

Shared Parental Leave Policy (Adoption)



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| Approved by: | The Trust Board | Date: September 2020 |
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| Recognised unions have been consulted on this document via the Unity Schools Partnership Joint Consultation and Negotiation Committee. It was accepted by Unity Schools Partnership on: | Date: September 2020 |
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1. Introduction

This policy sets out the rights of employees to shared parental leave (SPL) and pay. The Trust recognises that, from time to time, employees may have questions or concerns relating to their shared parental leave rights. It is the Trust's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible.

Shared parental leave provisions are complex, if an employee wishes to take shared parental leave, they should clarify the relevant procedures with the Headteacher or line manager to ensure that they are followed correctly. To help and assist with this the Trust has created a share parental leave guidance document. It is recommended that this policy is read in conjunction with the accompanying guidance.

2. Definitions under this Shared Parental Leave Policy

The following definitions are used in this policy:

"Adopter" means the primary / legal adopter of the child.

"Partner" means the person who, at the date of the child's placement for adoption, is married to, the civil partner of, or the partner of the adopter. This includes someone, of either sex, who lives with the adopter and the child in an enduring family relationship but who is not the adopter's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

3. Scope of the Shared Parental Leave Policy

This policy applies to employees of the school, whether they are the adopter or the partner. If it is the adopter who is employed by the school, their partner must (where relevant) submit any notifications to take shared parental leave set out in this policy to their own employer, which may have its own Shared Parental Leave policy in place, if they want to take a period of shared parental leave.

Similarly, if it is the partner who is employed by the school, the adopter must (where relevant) submit any notifications to take shared parental leave to their own employer.

4. Amount of Shared Parental Leave available

Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the Trust is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of discontinuous blocks of leave (in which case the employee needs the Trust's agreement).

A maximum of three requests for leave per adoption can normally be made by each parent.

The maximum period that the parents can take as shared parental leave is 50 weeks between them.

The adopter's partner can begin a period of shared parental leave at any time from the date of the child's birth.

5. Eligibility for Shared Parental leave

For employees to be eligible to take shared parental leave, both parents must meet the statutory eligibility requirements.

6. Shared Parental Leave Process

The Headteacher, designated senior leader or line manager will informally discuss intentions and other leave options with the employee as soon as the employee indicates that they or their partner is pregnant. These informal discussions will not be binding upon either party.

The school will make early preparations and plans to cover shared parental leave absence, subject to formal notifications and agreements.

The school will give careful consideration to a SPL booking, in line with statutory requirements and the school's operational needs.

The school will confirm and communicate the outcome of leave bookings in accordance with statutory requirements.

7. Notice requirements for Shared Parental Leave

Employees must give the correct notices to the school and other relevant employer to be able to take shared parental leave i.e.

1. An "adoption leave and pay curtailment notice" from the adopter setting out when they propose to end their adoption leave (unless the adopter has already returned to work from adoption leave);
2. A "notice of entitlement and intention" from the employee giving an initial, non-binding indication of each period of shared parental leave that they are requesting;
3. A "period of leave notice" from the employee setting out the start and end dates of each period of shared parental leave that they are requesting.

8. Shared Parental Leave Notice Requirements

8.1 Adopter's notice curtailing maternity leave

Before the adopter or partner can take shared parental leave, the adopter must either return to work before the end of their adoption leave (by giving the required eight weeks' notice of their planned return) or provide their employer with an adoption leave and pay curtailment notice.

The adopter must provide their adoption leave curtailment notice at the same time as they provide their notice of entitlement and intention

8.2 Revocation of adoption leave curtailment notice

The adopter can withdraw their notice curtailing their adoption leave and pay in limited circumstances. The withdrawal of an adoption leave curtailment notice must be in writing and can be given only if the adopter has not returned to work.

8.3 Employee's notice of entitlement and intention

The employee, whether they are the adopter or the partner, must provide the school with a non-binding notice of entitlement and intention.

Within 14 calendar days of receiving a notice of entitlement and intention from the employee, whether the adopter or partner, the school can request from the employee:

- a) 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 **and**
- b) The name and address of the other parent's employer (or a declaration that the other parent has no employer).

The employee has 14 calendar days from the date of the request to send the organisation the required information.

8.4 Variation or cancellation of notice of entitlement and intention

The employee can vary or cancel their proposed shared parental leave dates following the submission of a notice of entitlement and intention, provided that they provide the organisation with a written notice.

8.5 Employee's period of leave notice

To take a period of shared parental leave, the employee must provide the organisation with a written notice setting out the start and end dates of each period of shared parental leave requested in that notice.

A period of leave notice must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave.

8.6 Variation or cancellation of period of leave notice

The employee can vary or cancel their proposed shared parental leave dates following the submission of a period of leave notice, provided that they provide the school with a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The written notice can:

- a) Vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
- b) Request that a continuous period of leave become discontinuous periods of leave; **or**
- c) Request that discontinuous periods of leave become a continuous period of leave.

8.7 Limit on number of requests for leave

The employee can provide a combined total of up to three periods of leave notices or variations of period of leave notices per adoption, although the school may consider waiving this limit in some circumstances.

8.8 Continuous period of shared parental leave

If the employee submits a period of leave notice requesting one continuous period of leave, they will be entitled to take that period of leave.

8.9 Discontinuous periods of shared parental leave

The employee may submit a period of leave notice requesting discontinuous periods of leave.

If the employee submits a period of leave notice requesting discontinuous periods of leave, the school may, within the two weeks beginning with the date the period of leave notice was given:

1. Consent to the pattern of leave requested;
2. Propose an alternative pattern of leave; **or**
3. Refuse the pattern of leave requested.

If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, the employee remains entitled to take the leave as one continuous period of leave. In that event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the period of leave notice was originally given.

The employee must notify the school of that start date within five days of the end of the two-week discussion period. If the employee does not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date of the **first period of leave** requested in the period of leave notice.

Alternatively, if the school has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw a period of leave notice requesting discontinuous periods of leave. The employee can withdraw a period of leave notice at any time on or before the 15th day after the period of leave notice was given.

A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make.

9. Shared Parental Pay (SPP)

9.1 Statutory SPP

Eligible employees may be entitled to take up to 37 weeks statutory SPP while taking shared parental leave. The number of weeks available will depend on the number of weeks by which the mother reduces their maternity/adoption pay period or maternity allowance period.

Statutory SPP is based on a rate set by the Government for the relevant tax year.

9.2 Enhanced SPP

The Trust applies its enhanced rate of occupational adoption pay to employees on SPL. The same criteria will apply: that the employee should have at least 1 years' continuous local government service at the 11th week before the adoption match.

The current rate of enhanced pay for eligible employees (except Teachers) is 12 weeks at half pay following the period of 90% pay, plus statutory pay (unless half pay plus statutory pay exceeds normal pay).

The current rate of enhanced pay for eligible Teachers is 4 weeks at full pay, 2 weeks at 90% pay and 12 weeks at half pay, plus statutory pay (unless half pay plus statutory pay exceeds normal pay).

Shared parental pay can be paid in three ways:

- Paid as it falls due (with regular pay))
- As a lump sum upon the return to work
- As a lump sum after the return to work.

If the adopter returns to work in advance of the date given on the pay curtailment notice (see section on notice requirements), this does not generate an additional entitlement to more weeks of SPP: the entitlement is based on the curtailment date.

As with occupational adoption pay, if an employee does not return to work following shared parental leave, or leaves within 13 weeks of the end of shared parental leave, then they will need to repay the enhanced element of shared parental pay received, although not the statutory part.

The Trust only pays SPP to its own employees, not to partners of employees.

Taking shared parental leave and pay

Timescales, roles and responsibilities are covered in this document however further practical guidance to help and support the employee in taking shared parental leave can be found in the shared parental leave (adoption) HR guidance, flowchart and forms, or contact the relevant HR Business Partner.

10. Rights during shared parental leave

During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue. Normal contractual pay will be replaced by SPP if the employee is eligible for it.

11. Contact during shared parental leave

The school reserves the right to maintain reasonable contact with employees during shared parental leave. This may be to discuss employees' plans for their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at the school during their absence.

An employee can agree to work for the school (or to attend training) for up to 20 shared parental leave in-touch (SPLIT) days during shared parental leave without that work bringing the period of their shared parental leave and pay to an end.

Employees will continue to receive pay under the school's shared parental pay scheme for any week during which they attend work for SPLIT days. The school may also pay you a discretionary additional payment for each hour that you work during a SPLIT day, depending upon the nature of the work undertaken.

12. Returning to work at the end of shared parental leave

The employee has the right to resume **working in the same job** when returning to work from shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory maternity leave or statutory paternity leave taken by the employee in relation to the same child, is 26 weeks or less. If the employee is returning to work from shared parental leave and the period of leave taken is:

1. More than 26 weeks when added to any other period of shared parental leave, statutory maternity or paternity leave taken in relation to the same child, **or**
2. More than 26 weeks and was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional maternity leave,

The employee has the right to **return to the same job unless this is not reasonably practicable**. In these circumstances, if it is not reasonably practicable for the organisation to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for them.

13. Further Advice

If any staff, contractor or visitor requires any further information regarding this policy or support they should either ask their Headteacher / line manager **or** contact the HR Helpdesk at hrhelpdesk@unitysp.co.uk or telephone 01440 333401.

This policy and procedure is non-contractual and may be updated from time to time following consultation through the Trust's JCNC arrangements.