Pay

The total amount of shared parental pay must not exceed the amount of the untaken statutory maternity or adoption pay. Shared Parental Pay is paid at either the fixed statutory rate or 90% of normal average weekly earnings if this is less.

## Notification Requirements

The employee should discuss their intention to take shared parental leave at the earliest opportunity. Where it is a request for discontinuous shared parental leave there should be an informal meeting which gives them the opportunity to discuss what pattern of leave could be accommodated.

The employee may be accompanied at this meeting by a work colleague or trade union representative.

Employees must provide at least 8 weeks notice prior to the commencement of any period of shared parental leave.

### Mother or primary adopter

Where the employee is the mother or primary adopter and is on maternity or adoption leave they should complete the Notice of entitlement and intention to take shared parental leave and pay form to confirm they are ending their maternity or adoption leave and opting into shared parental leave and pay. Although the decision to end maternity leave is binding in most circumstances, the dates provided in the notification at this stage are a non-binding indication of the intended pattern of leave.

### Partner of the mother or primary adopter

Where the employee is the partner of the mother or primary adopter they should use the Partners notice of entitlement and intention to take shared parental leave and pay form.

The following applies to both parents

An employee who wishes to take shared parental leave must also complete a Period of leave notice (birth) form or Period of leave notice (adoption) form not

less than 8 weeks before the start date of each period of leave. In this document, the employee must set out the start and end date of each period of leave requested.

In the initial period of leave notice the employee does not have to confirm how they are intending to take all of their entitlement to shared parental leave. The employee may submit another period of leave notice. The employee is entitled to request a new block of leave or change a period of leave.

In total, employees can submit up to three period of leave notices, including changes to any previous notices, except when:

- a change is agreed by the employee and the manager
- a notification has been withdrawn
- a period of leave is varied because the child is born before the expected week of childbirth;

## Withdrawal of requests

The decision to end maternity or adoption leave is binding on the employee but may be revoked in the following circumstances:

- If after submitting notice to take shared parental leave the employee or their partner's circumstances change and they are no longer eligible to take shared parental leave. They must notify the manager in writing within 8 weeks
- If the employee is the mother and submitted her notification before the birth of the baby she may change her mind following the birth. If this is the case the employee must provide a written notice within 6 weeks of the baby's birth.
- In the unfortunate circumstances that an employee's partner dies the employee must provide a written notice within a reasonable time after the date of the death.

If the employee wishes to revoke their decision to end their maternity or adoption leave, they should complete the Revocation notice (shared parental leave) form.

## Amount of leave

The total amount of shared parental leave and pay must not exceed the remaining balance of the 52 weeks of maternity or adoption leave. If the employee and their partner decide to take leave together the amount of leave taken will be counted for each person.

Leave must be requested as complete weeks, with a minimum leave period of one week.

## Request for a continuous period of shared parental leave

If the employee has submitted a notification for a continuous period of leave they are entitled to take this. This request cannot be refused and this entitlement should be confirmed using the Confirmation of entitlement to take shared parental leave letter.

## Request for a discontinuous period of shared parental leave

If the employee has submitted a notification for a discontinuous period of shared parental leave either in turns or at the same time, the manager should meet with the employee within 15 calendar days of receiving the notification to discuss the request and try to come to an agreement.

For notifications of discontinuous periods of leave a manager can:

- agree to the request
- suggest alternative dates
- refuse the periods requested; or
- the employee can withdraw their application

If agreement is not reached within 15 calendar days the total amount of leave in the request must be taken as a single block.

The refusal of discontinuous leave should be confirmed in writing. Where the request for discontinuous leave has not been granted the employee can withdraw it within the 15 days and request a different pattern of discontinuous leave or they can choose to take the leave in a single continuous block.

## Right of Appeal

Any employee that has had discontinuous blocks of leave refused can appeal via the appeals procedure.

## Antenatal appointments

There is a statutory right for fathers/partners of pregnant women and intended parents of children born through surrogacy to unpaid time off work to attend up to two ante-natal appointments.

## Relationship with statutory paternity leave

Where the employee wishes to take statutory paternity leave and a period of shared parental leave, the statutory paternity leave must be taken first.

## Sickness during Shared Parental Leave

If the employee is sick and unable to care for the child they are not entitled to take shared parental leave. Where this is the case they would be paid sick pay rather than shared parental pay.

## Shared Parental Leave in Touch Days (SPLIT days)

During a period of shared parental leave if the employee and school agree the employee may work (or attend training) for up to 20 'shared parental leave in touch days' (SPLIT days), without bringing their period of leave to an end or losing their right to shared parental pay. These SPLIT days are paid and are in addition to the Mother/Adopter's Keeping In Touch (KIT) days that are available during maternity/adoption leave.

School cannot insist that you take SPLIT days and are not obliged to offer the employee any work during the shared parental leave. If an employee takes a SPLIT day they will receive full pay for any day worked.

Contact made by school to discuss the employees return to work and any other reasonable contact during the leave does not constitute work for these purposes. The employees' line manager will maintain reasonable contact with the employee during the period of leave, for example, to discuss the employee's plans for returning to work, to consider training or keep them updated on any relevant work developments.

## Statutory Annual Leave

### Teaching Staff

Under the Working Time Regulations, from April 2009 Teachers have a statutory right to paid annual leave amounting to 28 days (5.6 weeks). Statutory annual leave should be taken either before or after parental leave. However, in most cases, periods of school closure before and after the period of shared parental leave will more than equal the 28 day annual leave entitlement.



Where there are insufficient school closures to accommodate statutory annual leave in any leave year, any outstanding leave can be taken during term time in the same leave year. This must be by agreement with the Headteacher. It is therefore important for the employee and their manager to incorporate statutory annual leave into their planning.

Where the return from shared parental leave, is so close to the end of the leave year, that there is not enough time to take all of the statutory entitlement, any balance of leave owing should be carried over to the following year.

Any leave carried over will be taken during normal school closure periods in addition to the statutory entitlement for that year (or pro rata as appropriate). There is no provision to carry over statutory annual leave into the next year if there is time to take it before 31 August.

## Support staff

Under the Working Time Regulations, from April 2009, Support staff who work term time have a statutory right to paid annual leave amounting to 28 days (5.6 weeks). For support staff who work on a term time only basis, in most cases, periods of school closure before and after the period of shared parental leave will more than equal the 28 day annual leave entitlement. Please note for both teaching and support staff, this is not an additional entitlement to annual leave on top of the current school closure arrangements.

Support staff who work all year round will continue to accrue their normal annual leave entitlement throughout shared parental leave. Any leave entitlement so accrued must still be taken in the leave year which it appertains. Common practice is to take any outstanding annual leave at the beginning or the end of the period of shared parental leave depending where this falls in relation to the annual leave year. Employees should discuss their annual leave entitlement fully with their Head Teacher/Line Manager and incorporate this into their planning. Where an employee is planning not to return to work after a period of shared parental leave they should be encouraged to plan to take any annual leave entitlement that they may be due, before commencing the shared parental leave. If the employee has taken more paid annual leave than entitled to at the date of resignation, then the overpaid portion must be repaid to the Authority.

Payment in lieu of statutory leave not taken is only allowable where the employees' employment terminates and there is insufficient time to take any remaining leave during the notice period.

## Pension Implications

Where the employee is a member of either the Teachers' Pension Scheme or the West Yorkshire Pension Scheme they will continue to build up pension in the scheme as if they were working normally for any part of the leave where they are receiving pay. Their pension contributions will be based on the actual

pay received during this period whether this is contractual, statutory or a combination of both. The contribution rate will be based on the pay the employee would have received had they not been on parental leave, but the rate is only applied to the employees actual pensionable earnings in the period. Therefore for any unpaid leave the employee will not accrue pension.

## Employees with more than one job

Where the employee has more than one job and they are with different employers they are entitled to take shared parental leave with each employer. They could not be on maternity leave with one employer and on shared parental leave with the other. In order to be eligible for shared parental leave the maternity or adoption leave must be curtailed with all employers.

If the mother wants to take or create shared parental leave for her partner/the child's father to take and she has 2 (or more) jobs, she must have brought forward the date on which her maternity leave period ends for each of her jobs either by returning to work or by giving notice to end her maternity leave period (the notice must be given to each of her employers at the same time). A mother cannot take shared parental leave if she has only brought forward the date on which her maternity leave period ends with one of her employers. A mother cannot still be on maternity leave in one job and on shared parental leave in another job, because she must curtail all her maternity leave entitlement (from both jobs) for any entitlement to shared parental leave to arise.

### **Calculation of the maximum amount of shared parental leave available in the event of multiple employers**

The number of weeks of shared parental leave is calculated by deducting the maximum number of weeks that the woman has taken (i.e. the total length of absence, even if it is with different employers).

#### **Example: Mother on maternity leave from 2 different employments**

A mother is on maternity leave from employment A and employment B. She returns to work in employment A on week 20. She returns to work in employment B in week 25.

The maximum amount of shared parental leave in this case will be  $52-25= 27$  weeks (not  $52-20$ ).

#### **Example: Mother gives notice to curtail her maternity leave to 2 different employers**

A mother gives notice to curtail her maternity leave from employer A from week 32 of her maternity leave period and a notice to curtail maternity leave from employer B from week 30 of that leave period.

The maximum amount of shared parental leave in this case will be  $52-32 = 20$

## Notifications to payroll

School must ensure that they inform their payroll provider of any approved requests for shared parental leave/pay including any revocations and variations any shared parental leave in touch days (SPLIT days) and any curtailment of maternity leave.

## Returning to Work

At the end of the period of shared parental leave, the employee is entitled to return to the same job as before, if the leave was for a period of 26 weeks or less. The employee is also entitled to benefit from any improvements to the rate of pay (or other employment terms and conditions) which may have been introduced whilst they have been on shared parental leave.

If the period of shared parental leave is for more than 26 weeks, the employee is entitled to return to the same job, or if this is not reasonably practicable, a suitable and appropriate alternative job which has the same or better status and terms and conditions as the previous job.

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