



Shared Parental Leave Policy (Birth)

Everyone Matters Schools Trust Central Policy



Policy Owner	Principal and Trustees
Scope of the Policy	This policy applies to all of the school community
Last reviewed by trustees	May 2023
Next review due	May 2025
Summary of key changes	No changes
Committee Responsible	

1. SCOPE AND PURPOSE

- 1.1 This policy outlines the arrangements for Shared Parental leave and pay in relation to the birth of a child. If an employee is adopting a child please see the Shared Parental Leave (Adoption) Policy instead.
- 1.2 This policy does not form part of any employee's contract of employment and it may be amended at any time.

2. WHO IS COVERED BY THIS POLICY?

- 2.1 This policy covers all employees at all levels and grades including senior managers, employees, trainees, part-time and fixed term employees (referred to as **employees** in this policy).
- 2.2 It does not apply to agency staff, volunteers and self-employed contractors.

3. WHO IS RESPONSIBLE FOR THIS POLICY?

- 3.1 The Trust board has overall responsibility for the effective operation of this policy. The Trust board has delegated day-to-day responsibility for operating the policy and ensuring its maintenance and review to the Principal.
- 3.2 The Senior Leadership Team have a specific responsibility to ensure the fair application of this policy and ensuring all staff understand what is expected of them.
- 3.3 All staff are responsible for supporting colleagues and ensuring the success of this policy.
- 3.4 Questions regarding the content or application of this policy should be directed to the Principal.

4. DEFINITIONS

- 4.1 The definitions in this paragraph apply in this policy.
 - **Expected week of childbirth (EWC):** the week, beginning on a Sunday, in which the doctor or midwife expects an employee's child to be born.
 - **Parent:** means one of two people who will share the main responsibility for the child's upbringing (and who may be the mother, the father, or the mother's Partner if not the father).
 - **Partner:** means a spouse, civil Partner or someone with whom the employee live in an enduring family relationship, but who is not a sibling, child, Parent, grandparent, grandchild, aunt, uncle, niece or nephew.
 - **Qualifying Week:** the fifteenth week before the EWC.

5. WHAT IS SHARED PARENTAL LEAVE?

- 5.1 Shared Parental leave (**SPL**) is a form of leave that may be available if the employee's child is expected to be born on or after 5 April 2015.
- 5.2 It gives the employee and their Partner more flexibility in how to share the care of their child in the first year after birth than simply taking maternity and paternity leave. Assuming the employee and their Partner are both eligible, they will be able to choose how to split the available leave between them, and can decide to be off work at the same time or at different times. The employee may be able to take leave in more than one block.

6. ENTITLEMENT TO SHARED PARENTAL LEAVE

- 6.1 The employee is entitled to SPL in relation to the birth of a child if:
- the employee is the child's mother, and share the main responsibility for the care of the child with the child's father (or their Partner, if the father is not their Partner);
 - the employee is the child's father and share the main responsibility for the care of the child with the child's mother; or
 - the employee is the mother's Partner and share the main responsibility for the care of the child with the mother (where the child's father does not share the main responsibility with the mother).
- 6.2 The following conditions must also be fulfilled:
- the employee must have at least 26 weeks continuous employment with the Trust board by the end of the Qualifying Week, and still be employed by the Trust board in the week before the leave is to be taken;
 - the other Parent must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the EWC and had average weekly earnings of at least £30 during 13 of those weeks; and
 - the employee and the other Parent must give the necessary statutory notices and declarations as summarised below, including notice to end any maternity leave, statutory maternity pay (SMP) or maternity allowance (MA) periods.
- 6.3 The total amount of SPL available is 52 weeks, less the weeks spent by the child's mother on maternity leave (or the weeks in which the mother has been in receipt of SMP or MA if she is not entitled to maternity leave).
- 6.4 If the employee is the mother she cannot start SPL until after the compulsory maternity leave period, which lasts until two weeks after birth.
- 6.5 If the employee is the child's father or the mother's Partner, the employee should consider using their two weeks' paternity leave before taking SPL. Once the employee starts SPL they will lose any untaken paternity leave entitlement. SPL entitlement is additional to the employee's paternity leave entitlement.

7. OPTING IN TO SHARED PARENTAL LEAVE AND PAY

7.1 Not less than eight weeks before the date the employee intends their SPL to start, the employee must give the Principal a written opt-in notice giving:

- their name and the name of the other Parent;
- if they are the child's mother, the start and end dates of her maternity leave;
- if they are the child's father or the mother's Partner, the start and end dates of the mother's maternity leave, or if she is not entitled to maternity leave, the start and end dates of any SMP or MA period;
- the total SPL available, which is 52 weeks minus the number of weeks' maternity leave, SMP or MA period taken or to be taken;
- how many weeks of the available SPL will be allocated to the employee and how many to the other Parent (the employee can change the allocation by giving the Principal a further written notice, and they do not have to use their full allocation);
- if the employee is claiming statutory Shared Parental Pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of the SMP or MA period taken or to be taken;
- how many weeks of available ShPP will be allocated to the employee and how much to the other Parent. (The employee can change the allocation by giving the Principal a further written notice, and they do not have to use their full allocation);
- an indication of the pattern of leave the employee is thinking of taking, including suggested start and end dates for each period of leave. This indication will not be binding at this stage, but the employee should give as much information as they can about their future intentions; and
- declarations by the employee and the other Parent that they both meet the statutory conditions to enable them to take SPL and ShPP.

8. ENDING MATERNITY LEAVE

8.1 If the employee is the child's mother and want to opt into the SPL scheme, she must give the Principal at least eight weeks' written notice to end her maternity leave (a curtailment notice) before she can take SPL. The notice must state the date the employee's maternity leave will end. The employee can give the notice before or after she gives birth, but she cannot end her maternity leave until at least two weeks after birth.

8.2 The employee must also give the Principal at the same time as the curtailment notice, a notice to opt into the SPL scheme (see paragraph 7 above) or a written declaration that the other Parent has given their employer an opt-in notice and that the employee has given the necessary declarations in that notice.

8.3 The other Parent may be eligible to take SPL from their employer before the employee's maternity leave ends, provided she has given the Principal her curtailment notice.

8.4 The curtailment notice is binding and cannot usually be revoked. The employee can only revoke a curtailment notice if maternity leave has not yet ended and one of the following applies:

- 8.4.1 if the employee realises that neither they nor the other Parent are in fact eligible for SPL or ShPP, in which case they can revoke the curtailment notice in writing up to eight weeks after it was given;
- 8.4.2 if the employee gave the curtailment notice before giving birth, they can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or
- 8.4.3 if the other Parent has died.
- 8.5 Once the employee has revoked a curtailment notice she will be unable to opt back into the SPL scheme, unless it was revoked in the circumstances in paragraph 8.4.2

9. ENDING THEIR PARTNER'S MATERNITY LEAVE OR PAY

- 9.1 If the employee is not the mother, and she is still on maternity leave or claiming SMP or MA, the employee will only be able to take SPL once she has either:
- returned to work;
 - given her employer a curtailment notice to end her maternity leave;
 - given her employer a curtailment notice to end her SMP (if she is entitled to SMP but not maternity leave); or
 - given the benefits office a curtailment notice to end her MA (if she is not entitled to maternity leave or SMP).

10. EVIDENCE OF ENTITLEMENT

- 10.1 The employee must provide on request:
- A copy of the birth certificate (or if a birth certificate has not yet been obtained, a signed declaration of the child's date and place of birth); and
 - The name and address of the other Parent's employer (or a declaration that they have no employer).

11. BOOKING SHARED PARENTAL LEAVE DATES

- 11.1 Having opted into the SPL system the employee will need to give a period of leave notice telling the Principal the start and end dates of their leave. This can be given at the same time as the opt-in notice, or it can be given later, as long as it is given at least eight weeks before the start of the employee's leave. The employee must also state in their period of leave notice the dates on which they intend to claim ShPP, if applicable.
- 11.2 If the employee's period of leave notice gives dates for a single continuous block of SPL they will be entitled to take the leave set out in the notice.
- 11.3 The employee can give up to three periods of leave notices. This may enable the employee to take up to three separate blocks of SPL (although if they give a notice to vary or cancel a period of leave this will in most cases count as a further period of leave notice; see paragraph 12 below).

12. PROCEDURE FOR REQUESTING SPLIT PERIODS OF SHARED PARENTAL LEAVE

- 12.1 In general, a period of leave notice should set out a single continuous block of leave. The Principal may, in some cases, be willing to consider a period of leave notice where the SPL is split into shorter periods (of at least a week) with periods of work in between. An employee should discuss this option with their manager [and HR] in good time before formally submitting their period of leave notice. This will give the Principal more time to consider the request and hopefully agree a pattern of leave with the employee from the start.
- 12.2 The employee must submit a period of leave notice setting out the requested pattern of leave at least eight weeks before the requested start date. If it is not possible to agree to the employee's request straight away, there will be a two-week discussion period. At the end of that period, the Principal will confirm any agreed arrangements in writing. If an agreement is not reached, the employee will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in their notice (for example, if the employee requested three separate periods of four weeks each, they will be combined into one 12-week period of leave). Alternatively, the employee may:
- choose a new start date (which must be at least eight weeks after their original period of leave notice was given), and tell the Principal within five days of the end of the two-week discussion period; or
 - withdraw their period of leave notice within two days of the end of the two-week discussion period (in which case it will not be counted and the employee may submit a new one if they so choose).

13. CHANGING THE DATES OR CANCELLING SHARED PARENTAL LEAVE

- 13.1 The employee can cancel a period of leave by notifying the Principal in writing at least eight weeks before the start date in the period of leave notice.
- 13.2 The employee can change the start date for a period of leave, or the length of the leave, by notifying the Principal in writing at least eight weeks before the original start date and the new start date.
- 13.3 The employee does not need to give eight weeks' notice if they are changing the dates of their SPL because their child has been born earlier than the EWC, where they wanted to start their SPL a certain length of time (but not more than eight weeks) after birth. In such cases please notify the Principal in writing of the change as soon as possible.
- 13.4 The employee can change the end date for a period of leave by notifying the Principal in writing at least eight weeks before the original end date and the new end date.
- 13.5 The employee can combine split periods of leave into a single continuous period of leave by notifying the Principal in writing at least eight weeks before the start date of the first period.

- 13.6 The employee can request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between. The Principal will consider any such request as set out in paragraph 12 above.
- 13.7 A notice to change or cancel a period of leave will count as one of the employee's three period of leave notices, unless:
- the variation is a result of the child being born earlier or later than the EWC;
 - the variation is at the Principal's request; or
 - it is agreed otherwise.

14. STATUTORY SHARED PARENTAL PAY

- 14.1 ShPP of up to 39 weeks (less any weeks of SAP claimed by the employee or their Partner) may be available provided the employee has at least 26 weeks' continuous employment with the Trust board at the end of the Qualifying Week and the employee's average earnings are not less than the lower earnings limit set by the government each tax year. To qualify for ShPP an employee must also have complied with the notification and information requirements set out within this policy. ShPP is paid at a rate set by the government each year.

15. TERMS AND CONDITIONS DURING SHARED PARENTAL LEAVE

- 15.1 The employee's terms and conditions of employment remain in force during SPL, except for the terms relating to pay.

16. ANNUAL LEAVE

- 16.1 During SPL annual leave will accrue. Annual leave cannot usually be carried over from one holiday year to the next.
- 16.2 This entitlement applies to all employees including term time only teachers.

Term Time Only Workers – In order to calculate the entitlement to annual leave it is necessary to carry out a 'Balance of Salary' calculation at the start of the SPL period and a second calculation at the end of the employee's leave period. This calculation takes into account the employee's start date with the Trust board and the number of completed weeks of the academic year up to the point they start their SPL. The proportion of completed weeks will then be compared to the salary the employee has been paid for the same period. In most cases this results in a payment of a balance of salary, however, there may be instances where the salary paid exceeds the weeks which have been worked and a recovery of salary is necessary. Once the employee returns to work, a second calculation is carried out to identify whether they are entitled to a payment in respect of annual leave they have accumulated whilst on SPL. (Please note: The date on which the employee starts and ends their SPL can significantly affect the balance of salary calculation. Please contact the Trust board's Business Manager/Finance Officer for further information.)

Teachers – The nature of the employee's employment with the Trust board is such that the School Teacher's Pay and Conditions Document makes no reference to an entitlement to annual leave for teachers. There is however a statutory right to a

minimum of 28 days per annum under the Working Time Regulations. Periods of school closure count towards this entitlement, consequently it is unlikely that teachers returning to their posts following a period of SPL will have acquired a right to additional annual leave. It is possible that teachers who resign their post and do not return could have an outstanding balance of annual leave payable.

- 16.3 The Trust Boards' holiday year runs from 1 September to 31 August.
- 16.4 If the holiday year is due to end during the employee's absence on SPL, they should ensure that they have taken their full year's entitlement before their SPL starts.

17. PENSIONS

- 17.1 For details of the implication of SPL on the employee's pension please contact the Trust board's Business Manager/Finance Officer who will advise further.

18. KEEPING IN TOUCH DURING SHARED PARENTAL LEAVE

- 18.1 The Trust board and Senior Leadership Team may make reasonable contact with the employee from time to time during their SPL.
- 18.2 The employee may work (including attending training) on up to 20 "keeping-in-touch" days (KIT days) during their SPL. This is in addition to any KIT days that the employee may have taken during maternity leave. The arrangements, including pay, would be set by agreement with the Principal. The employee is not obliged to undertake any such work during SPL.
- 18.3 Shortly before the employee is due to return to work, the Principal may invite them to have a discussion (whether in person or by telephone) about the arrangements for their return. This may cover:
- updating the employee on any changes that have occurred during their absence;
 - any training requirements the employee might have; and
 - any changes to working arrangements (for example if the employee has made a request to work part-time).

19. RETURNING TO WORK

- 19.1 The employee is normally entitled to return to work following SPL to the same job they held before commencing leave. The employee's terms of employment shall be the same as they would have been had they not been absent.
- 19.2 However, if the employee has taken any period of SPL and it is not reasonably practicable to allow them to return into the same position, the Trust board may give them another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances:
- if the employee's SPL and any maternity or paternity leave taken adds up to more than 26 weeks in total (whether or not taken consecutively); or

- if the employee took SPL consecutively with more than four weeks of ordinary Parental leave.
- 19.3 If the employee wishes to end a period of SPL early, they must give the Principal at least eight weeks' prior written notice of the new return date. If the employee has already given three period of leave notices they will not be able to end their SPL early without the Trust board's agreement.
- 19.4 If the employee wants to extend their SPL, assuming they still have unused SPL entitlement remaining, they must give the Principal a written period of leave notice at least eight weeks before the date they were due to return to work. If the employee has already given three period of leave notices they will not be able to extend their SPL without the Trust board's agreement. The employee may instead be able to request annual leave or ordinary Parental leave, subject to the needs of the Trust board.

20. DECIDING NOT TO RETURN

- 20.1 If the employee does not intend to return to work they should submit their resignation in accordance with their contract of employment. Wherever possible, the employee should provide as much notice as possible in order to facilitate workforce planning.
- 20.1 Once the employee has given notice that they will not be returning to work, they will be unable to change their mind without the Trust board's agreement.

21. RETURNING TO WORK PART-TIME

- 21.1 The Trust board will deal with any requests by employees to change their working patterns (such as working part-time) after SPL on a case-by-case basis. The Trust board will try to accommodate the employee's wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the business. It is helpful if requests are made as early as possible. The procedure for dealing with such requests is set out in the Academy's Flexible Working Policy.