

Swindon Borough Council

Shared Parental Leave Policy

Name of School:

Date by which School have adopted Policy:

This policy/procedure has been developed in consultation with relevant recognised Trade Unions and Professional Associations and is recommended for adoption by the Governing Bodies of both maintained and non - maintained schools. If this model is to be adopted by schools with Trust, Foundation, Voluntary Aided or Academy status reference to the “Local Authority” need to be replaced with “the Governing Body”

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, and bond with, their child.

All eligible employees have a statutory right to take shared parental leave. There may also be an entitlement to some statutory shared parental pay. This policy sets out the statutory rights and responsibilities of employees who wish to take shared parental leave and statutory shared parental pay.

Shared parental leave and statutory pay cannot begin before the birth (or placement for adoption) and must be taken within one year of the birth or the date that the child was placed with the family (i.e. the day before the child's first birthday or the first anniversary of the placement of an adopted child).

For employees to take up shared parental leave, the mother must have opted out of maternity / adoption leave and pay.

Eligibility Criteria

Shared parental leave 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.

To trigger the right to shared parental leave for one or both parents, the mother must:

- Have a partner.
- Be entitled to maternity / adoption leave; or to statutory maternity / adoption pay or maternity allowance (if not eligible for maternity / adoption leave).
- Have curtailed, or given notice to reduce, their maternity / adoption leave, or their pay / allowance (if not eligible for maternity / adoption leave).

A parent who intends to take shared parental leave must:

- Be an employee.
- Share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption.
- Have properly notified their line manager of their entitlement and have provided the necessary declarations and evidence.

In addition, a parent wanting to take shared parental leave is required to satisfy the 'continuity of employment test' and their partner must meet the 'employment and earnings test'.

Continuity of employment test	Employment and earnings test
The parent has worked for the same employer for at least 26 weeks at the end of the 15 th week before the child's expected due date / matching date and is still working for the employer at the start of each leave period.	In the 66 weeks leading up to the baby's expected due date / matching date, the parent has worked for at least 26 weeks and earned an average of at least £30 (as of 2015) a week in any 13 weeks.

Sometimes only one parent will be eligible. For example a self-employed parent will not be entitled to shared parental leave themselves but they may still pass the employment and earnings test so their partner, if they are an employee, may still qualify.

If both parents are employees and both meet the qualifying requirements then there will be a joint entitlement and the parents will have to determine how to divide the leave entitlement once the mother has decided to curtail their maternity / adoption leave.

Amount of entitled shared parental leave

Eligible employees may be entitled to take up to 50 weeks of shared parental leave and 37 weeks of statutory pay during the child's first year in the family. The actual amount available depends on how much maternity / adoption leave has already been taken.

Shared parental leave will be 52 weeks minus the number of weeks that the mother / adopter has taken as maternity / adoption leave.

Statutory shared parental pay will be 39 weeks minus the number of weeks of statutory maternity or adoption pay or maternity allowance taken by the mother or adopter.

A mother is required to take a minimum of 2 weeks maternity leave immediately following the birth (4 weeks if she works in a factory or workshop). Similarly adopters cannot start their shared parental leave until 2 weeks of adoption leave has taken place. So the maximum amount of shared parental leave that is available can never be more than 50 weeks.

Shared parental leave will generally commence on the employee's chosen start date specified in their Period of Leave Notice form., or in any subsequent variation notice. (See 'Booking Shared Parental Leave' and 'Variations to arranged Shared Parental Leave' below.

Statutory Shared Parental Pay

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

Statutory shared parental pay may be payable during some or all of shared parental leave, depending on the length and timing of the leave.

In addition to meeting the eligibility requirements (see below for shared parental leave an employee seeking to claim statutory shared parental pay must further satisfy each of the following criteria:

- The employee must intend to care for the child during the weeks in which statutory shared parental pay 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 (£111 as of 5 April 2015).

- The employee must remain in continuous employment until the first week of statutory shared parental pay has begun.
- The employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive statutory shared parental pay they must, at least eight weeks before receiving any statutory shared parental pay, give their Headteacher written notice advising of their entitlement to statutory shared parental pay.

Any statutory shared parental pay due will be paid at a rate set by the Government for the relevant tax year. The weekly rate effective from 5th April 2015 is £139.58.

Curtailing maternity / adoption leave and revoking notice

The maternity / adoption system will continue to operate in the same way that is does currently for all women. This means that all employed women will continue to be eligible for 52 weeks' maternity / adoption leave and will be eligible for 39 weeks' statutory maternity / adoption pay if they meet the earnings requirements. Women who do not qualify for statutory maternity / adoption pay may qualify for maternity allowance.

An employed mother who is eligible for maternity / adoption leave, and who has a partner with whom she is sharing the care of her child, may be able to reduce the weeks of maternity / adoption leave below 52, in order to create some weeks of shared parental leave.

This can be completed by returning to work or, alternatively, give notice to end her maternity / adoption leave at a future date.

In either case, the number of weeks of maternity / adoption leave is deducted from the total 52 weeks to calculate the number of weeks of shared parental leave created. These weeks of shared parental leave will be available to the mother and her partner if they both satisfy the eligibility criteria.

For a mother to curtail any period of maternity / adoption leave for shared parental leave, she must complete the 'Curtail Maternity/Adoption Leave Form' attached to this policy.

Once a mother has given a curtailment notice, the balance of her maternity / adoption leave that is untaken on the date her maternity / adoption period ends will be the number of weeks of shared parental leave available.

Revoking maternity leave notice

For a mother to revoke the notice curtailing her maternity / adoption leave for shared parental leave she must complete the 'Revoke Maternity/Adoption Leave Form'. The notice can only be withdrawn if:

- It is discovered that neither her or her partner are entitled to shared parental leave or statutory shared parental pay and withdraws her maternity / adoption leave curtailment notice within 8 weeks of providing her maternity / adoption leave curtailment notice.
- The mother gave the maternity / adoption leave curtailment notice before the birth of her child and withdraws her maternity / adoption leave curtailment notice within 6 weeks of the child's birth.
- The mother's partner has died.

How to apply for shared parental leave

It is advised that members of staff requesting Shared Parental Leave have early conversations with the Headteacher regarding their leave intentions. This enable them both to be clear regarding entitlement, what leave arrangements are being considered and how any leave will be accommodated.

Once a mother has given a curtailment notice, the balance of her maternity / adoption leave that is untaken will be the number of weeks of shared parental leave that is available.

Both parents can be off work at the same time and shared parental leave can start on any day of the week but can only be taken in complete weeks. Both parents can share between them up to 50 weeks of leave and this must be taken before the child(s)'s first birthday.

Once early discussions have taken place regarding shared parental leave, the employee needs to complete a Notification of Entitlement and Intention Form. The employee is entitled to book three separates notices of shared parental leave during the child's first year in the family. Any variation to leave already booked in will, in most circumstances, count as one of the three notices. For more information about variation to leave, please see below.

There are two types of shared parental leave:

- Continuous leave
- Discontinuous leave

Continuous leave

A continuous leave notification is for a period of continuous unbroken leave for a number of weeks (for example six weeks in a row). This will count as one notification of leave. An employee may submit up to three separate notifications.

To apply for continuous leave an employee must:

- Ensure that the amount of continuous leave must not exceed the total number of weeks of shared parental leave that is available to them.
- Have provided the school with at least eight weeks' notice.
- Have completed the Notice of Entitlement and Intention Form (mother or partner, whichever one is applicable).

Providing all the above criteria is met, the school cannot refuse a continuous leave notification request. Therefore, the Headteacher will need to decide how the leave period will be covered.

Discontinuous leave

A discontinuous leave notification is where the employee can take a period of shared parental leave, return to work, and then take a further period of shared parental leave (for example 2 weeks in June, 3 weeks in September and all of November and December).

This means that eligible parents will also be able to request to mix work with leave in the first year of their child's life and return to work between periods of leave if they wish.

If this request is booked together, it will count as one of the three permitted notifications.

It is important to note that a request for discontinuous leave will be considered on a case by case basis, but not guaranteed. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of shared parental leave.

The school can require the employee to withdraw the request for discontinuous leave or take the leave in a continuous block.

To apply for discontinuous leave an employee must:

- Ensure that the amount of discontinuous leave must not exceed the total number of weeks of shared parental leave that is available to them; and
- Have provided the school with at least eight weeks' notice.
- Have completed the Notice of Entitlement and Intention Form (mother or partner – whichever one is applicable).

If a discontinuous request has been submitted, the Headteacher has a two week discussion period, starting on the date that the employee gives them the booking notice, to talk to the employee about the pattern of leave that they have requested and propose alternative or to refuse the pattern of work.

If the request is refused, the employee will be informed in writing of the decision as soon as is reasonably practicable, but must be no later than the 14th day after the leave notification was made.

If a discontinuous request 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 leave in a 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.

Key points on a discontinuous request:

- Requests are not guaranteed and are dealt with on a case by case basis.
- Once a request has been submitted, there is a two week window for the employee and manager to discuss the request.
- The request can either be approved, agree an alternative proposal or refused
- If the employee withdraws the notification, on or before the 15th day, then the request does not count as a notification.

Once shared parental leave has been confirmed, either continuous or discontinuous, the employee will receive written confirmation of this.

Further evidence

The school may, within 14 days of the shared parental leave entitlement notification being given, request the following:

- The name and business address of the partner's employer (where 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.

If an employee is asked to produce this information, they must do so within 14 days of the request.

If the school suspects that fraudulent information may have been provided or where the school have been informed by the HMRC that a fraudulent claim has been made, disciplinary action may be taken.

Vary or cancel a period of shared parental leave

An employee is permitted to vary or cancel an agreed and booked period of shared parental leave, provided that they complete the Vary a Notice of Entitlement Form and submit this to their Headteacher 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 as the employee always has to provide at least 8 weeks' notice.

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 or 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.

Returning to work after shared parental leave

The employee will be formally advised in writing by the school's HR provider of the end date of any period of shared parental leave. The employee is expected to return on the next working day after this date, unless they have notified the school

otherwise. If unable to attend due to sickness, the School's sickness policy will apply. In any other case, without prior notification, it will be treated as unauthorised absence.

If the employee wishes to return earlier than the expected return date, the employee needs to provide written notice to vary the leave, by completing the Vary of Notice of Entitlement Form and must give at least 8 weeks' notice of their early return date. This notification of an early return date will be counted as one of the employee's notifications. If they have already used their 3 notifications to book and / or vary leave then the school does not have to accept the notice to return early but may wish to consider if it is reasonably practicable to do so.

Key considerations:

Depending on the amount of shared parental leave taken, the employee will be entitled to return to their same job or offered suitable alternative employment on terms and conditions that are no less favourable. Please see the table below:

No. of weeks of shared parental leave	Outcome
26 weeks or less (this includes unpaid shared parental leave of up to 4 weeks)	Entitled to return to same job
26 weeks or more	Entitled to return to same job or offered suitable alternative employment
4 weeks of unpaid shared parental leave or more	Entitled to return to same job or offered suitable alternative employment
5 weeks of unpaid leave (even if the leave does not exceed 26 weeks in total)	Entitled to return to same job or offered suitable alternative employment

The same job is the one employees occupied immediately before commencing maternity / paternity / adoption leave and the most recent period of shared parental leave on the same terms and conditions of employment as if they had not been absent.

Shared Parental Leave in Touch days (SPLIT)

SPLIT days are intended to facilitate a smooth return to work following shared parental leave.

Employees are entitled to work for up to 20 days each during shared parental leave without bringing their period of shared parental leave to an end or impacting on their right to claim statutory shared parental leave pay for that week. SPLIT days are optional. They do not have to be limited to daily work activities; they can be used for training courses, seminars or other work events. Working for part of a day will count as one day. SPLIT days can be continuous or on odd days.

If a SPLIT day occurs during a week when the employee is receiving statutory shared parental pay this will be effectively 'topped up' so that the employee receives full pay for the day in question. Any SPLIT days worked do not extend the period of shared parental leave.

To claim for any SPLIT days taken, the Shared Parental Leave in Touch Days Form must be completed and returned to the Headteacher. The form is then forwarded to the school's payroll provider to be processed for payment.

Things to remember:

- SPLIT days will be paid at the normal rate of basic pay and statutory shared parental leave pay will be offset against this.
- The Shared Parental Leave in Touch Days form must be submitted to payroll before the payroll cut off day in order for payment to be made the same month
- SPLIT days worked will not extend the period of shared parental leave.
- Any further work undertaken, greater than the 20 SPLIT days, will affect shared parental leave and statutory pay.
- These days are in addition to the Keeping in Touch (KIT) days that are already available to those on maternity / adoption leave.

The 20 SPLIT days are per employer if the employee has multiple employers.

Early birth and special circumstances
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In certain circumstances an employee's rights and requirements to take shared parental leave do change.

Early birth

If the child is born before their expected due date and the employee had booked to take shared parental leave within the first eight weeks of the due date, they may take the same period of time off the actual birth without having to provide eight weeks' notice, by submitting a Vary a Notice of Entitlement Form for their leave as soon as is reasonably practicable. Unlike most other variation notices, this would not count as one of the employee's three notifications.

Any leave arranged after the first eight weeks of the due date is still bound by the eight-week notice required to vary leave.

If the child is born more than eight weeks before their expected due date and the notice of entitlement to shared parental leave and / or a notice to book shared parental leave have not yet been given, then there is a requirement to give eight weeks' notice before the period of leave starts. The notices should be given as soon as is reasonably practicable after the actual birth.

Death of the child before or during birth, or within the first year

Should the child die before the parents have submitted a notice of entitlement to take shared parental leave then they cannot opt into shared parental leave because a qualifying condition is caring for a child. The mother will remain entitled to maternity

/ adoption leave and the mother's partner could still qualify for statutory paternity leave.

If the parents have opted into shared parental leave and they have booked leave, they will still be entitled to take the booked leave. No further notice to book leave can be submitted and only one variation notice can be given to reduce a period of leave or to arrange a discontinuous leave arrangement into a single block of leave.

An employee who is absent on shared parental leave may cancel agreed shared parental leave and return to work by giving the school eight weeks' notice of their return to work.

Partner no longer caring for the child

If the circumstances of an employee who has booked shared parental leave change so that they will no longer be responsible for caring for the child (unless it is because the child has died), their entitlement to both shared parental leave and statutory shared parental leave will immediately cease and they must tell their Headteacher.

If the employee has any shared parental leave arranged within eight weeks of their entitlement ceasing, the school can still require them to take it as shared parental leave if it is not reasonably practicable for the school to have their employee in work, for example because cover has been arranged. Any weeks of shared parental leave arranged after eight weeks of their entitlement ceasing must be cancelled.

If the remaining parent will be continuing to care for the child then they will still be eligible to take their shared parental leave entitlement. If the other parent, who is no longer caring for the child had any shared parental leave entitlement outstanding, the remaining parent will only be able to transfer it into their own entitlement if they can get the signed agreement of the other parent to a notice confirming a variation of leave entitlement.

Death of a parent during the child's first year

If either parent dies and the other parent is taking, or is entitled to shared parental leave then they will continue to be eligible. Any shared parental leave that was due to be taken by the deceased parent may be transferred to the other parent if the other parent is eligible to shared parental leave.

Multiple births / adoptions

An employee is not entitled to extra shared parental leave or statutory shared parental leave pay if they are expecting more than one child. The entitlements are, like maternity / adoption leave, the same as if the employee was expecting one child. This also applies to multiple adoptions that occur in a single placement.

Other key considerations

Keeping records

It is the responsibility of Headteacher to keep records of their employees who take up shared parental leave and statutory shared parental pay which includes how many notifications that have used.

Paternity leave and pay

Paternity leave will continue to be available for fathers and partners. This will be a period of one or two weeks which must be used in a single block of leave and taken within 56 days of the birth. If the child is born early paternity leave can be taken within the period from the actual date of birth up to 56 days after the expected date of birth.

Additional paternity leave and pay will no longer be available for babies due after 5th April 2015.

Ante-natal appointments

All pregnant employees, regardless of length of service, are entitled to paid time off to attend antenatal appointments. Any time taken will be paid at their normal basic rate of pay. Headteachers will require reasonable notice of any appointments and may ask to see a copy of their pregnant employee's appointment card.

An expectant father or the partner of a pregnant woman is entitled to take unpaid time off work to accompany the woman to up to 2 of her antenatal appointments. The time off is capped at 6 ½ hours for each appointment and there is no qualifying period before employees can take up the new rights.

Contract of employment

With the exception of salary, all other terms and conditions are unaffected by the period of shared parental leave.

Pension Contributions

Pension contributions will continue to be made during any period where the employee is receiving statutory shared parental pay but not during any period of unpaid shared parental leave. Employee contributions will be based on actual pay, while the Academy/Council's contributions will be based on the salary that the employee would have received had they not been taking shared parental leave.

However, employees can choose whether to make pension contributions during any period of unpaid shared parental leave. To do this, employees must inform the schools pay provider, using the pension contributions letter within 30 days of their return to work to make any pension contributions during unpaid shared parental leave.

Further information about pension contributions can be found on either Teachers Pensions or Wiltshire Pension Fund's website.

Things to remember:

- Employees who choose to make contributions will count as continuous service towards their final retirement pension.
- Employees, who choose not to, will be shown as a break in membership.

Annual Leave and Bank Holidays

Annual leave is accrued during shared parental leave. Employees should try to take annual leave within their leave year wherever possible. However, for employees on shared parental leave there is no restriction on the number of annual leave days they can carry over from one year to the next.

It is not possible for employees to take annual leave at the same time as shared parental leave. However, it is possible for employees to use any untaken annual leave before they start their shared parental leave.

Support staff

Annual leave entitlement can be offset by any period of school closure that occurs in the leave year in question i.e. both before and after the maternity leave period.

Where there is not enough time on the employee's return before the end of her annual leave year for her to take her remaining annual leave, she must be allowed to carry over her leave to the next leave year. An employee can be required to take this during the remaining periods of school closure after the employee's annual leave entitlement for that leave year has been accommodated.

Teachers

Teachers do not have a contractual entitlement to paid annual leave. However, teachers are entitled to 28 days statutory annual leave under the working time directive. Therefore you are entitled to take the 28 days statutory leave in addition to any maternity leave. **This is not an additional entitlement on top of the current school holidays.**

Statutory annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question. i.e. both before and after your maternity leave period. If you return from maternity leave so near to the end of the leave year that you cannot take your leave, then you are allowed to carry this leave over to the following leave year. You will be required to take your carried over leave during the school holidays.

Locally it has been agreed that teachers' leave year runs from 1 September to 31 August

Contact during Shared Parental Leave

Before an employee's shared parental leave begins, their line manager 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 employees from time to time during their shared parental leave. This may be to discuss the employee's plans to return to work, to ensure they are 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.

Unfair dismissal

An employee is protected from detriment and from unfair dismissal connected with the taking of shared parental leave.

Redundancy situation

If an employee is made redundant whilst on shared parental leave, they are entitled to be offered a suitable alternative vacancy if one arises and will be on no less favourable terms and conditions of employment had they been able to return to their original job. Employees will be treated in exactly the same way as their colleagues and will continue to be consulted during their period of shared parental leave. Failure to consult with employees who are on shared parental leave about possible redundancy is likely to be deemed unlawful discrimination.

Sickness absence

If any employee is sick and unable to care for the child, then they are not entitled to take shared parental leave. An employee must be paid sick pay rather than the statutory shared parental pay when they are sick.