



Every Child Every Day Academy Trust

Shared Parental Leave Policy

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1. Introduction

Shared parental leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for their child. All eligible employees have a statutory right to take shared parental leave. There may also be an entitlement to some shared parental pay. This policy sets out the statutory rights and responsibilities of employees who wish to take statutory shared parental leave (SPL) and statutory shared parental pay (ShPP) alongside information on how the school will manage and administer requests for pay and leave.

2. Eligibility for Shared Parental Leave (SPL)

SPL can only be used by two people:

- The mother/adopter **and**
- One of the following:
 - the father of the child (in the case of birth) or
 - the spouse, civil partner or partner of the child's mother/adopter.

Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.

Additionally an employee seeking to take SPL must satisfy each of the following criteria:

- the mother/adopter of the child must be (or have been) entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be (or have been) entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
- the employee must still be working for the school at the start of each period of SPL;
- the employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date;
- the employee's partner must meet the 'employment and earnings test' requiring 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 (correct as of 2015 but may change annually);
- the employee must correctly notify the school of their entitlement and provide evidence as required.

It is possible that only one parent may be eligible to take SPL, in which case it is possible for him/her to take SPL alone.

3. The Shared Parental Leave Entitlement

Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.

A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

SPL can commence as follows:

- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
- The adopter can take SPL after taking at least two weeks of adoption leave
- The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).

Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.

SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see "Booking shared parental leave" and "Variations to Arranged shared parental leave" below).

If the employee is eligible to receive it, shared parental pay (ShPP) may be paid for some, or all, of the SPL period (see "shared parental pay" below).

SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

4. Notifying the School of Entitlement to Shared Parental Leave

An employee entitled and intending to take SPL must give their **Headteacher** notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL.

Part of the eligibility criteria requires the employee to provide the school with correct notification. Notification must be in writing and contain certain information and declarations from both the employee and the other parent/partner. A form available from the school should be completed for this purpose.

The school may, within 14 days of the SPL entitlement notification being given, request:

- the name and business address of the partner's employer (if the employee's partner is no longer employed or is self-employed their contact details must be given instead)
- in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth).
- 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

In order to be entitled to SPL, the employee must produce this information within 14 days of the employer's request.

Fraudulent claims

The school can, where there is a suspicion that fraudulent information may have been provided, or where the school has been informed by the HMRC that a fraudulent claim was made, investigate the matter further.

5. Discussions Regarding Shared Parental Leave

An employee considering taking SPL is encouraged to contact their **Headteacher** in the first instance. The **HR officer** may, upon receiving a notification of entitlement to take SPL, seek to arrange an informal discussion with the employee to talk about their intentions and how they currently expect to use their SPL entitlement.

Upon receiving a leave booking notice the **Headteacher or line manager or HR officer]** will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can, without further discussion, be approved in the terms stated in the employee's notice booking leave, a meeting may not be necessary.

Where a meeting is arranged it will take place in private and be arranged in advance. If the initial date is problematic then another date will be arranged if possible. If an alternative date cannot be arranged then the meeting may be held over the telephone.

Whilst this is an informal meeting only, the employee may, if they wish, be accompanied by a workplace colleague or trade union representative provided this does not unduly delay the meeting taking place.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the school, and what the outcome may be if no agreement is reached.

6. Booking Shared Parental Leave

In addition to notifying the employer of entitlement to SPL/ShPP, an employee must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.

The employee has the right to submit up to three notifications specifying leave periods they are intending to take. Each notification may contain either:

- a) a single period of one or more weeks of leave ('continuous leave notifications', see below); or
- b) two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave ('discontinuous leave notifications', see below).

SPL can only be taken in complete weeks but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL, the next period of SPL can also start on any day of the week.

The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

Continuous leave notifications

A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).

An employee has the right to take a continuous block of leave notified in a single notification, as long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the school has been given at least eight weeks' notice.

An employee may submit up to three separate notifications for continuous periods of leave.

Discontinuous leave notifications

A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

Where there is concern over accommodating the notification, the school or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the school (see 'Discussions Regarding Shared Parental Leave' above).

The school will consider a discontinuous leave notification but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

7. Responding to a Shared Parental Leave Notification

Once the **Headteacher** receives the leave booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th day after the leave request was made.

All notices for continuous leave will be confirmed in writing.

All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the employee and to the school against any adverse impact to the school.

Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

The employee will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th day after the leave notification was made. The request may be granted in full or in part: for example, the school may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

8. Variations to Arranged Shared Parental Leave

The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the school in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the school requesting

it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the school.

9. Statutory shared parental pay (ShPP)

Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

- the mother/adopter must be (or have been) entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
- the employee must intend to care for the child during the week in which ShPP is payable;
- the employee must have average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child's expected due date/matching date which are not less than the lower earnings limit in force for national insurance contributions;
- the employee must remain in continuous employment until the first week of ShPP has begun;
- the employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP and including certain required information. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL on the form available from the school.

Any ShPP due will be paid at a rate set by the Government for the relevant tax year.

10. Terms and Conditions During Shared Parental Leave

During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. Annual leave entitlement will continue to accrue. Pension contributions may be affected by SPL and employees may wish to seek advice on the impact of this.

11. Contact During Shared Parental Leave

Before an employee's SPL begins, and depending on the length of the leave in question, the school will discuss the arrangements for them to keep in touch during their leave. The school reserves the right in any event to maintain reasonable contact with the employee from time to time during their SPL. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

12. Shared Parental Leave in Touch Days

An employee can agree to work for the school (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that

week. These are known as 'Shared Parental Leave In Touch' or 'SPLiT' days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

The school has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's SPL. Any work undertaken is a matter for agreement between the school and the employee. An employee taking a SPLiT day will receive their normal contractual pay for any day worked. If a SPLiT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives normal pay for the day in question. Any SPLiT days worked do not extend the period of SPL.

An employee, with the agreement of the school, may use SPLiT days to work part of a week during SPL. The school and the employee may use SPLiT days to effect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

13. Returning to Work After Shared Parental Leave

The employee is expected to return on the next working day after the end date of any period of SPL, unless they notify the school otherwise. If they are unable to attend work due to sickness or injury, the school's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the school at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the school does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

On returning to work after SPL, the employee is entitled to return to the same job if the employee's aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

If the employee also takes a period of unpaid parental leave of four weeks or less this will have no effect on the employee's right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.

If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

14. Special Circumstances and Further Information

In certain situations an employee's rights and requirements regarding SPL and ShPP may change. In these circumstances the school will abide by any statutory obligations and an employee should clarify any issues or queries with **his/her HR officer**.

15. Data Protection

When managing an employee's shared parental leave, the **ECEDAT** processes personal data collected in accordance with its data protection policy. Data collected from the point at which an employee informs the **ECEDAT** that he/she plans to take shared parental leave is held securely and accessed by, and disclosed to, individuals only for the purposes of managing his/her shared parental leave. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the **ECEDAT's** disciplinary procedure.

16. Status of Policy and Review

The content and operation of this policy is reviewed as and when deemed necessary by the Governing Body and the Governing Body reserves the right to amend the policy from time to time.