



Plymouth Nursery Schools Federation

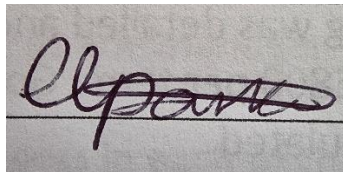
Schools' Model - Shared parental Leave Guide

Headteacher



Dated 05/06/2024

Chair of Governors



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Review date- June 2024

To be Reviewed- June 2027

Background

This guide outlines the help and support that **insert name of school** will provide to employees taking Shared Parental Leave (SPL), and their statutory entitlements.

This document does not form part of any contract of employment and **insert name of school** may amend it at any time in line with statutory requirements.

In Scope

Applies to all employees who opt into shared parental leave, including in the case of adoption and in some cases of surrogacy. Employees who are not sharing leave with their partner should refer to either the school's Maternity Policy (Teachers) or Maternity Policy (Support staff) or Adoption Policy (Teachers) or Adoption Policy (Support staff).

Surrogacy - Intended parents in surrogacy arrangements who meet certain criteria will be eligible for statutory adoption leave and pay and Shared Parental Leave (SPL) and Shared Parental Pay (ShPP).

Key Principles

- 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, and bond with, their child. All eligible employees have a statutory right to take Shared Parental Leave.

There may also be an entitlement to statutory Shared Parental Pay (ShPP).

Definitions

The following definitions are used in this procedure guide:

- 'Mother' means the mother or the expectant mother of the child.
- 'Main adopter' means the person taking adoption leave (rather than paternity leave) in relation to the adopted child.
- 'Partner' means the father of the child, or the person who, at the date of the child's birth or placement, is married to, the civil partner of the mother or main adopter.
- Expected Week of Childbirth (EWC) – the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.
- Qualifying Week – the 15th week before the expected week of childbirth.

Eligibility

One of the following must be met:

- Be the child's mother or primary adopter;
- Be the biological father of the child; or

Be the mother's husband, or partner (including same sex relationships) or civil partner, or be the husband or partner (including same sex relationships) of the main adopter. The entitlement for SPL is available for up to two eligible employees, either one or both of whom are employed by **insert name of school**.

The employee must have 26 weeks continuous service with the current employer, ending the 15th week before:

- The expected week of childbirth; or
- Being notified of being matched with an adoptive child.

The employee must be in continuous employment with **insert name of school** until the week before any period of Shared Parental Leave they wish to take.

At the date of the birth or placement of adoption, the employee and their partner must be the two people with the greatest and second greatest responsibility for the care of the child.

The employee must intend to care for the child during any week where they take SPL or claim ShPP.

The mother must be eligible for statutory maternity leave or, in the case of adoption; the main adopter must be eligible for statutory adoption leave.

The mother/main adopter must have ended their maternity/adoption leave by the date of taking a period of shared parental leave, and complied with the relevant maternity/adoption leave curtailment requirements.

The father or partner must be entitled to Shared Parental Leave in respect of the child. The other parent must pass the continuity of employment and earnings tests as follows for the employee to be eligible for SPL:

- They must have been earning in some part for the whole of 26 weeks in the 66 weeks immediately preceding the EWC or placement of the child.
- During any 13 of these 66 weeks the average weekly earnings must not be less than the 'maternity allowance threshold'. (This figure may change annually). Contact DELT Payroll for more details.

If both parents meet these criteria, they will be able to share leave between them. However a family can still use Shared Parental Leave even when only one parent meets the eligibility criteria. In this case the eligible parent may choose to access Shared Parental Leave to enable them to use their leave in a more flexible way; they would not however be able to share the leave with their partner.

Shared Parental Pay

In order to be eligible for Shared Parental Pay, the employee must meet the criteria above. In addition, they must:

- have average weekly earnings of at least the lower earnings limit for payment of NI contributions, in the eight weeks up to and including the 15th week before the expected week of childbirth (EWC) or in the case of adoption, the date of placement.
- Be absent from work in any week which Shared Parental Pay is claimed, and taking Shared Parental Leave, if eligible.

Entitlement

Eligible parents will be able to share a maximum of 50 weeks leave and 37 weeks statutory pay (calculated with 2 weeks compulsory maternity leave removed), for the purpose of caring for a child within the first year of the child's life or in the year after the child is placed for adoption.

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/main 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; full details can be obtained from DELT Payroll.

Partners do not have to work for **Insert Name of School** but they must satisfy minimum employment and earnings criteria as per legislation (detailed above).

The rate of Shared Parental Pay is the lower of either the statutory rate or 90% average weekly earnings.

There is no higher rate of Statutory Shared Parental Pay (ShPP) (as is payable for the first six weeks of Statutory Maternity Pay) even where the statutory ShPP period begins in the six week period during which the higher rate of statutory maternity pay is payable.

Statutory ShPP rates are fixed by law and are subject to tax and National Insurance deductions. Contact the school's Payroll provider for full details of ShPP rates.

Notifications

If an employee is eligible for and intends to take SPL and/or ShPP, notification must be given. The notification requirements are made up of three elements:

- a 'Curtailment Notice' from the mother/main adopter setting out when they propose to end their maternity/adoption leave
- a 'Notice of Entitlement' from the employee which shows that they are eligible for SPL and gives an initial, non-binding indication of the periods of SPL they are requesting
- notice of a period of shared parental leave – a leave request from the employee setting out the start and end dates of each period of SPL they are requesting

These may be submitted at the same time, and as soon as the EWC or date of placement is known, but can be no later than 8 weeks before the date of the first period of shared parental leave. The notice of curtailment and entitlement only need to be submitted once in relation to a particular child.

Curtailment notice

The mother or main adopter must end their maternity or adoption leave in order to share their leave with their partner/the other parent (even if the other parent is not employed by *insert name of school*).

They can do this either by returning to work or submitting a maternity/adoption leave and/or pay curtailment notice.

(A mother cannot return to work in the two weeks compulsory maternity leave following birth.)

This notice can be given by completing the Shared Parental Leave Curtailment form, at least 8 weeks' before they wish their leave/pay to end. By not doing so (not opting into SPL), employees are automatically put on maternity or adoption leave.

If an employee is not entitled to maternity or adoption leave but is entitled to statutory maternity or adoption pay, they can bring their pay to an end early in order to create shared parental leave for their partner.

Once the employee has ended their maternity/adoption leave, and has returned to work they will only be entitled to statutory pay during periods of shared parental leave. At that point they cannot revert back onto maternity/adoption leave.

An employee can withdraw their notice of curtailment to end maternity/adoption leave if:

- it is discovered that neither the mother/main adopter nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother/main adopter withdraws their maternity/adoption leave curtailment notice within eight weeks of the date on which the notice was given; or
- the maternity/adoption leave curtailment notice was given before the birth or placement of the child and the employee withdraws their leave curtailment notice within six weeks of the birth or placement; or
- the partner has died.

Notice of Entitlement

Employees intending to take shared parental leave should complete the Employee Notification of Shared Parental Leave form to give their notice of entitlement and intention to take shared parental leave at least 8 weeks before the start of the first period of SPL. This form includes a declaration of:

- 1. The employee's full name**
- 2. The start and end dates of any adoption/maternity leave**
- 3. The overall number of weeks of SPL and pay available to the parents**
- 4. The child's expected week of birth, actual date of birth, or date of placement**
- 5. Details of the amount and timing of leave and pay each partner is to take (this is non-binding)**
- 6. Confirmation that they are eligible for shared parental leave**
- 7. Confirmation that the mother/main adopter has ended their maternity/adoption entitlement**
- 8. A statement that the information contained within the declaration is accurate**
- 9. Their partner's full name, address and National Insurance number**
- 10. The name and address of their partner's employer**
- 11. Confirmation that their partner meets the employment and earnings eligibility criteria mentioned above.**

12. The consent of their partner that they agree to the amount of shared parental leave each partner is to take.

13. Their partner's consent for the employer to process the information contained in the declaration.

Each parent must sign this declaration.

If any of the information declared within the notice of entitlement changes, the employee must inform their Headteacher immediately, as this could affect the employee's eligibility to SPL and/or ShPP.

We may request to see the child's birth certificate or adoption papers.

The employee should send notification of any changes in the amount of leave or pay they intend at least eight weeks before any requested change would take effect.

If the employee is planning to leave the **insert name of school** employment before the date on which their maternity/adoption leave is due to start, they may still be entitled to statutory maternity/adoption pay (for more information see the Maternity Policy (Teachers) or Maternity Policy (Support Staff)). If this is the case, they would be able to share their pay with the other parent following the same procedure above.

Notification of Leave

SPL must be taken in complete weeks, it can be taken either:

- As one continuous block; or
- In multiples of complete weeks (discontinuous leave).

Provided that both parents qualify for SPL they can choose to take leave at the same time or separately. If parents take leave at the same time, they will each (simultaneously) be using up a week from the overall pool of leave available. There can be one or more periods of shared parental leave per pregnancy or adoption. SPL cannot be taken until after the birth/placement of the child.

The employee must submit a request for leave at least 8 weeks before the start of the first period of leave. A notice of entitlement must be submitted before leave can be requested, but a request can be submitted at the same time as the notice of entitlement.

The employee may submit more than one leave request in relation to a particular child, each of which may request one or more periods of leave. It is also possible for the employee to request a change to a booked period of leave (see Variations to SPL). An employee may submit up to three separate notifications to book or vary periods of leave. Any periods of leave that have been declined do not count towards these totals.

Continuous leave notification

Continuous leave takes the form of a number of weeks taken in a single unbroken period of leave (i.e. six weeks in a row).

An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the employer has been given at least eight weeks' notice. As soon as notification of a continuous period of leave is received, it will become a firm booking, and the school will write to the employee to confirm this.

Once the employee starts SPL the Headteacher will complete a Manager Notification of Shared Parental Leave form and send to DELT Payroll, to ensure the necessary adjustments are made to pay.

Discontinuous leave notification

Discontinuous leave refers to periods of leave separated by periods where the employee returns to work (e.g. an arrangement where an employee will take 12 weeks of leave, return to work for 4 weeks, then take another 8 weeks of leave, etc). Where there is concern over accommodating the notification, the Headteacher or the employee should 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.

Insert name of school will consider a discontinuous leave notification but have the right to refuse it. If the school agrees to the request for discontinuous leave within two weeks of receiving the request, it will become a firm booking and the Headteacher will write to the employee to confirm this.

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. If the employee withdraws the leave request within this timeframe, the request will not count towards their allowance of their requests to book or vary leave.

In this example, discontinuous indicates a period of leave that is blocked but broken up. i.e. 3 periods of 4 week blocks, with a staggered one week on leave, one week at work pattern. This type of leave (discontinuous) may be refused.

What does this look like?

Continuous Leave – one block of straight leave – no need for Headteacher agreement.

Week 1 – 26 SPL

Continuous Leave BLOCKS – 3 separate blocks of leave - no need for Headteacher agreement (example below is all 3 periods).

Weeks 1-4 (SPL) **Weeks 5-9 (Work)** Weeks 10-15 (SPL) **Weeks 16-22 (Work)** Weeks 22-26 (SPL)

Discontinuous Leave – staggered leave – Headteacher agreement necessary and a decision should be reached within 2 weeks of notification (below example is one block).

Week 1 (SPL) **Week 2 (Work)** Week 3 (SPL) **Week 4 (Work)** Week 5 (SPL) **Week 6 (Work)** Week 7 (SPL) **Week 8 (Work)** [3 periods of 4 weeks totalling 12 weeks leave]

When an employee actually commences Shared Parental Leave, the Headteacher should complete a Manager Notification of Shared Parental Leave Form (SPLNOTE) and send it to PC C Payroll, if this service is purchased by the school. Only the first section of the form (Form 1: Notification of commencement of leave) should be completed at this stage.

When the employee returns from Shared Parental Leave, the second section of the form (Form 2: Notification of return from leave) should be completed by the Headteacher and sent to DELT Payroll.

Variations to SPL

The employee is permitted to shorten, extend or cancel an agreed and booked period of SPL (and/or ShPP), provided that they advise the school in writing at least eight weeks before the date of any variation using a new Employee Notification of Shared Parental Leave form. If the variation changes the leave from continuous to discontinuous, it will not be automatically agreed. **Insert name of school** will consider all requests for discontinuous leave following the procedure outlined above. If the employee has already used their three notifications to book and/or vary leave then the school does not have to accept the notice to amend but may do if it is considered to be reasonably practicable to do so.

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 one of the three notifications. Any variation will be confirmed in writing by the school.

Early Birth

Special rules apply to notice periods in the event of a child being born early.

The employee can change the start date of a period of leave without giving the full 8 weeks' notice if they have already booked the period of leave and it is due to start during the 8 weeks following the EWC.

If the employee has not submitted their notice to entitlement or has submitted the notice of entitlement but not yet booked leave, and the child is born 8 or more weeks before the first day of the EWC, they can book a period of leave with a start date during the first 8 weeks following birth.

The same applies for notifications to claim ShPP.

Conditions of Employment

Employees have the right not to be dismissed or discriminated against for any reason connected with SPL.

During the period of SPL, the employee's contract of employment continues in force and the employee is expected to continue to comply with the terms and conditions of their employment and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a laptop and mobile phone) will continue.

The employee has the right to return to the same job if they have been on shared parental leave plus any other type of leave (e.g. maternity, paternity or adoption leave) for 26 weeks or less. If the leave period has been greater than 26 weeks the employee has the right to return to the same job unless this is not reasonably practicable, in which case the employee will be offered a suitable and appropriate job with no less favourable terms and conditions.

Annual Leave

Annual leave will continue to accrue during SPL. The employee should discuss the management of annual leave with their line manager at the earliest opportunity to ensure that annual leave can be taken around the needs of the service.

If SPL spans two annual leave years, as much leave as possible should be taken prior to the start of the leave.

If the baby is born prematurely and the employee cannot take all of their outstanding leave allowance for the year they will be able to carry over more than 5 days to the next leave year. Bank holidays also accrue.

Term Time only employees

An employee who works term time receives their accrued holiday (including bank holidays) in pay each month and effectively take leave/rest during the thirteen weeks of school closures.

Dismissal

If an employee is dismissed during shared parental leave this will bring their leave to an end. They will still be entitled to receive their full statutory shared parental pay (assuming that they qualified for it) but will cease to be entitled to the benefit of any contractual terms and conditions.

Redundancy

If an employee is made redundant whilst on shared parental leave, they are entitled to be offered a suitable alternative vacancy if one arises. Employees who take a period of shared parental leave of 6 weeks or more will be protected for 18 months from the date of childbirth or placement. This is the same as the level of protection available to a mother on maternity leave. Employees who take a period of shared parental leave of fewer than six weeks will only be protected while they are on shared parental leave.

Where an appropriate vacancy exists the employee must be offered the alternative employment under a new contract that begins on the day immediately following the day on which the previous contract comes to an end. The new work must be suitable in relation to the employee and appropriate under the circumstances, and the new terms and conditions must not be substantially less favourable than those of the previous contract. Where a suitable vacancy exists and the employer fails to offer it, the employee's dismissal will be automatically unfair. However, where the employee rejects the alternative employment, or no suitable vacancy exists, the employer is entitled to dismiss by reason of redundancy.

Local Government Pension Scheme (LGPS)

Pension contributions will continue to be made during any period when the employee is receiving Shared Parental Pay (ShPP) but not during any period of unpaid SPL. If the employee does receive pay, then the

employee will pay the normal percentage rate, but only on the actual pay received, with Plymouth City Council (PCC) also paying the required employer contributions under the scheme regulations.

No contributions will be paid, by either PCC or the employee, during any period of unpaid SPL and therefore pension will not accrue for this period. However, it is possible to buy this 'lost' pension by electing to pay Additional Pension Contributions (APCs) and, if this is paid within 30 days of returning to work, PCC will pay 2/3rds of the total cost; this is known as a Shared Cost APC (SCAPC). For further information please contact the PCC Pension team or the school's Payroll provider. If the employee returns to work, pensionable service before and after a period of unpaid SPL will be considered continuous.

Teachers' Pension Scheme

If the teacher is a member of the Teachers' Pension Scheme (TPS) and in receipt of pay, then both the teacher and the school will pay pension contributions on the pay the teacher is receiving.

No contributions will be paid, by either the school or the teacher, during any period of unpaid SPL.

For further advice/information on TPS, please contact the Teachers' Pension Scheme directly.

SPLIT Days (Shared Parental Leave in Touch days)

Employees can work for up to 20 days during SPL. These workdays are called Shared Parental Leave In Touch (SPLIT) days, and do not trigger the end of SPL or affect entitlement to ShPP.

SPLIT days are not compulsory but **insert name of school** encourages them to be offered, although the employee is under no obligation to use them if they do not wish to do so. They do not have to be consecutive and can be used to attend any work-related activity such as training, conferences and meetings.

Employees who do work on a SPLIT day will be entitled to their normal rate of pay for the day/half day that they work, which will be offset against ShPP (if the SPLIT day occurs during the period when ShPP is received). Working for part of a day will count as one SPLIT day, out of a total of 20. The total duration of the SPL period will remain the same regardless of whether or not the employee works on a SPLIT day, therefore the SPL period will not be extended or reduced as a result.

If a line manager and employee arrange SPLIT days, the Headteacher should advise DELT Payroll, using a 'Shared Parental Leave in Touch Days Record' so appropriate payments can be arranged.

Contact during SPL

Insert name of school reserves the right to maintain contact with the employee during SPL to discuss various school updates and/or the employee's plans to return to work. Prior to the employee going on leave, the Headteacher should discuss this with them, including the ways in which they would like contact to be maintained. This should be recorded on the personal file for the duration of the SPL. The employee can amend this at any time during the leave.

Shortly before the employee returns to work, the Headteacher may invite them to have a discussion (in person or over the telephone) about the arrangements for their return.

Returning to Work after SPL

The employee will have been formally advised in writing by DELT Payroll (this only applies to schools who buy back PCC Payroll services) or **insert arrangement details with the schools' Payroll Provider** of the end date of any period of SPL. The Headteacher will complete Form 2: Notification of Return from Leave (of the Manager Notification of Shared Parental Leave form (SPLNOTE)). This will notify DELT Payroll that the employee has returned from SPL and will trigger the start of normal pay.

During the return to work meeting the line manager should offer a re-induction where necessary/requested and provide an update for the employee on any elements that they may have missed during the leave period.

Flexible Working

An employee returning to work after Shared Parental Leave has no statutory right to do so on a part-time basis.

Employees are entitled to request flexible working, please refer to the Flexible Working Policy.

Choosing not to return to work

If an employee resigns whilst on Shared Parental Leave, their last day of service will be their last day of SPL, unless they give written notice to resign on an earlier date.

Eligibility for ShPP is not in any way connected with, or dependent on, the employee's decision whether or not to return to work after maternity leave. Thus, if an employee resigns from employment, or is dismissed (e.g. for redundancy) payment will still be made provided they meet all the qualifying conditions.

Parental Leave (Unpaid)

Employees who have completed one years' continuous service, whether before or during SPL, are entitled to parental leave, which may be taken immediately after SPL (subject to notice requirement for taking parental leave – see Parental Leave Policy).

If an employee takes 26 weeks or less of SPL (including any maternity, adoption or paternity leave, where applicable) followed by up to four weeks of parental leave (the maximum allowed in any leave year) then they will be entitled to return to their original job on the same terms and conditions. If they have taken more than 26 weeks SPL (including any maternity, adoption or paternity leave, where applicable) the employee has the right to return to the same job unless this is not reasonably practicable. If due to organisational changes in the school, the role no longer exists the employee would be managed in accordance with other employees in the school.

False Declaration

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, carefully investigate the matter further in accordance with the usual disciplinary procedures, and without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

Other relevant policies and guides

Maternity Policy (Teachers)

Maternity Policy (Support Staff)

Adoption Policy (Teachers)

Adoption Policy (Support Staff)

Paternity Policy

Shared Parental Leave Policy

Flexible Working Policy

CONTACTS

If you have any queries regarding this document, please contact the school's HR Provider.

If you would like help understanding the content of this document, please speak to your Headteacher in the first instance or contact the school's HR Provider for assistance.