

Shared Parental Leave Policy

This policy details the time off that employees can opt into in order to choose how to share the care of their child during the first year of birth or adoption.

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This policy uses the following key terms throughout:

- **Mother/Adoptive parent:** the person who gives birth to a child or the person who is eligible for adoption leave and/or pay. They can be of any gender.
- **Partner:** the child's biological father or the partner of the mother/adoptive parent. This can be a spouse, civil partner or the partner who is living in an enduring relationship with the mother/adoptive parent and the child.

Where the headteacher is the employee concerned, any reference to the headteacher in this policy should be replaced with the chair of governors.

1 Eligibility

To be able to apply for shared parental leave, there must be two people sharing responsibility for the child and for either parent to get shared parental leave, the mother/adoptive parent must:

- End their maternity or adoption leave and return to work; or
- Give their employer notice to end (curtail) their maternity or adoption leave early.

A parent who is taking shared parental leave must also:

- Have been sharing responsibility with the other parent from the day of the child's birth or adoption placement*;
- Be employed and have worked for the same employer for at least 26 weeks by the end of the 15th week before the baby is due or they are matched for adoption;
- Continue to work for the same employer at the start of each block of shared parental leave;
AND
- The other parent must have worked for at least 26 of 66 weeks and earned an average of at least £30 a week in any 13 weeks.

**you are not eligible if you started sharing responsibility for the child after they were born.*

2 Entitlement

The amount of leave available for shared parental leave is 52 weeks minus any weeks taken as maternity/adoptive leave by the mother/adoptive parent. The mother/adoptive parent must take a minimum of 2 weeks maternity/adoption leave.

This means that a maximum of 50 weeks can be converted to shared parental leave, which can be shared between both parents. Shared parental leave must end no later than one year after the birth/placement of the child – any leave not taken by this date will be lost. This limit of 50 weeks leave is the same regardless of the number of children born or adopted under the same agreement.

Shared parental leave must be taken in blocks of at least 1 week and can be taken in one continuous block or as several discontinuous blocks of leave.

Parents can choose how to split the available leave between them and can decide to both be off work at the same time or can take the time off at different times. There will be a maximum number of weeks available for shared parental leave, depending how much maternity/adoption leave has already been used, and parents will need to decide how to split these weeks between them. Any weeks taken by parents at the same time will count as 2 weeks of available leave. See examples of how shared parental leave could be taken in section 9.

3 Pay

Employees may be eligible to receive Statutory Shared Parental Pay (ShPP) during some of their shared parental leave if the mother/adoptive parent brings their statutory maternity/adoption pay (SMP/SAP) or maternity allowance (MA) to an end early. Depending on the date chosen by the mother/adoptive parent, up to 37 weeks of ShPP can be created.

To qualify for ShPP, the employee must:

- Be eligible for shared parental leave; and
- Have average weekly earning (before tax and NI) at least equal to the Lower Earnings Limit (£120 per week, as at April 2020).

The current rate of ShPP is £151.97 per week (as at April 2021).

3.1 Occupational maternity/adoption pay

Employees should be aware that entitlement to the occupational element of maternity/adoption pay, is only available whilst they are taking maternity/adoption leave. It will not transfer to shared parental leave and they will lose any remaining entitlement.

Employees who are entitled to receive OMP/OAP may wish to consider ending their maternity or adoption leave and transferring to shared parental leave after their entitlement to OMP/OAP has expired i.e. after the 18th week of maternity/adoption leave.

4 Notification

It is the employee's responsibility to ensure that they meet the eligibility criteria for shared parental leave and/or pay set out in this policy before submitting the relevant forms to their Headteacher.

An employee wishing to take shared parental leave must give their Headteacher 8 weeks' notice of their entitlement and intention to take leave by completing the Shared Parental Leave notification form.

The notification form asks the employee to provide an indication of when they expect to take their shared parental leave, however this is not binding and does not give the employee approval to take the leave. The employee will need to complete the booking notice to gain approval for taking the block or blocks of leave requested (see section 5).

4.1 Mother/adoptive parent

An employee who is the mother/adoptive parent must give notice to end their maternity/adoption leave and pay by either giving notice to curtail their leave by completing the notification form or returning to work.

Once the employee has given written notice to curtail their maternity/adoption leave it is binding and they will only be able to change their decision in very limited circumstances (see section 8.1).

If the mother/adoptive parent returns to work, they cannot restart their maternity/adoption leave, however their entitlement to shared parental leave will continue. If they wish to opt into shared parental leave after returning to work, they must give at least 8 weeks' notice of their entitlement and intention to take shared parental leave and still be within 52 weeks of the birth/adoption (or 39 weeks to be eligible for ShPP).

5 Booking leave

Employees are required to complete and submit a booking notice to request the period or periods of shared parental leave that they would like to take. In most cases, employees will submit their booking notice at the same time as their notification form, as they are required to give 8 weeks' notice.

An employee is entitled to submit up to 3 separate booking notices to book leave or to vary a previously agreed pattern of leave. Each of the notifications to book leave can request either a single continuous block of leave or discontinuous periods of leave. For example, an employee may request a single period of leave from 1 January to 31 March or they may request to take 2 weeks in January, 2 weeks in February and all of March on the same booking form.

A request for one continuous block of leave cannot be refused by the Headteacher but a request for discontinuous blocks of leave can be refused if it cannot be accommodated.

5.1 Refusing discontinuous leave

The Headteacher will have 14 calendar days, starting from the date the booking notice is submitted by the employee, to consider and discuss the pattern of leave requested with the employee, propose alternatives and try to reach a compromise regarding the requested leave.

If no alternative can be agreed or if the employee does not receive a response within 14 calendar days, the employee is entitled to take the total number of weeks requested on the booking notice as a single continuous block of leave, starting from the date of the first period of leave requested. The employee also has 19 calendar days from the date they submitted their booking request to change the start date of the continuous block of leave.

Alternatively, the employee has 15 calendar days, from the date they submitted the booking form, to withdraw their request without it counting as one of their booking notices.

5.2 Changing booked leave

An employee can change an agreed period of shared parental leave as long as they give the Headteacher 8 weeks' notice of the variation.

Any notice to vary previously agreed leave will count towards the employee's total entitlement of 3 booking notices.

6 Shared parental leave in touch (SPLiT) days

All employees on shared parental leave may be able to participate in up to 20 SPLiT days without bringing their leave to an end. SPLiT days are not limited to the employee's normal job and can include attendance at training events, appraisals, meetings as well as enabling them to return to work gradually at the end of their leave.

SPLiT days must be mutually agreed, therefore the Headteacher cannot insist that an employee participates in SPLiT days and an employee cannot insist on working without their Headteacher's permission.

Working any part of a day will count as one day for the purpose of calculating the number of SPLiT days taken. If an employee has multiple posts in the school, only 20 SPLiT days can be taken in total.

6.1 Pay for SPLiT days

The Headteacher should ensure that the work to be carried out on the day and the payment arrangements are clearly understood by the employee before any work is undertaken.

Teachers	Support
The employee will be paid their normal rate of pay, offset against any SMP and/or OMP they are receiving, for the number of hours actually worked on each KIT day.	The employee's normal rate of pay, offset against any SMP and/or OMP they are receiving, will be paid for each KIT day. Payment per day will be based on the number of days in the month the KIT day is worked i.e. 1/28 th , 1/29 th , 1/30 th or 1/31 st of the employee's monthly full time equivalent salary.

7 Returning to work

An employee on shared parental leave is expected to return to work on the date agreed when booking leave and there is no requirement to provide formal notice of their return. The Headteacher (or other manager) may wish to contact the employee prior to their return to ensure it is as smooth as possible, particularly if it has been a lengthy period of leave.

If an employee wishes to return to work before the end of their shared parental leave, they must do so in writing and give at least 8 weeks' notice. If they have already used their 3 booking notifications, the school does not have to accept the notice to return early but may choose to do so if it can be accommodated.

If the employee does not want to return to work after their shared parental leave, they are required to give the school notice in line with their contract of employment.

8 Special circumstances

8.1 Withdrawing notice to curtail maternity/adoption leave

Once an employee has given notice to end their maternity/adoption leave, they are only able to withdraw the notice if they have not returned to work and one of the following circumstances applies:

- Within 8 weeks of submitting their notice it transpires that neither parent qualifies for shared parental leave;
- The mother/adoptive parent's partner dies;
- When notice was given before birth, the mother may withdraw it without reason up to 6 weeks after the birth.

The employee must inform their Headteacher in writing if they wish to withdraw their notice to curtail their maternity/adoption leave.

If an employee revokes their notice under either of the first 2 circumstances, they will not be allowed to opt back into shared parental leave at a later date for the same child.

In the third circumstance, the employee will be able to opt into shared parental leave at a later date in line with the normal notification requirements.

8.1.1 Impact on pay and future leave

If the mother/adoptive parent's notice to curtail maternity/adoption leave is withdrawn, the partner's entitlement will cease with immediate effect and they must notify their Headteacher that they are no longer entitled to shared parental leave.

The Headteacher may require them to be absent for up to 8 weeks' to enable them to stand down any cover arrangements that have been put in place. During this time, the employee's absence will continue to be treated as shared parental leave, however, they will no longer be entitled to ShPP and the absence will be unpaid.

If the partner has already taken some shared parental leave when the notice is withdrawn, the school will not seek to recover the payment, as they were entitled to it at the point it was taken. However, if the mother/adoptive parent opts back into shared parental leave at a later date, the leave and pay already taken will be deducted from the available weeks.

8.2 Premature birth

If an employee has booked a period of shared parental leave to start within 8 weeks of the child's due date, they can move it forward and take the leave and pay after the actual birth date if they wish. The employee will need to give their Headteacher notice to vary the date of their shared parental leave as soon as possible following the birth.

If an employee has not booked a period of shared parental leave and the child is born 8 weeks or more before the due date, they can book a period of leave to start within 8 weeks of the actual birth. They must give notice of this as soon as reasonably practicable after the birth.

Any changes to shared parental leave that is planned more than 8 weeks after the birth would be subject to the usual 8 weeks' notice.

8.3 Maternal, paternal or infant death

Event	Outcome
<p>Mother/adoptive parent dies without taking any maternity/adoption leave</p>	<p>The full 52 weeks of maternity/adoption leave and 39 weeks of statutory maternity/adoption pay will be available as shared parental leave and pay. The 8 weeks' notice will not apply for the first period of leave booked or varied following the mother/adoptive parent's death.</p>
<p>Mother/adoptive parent dies after taking some maternity/adoption leave</p>	<p>Any unused weeks will be available to take as shared parental leave and pay. The 8 weeks' notice will not apply for the first period of leave booked or varied following the mother/adoptive parent's death.</p>
<p>Partner dies before mother/adoptive parent curtails their maternity/adoption leave</p>	<p>The mother/adoptive parent will remain on maternity/adoption leave and will no longer be able to opt into shared parental leave.</p>
<p>Partner dies after mother/adoptive parent curtails their maternity/adoption leave</p>	<p>The mother/adoptive parent can withdraw their notice to curtail their maternity/adoption leave and revert to maternity/adoption leave. Alternatively, they can remain on shared parental leave and acquire a 4th notification to book leave. The 8 weeks' notice will not apply for the first period of leave booked or varied following the partner's death.</p>
<p>Child dies before the mother/adoptive parent has curtailed their maternity/adoption leave</p>	<p>There will be no option to opt into shared parental leave. The mother/adoptive parent will remain entitled to maternity/adoption leave and the partner will remain entitled to paternity leave.</p>
<p>Child dies after the mother/adoptive parent has curtailed their maternity/adoption leave</p>	<p>Both parents will be entitled to take the shared parental leave that they had already booked. Any entitlement that had not been booked at the time of the child's death will no longer be available.</p>

9 Examples of taking shared parental leave

Example 1 – taking leave at different times

Example 2 – taking leave at the same time

Wks	Mother/Adoptive parent	Partner	Leave (wks)	Pay (wks)	Mother/Adoptive parent	Partner	Leave (wks)	Pay (wks)	
1 - 18	18 weeks maternity leave	2 weeks paternity leave	18/52	18/39	20 weeks maternity leave	2 weeks paternity leave	20/52	20/39	
		Returns to work				Returns to work			
19	Returns to work	12 weeks shared parental leave	30/52	30/52	8 weeks shared parental leave together	8 weeks shared parental leave together	36/52	36/39	
20									
21									
22									
23									
24									
25									
26									
27	11 weeks shared parental leave	Returns to work	52/52	Unpaid leave	16 weeks shared parental leave	Returns to work	52/52	Unpaid leave	
28									
29									
30									39/39
31									
32									
33									
34									
35									
36									
37	Returns to work	11 weeks shared parental leave	52/52	Unpaid leave	Returns to work	Returns to work	All SPL taken	All ShPP taken	
38									
39									
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This policy has been developed by the HR Advice and Support team, based on current legislation and best practice. If you would like any advice on the application of this policy, please do not hesitate to contact the team:

Telephone	03000 266688
Email	hradvice@durham.gov.uk

Further support can be accessed by contacting (subject to SLA buy in):

Payroll and Employee Services	pesschools@durham.gov.uk
Occupational Health	occhealthadmin@durham.gov.uk
Health and Safety	hsteam@durham.gov.uk
Employee Assistance Programme	www.healthassuredeap.com Username: durham Password: council 0800 716017

Author	Version	Last review	Next review
LK	v 1.1	April 2021	April 2022

The school complies with all relevant statutory obligations. The school privacy notice provides more specific information on data collected and how it is handled, a copy of which can be accessed from the school. For more information please contact the school directly.

If you have any concerns about how your data is handled, please contact either the school Data Protection Officer (details available from the school office), or the Information Commissioner's Office.