KALEIDOSCOPE
Multi Academy Trust

GUIDANCE ON SHARED PARENTAL LEAVE AND PAY

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GUIDANCE ON SHARED PARENTAL LEAVE AND PAY

Introduction

Shared Parental Leave (SPL) is a way for parents/carers and adopters to share statutory leave and pay. It is available to you if you are the parent/carer or the adopter of a child due to be born or placed on or after 5 April 2015 and you meet the eligibility criteria set out in this guidance.

You remain entitled to maternity leave or ordinary paternity leave or adoption leave and unpaid parental leave. You should therefore read this guidance alongside our guidance on these topics, as applicable.

Eligibility

The right to SPL applies to you if you are:

- the mother/primary carer or the primary adopter of the relevant child and
- the partner of the mother/primary carer or the primary adopter

If you are the intended parents in a surrogacy arrangement you are able to take SPL.

The purpose of the SPL must be to provide care for the child. SPL cannot be shared by more than two people.

For either partner to qualify for SPL, the mother/primary carer or primary adopter **must**

- have a partner
- be entitled to either maternity or adoption leave or to statutory maternity / adoption pay or maternity allowance
- have ended, or given notice to end / 'curtail' their maternity or adoption leave, or their pay / allowance (if not eligible for maternity or adoption leave).

You (whether you are the mother / primary carer / primary adopter or their partner) must also:

- be an employee
- share the primary responsibility for the child with your partner at the time of the birth or placement for adoption
- have properly notified your employer of your entitlement and have provided the necessary declarations of evidence (see below).

In addition, you must have continuous employment[1] for at least 26 weeks at the end of the 15th week before your child's expected due date / matching date and you must still be working for the school at the start of each leave period (this is known as the 'continuity of employment test'). Your partner must also meet the 'employment and earnings test' (to meet this they must have worked for at least 26 weeks and earned an average of at least £30 per week[2] in any 13 weeks in the 66 weeks leading up to the child's due date / matching date).

It is possible for only one of you to be eligible for SPL. For example if you are a self-employed parent/carer who is not entitled to SPL yourself, you may still pass the employment and earnings test and have received statutory maternity / adoption pay / maternity allowance. If this is the case, then your partner, if they are an employee, may still qualify for SPL.

If both of you are eligible for SPL, then there will be a joint entitlement and you will have to determine how to divide the leave entitlement between you.

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[1] For what 'continuous employment' means in relation to shared parental leave see the notes relating to continuous employment in our maternity, adoption or paternity guidance.

[2] This is the same as the 'maternity allowance threshold' figure and is the rate applicable from April 2022. The current rate is given on the www.gov.uk website.

Entitlement

If you are eligible, you have the right to share up to 50 weeks leave to care for your child. A shared parental leave and pay entitlement calculator is available on the GOV.UK website: https://www.gov.uk/pay-leave-for-parents

If you are a mother/primary carer or the primary adopter[3] and you reduce your maternity or adoption leave entitlement then you and / or your partner[4] may opt to take any remaining weeks as SPL. If you are the partner of the mother/primary carer or the primary adopter you may take SPL while the mother/primary carer or primary adopter is still on maternity or adoption leave provided they have given notice of ending / curtailing their maternity or adoption leave. SPL does not need to start as soon as the mother / primary carer / primary adopter gives notice of ending their maternity or adoption leave and if you are the mother/primary carer or primary adopter you can return to work before beginning SPL.

If you are an eligible employee, you can take SPL after you have taken the legally required two weeks of maternity leave immediately following the birth of your child.

If you are an eligible primary adopter, you can take SPL after taking at least two weeks of adoption leave.

If you are the partner of the mother/primary carer or the primary adopter you can take SPL immediately following the birth or placement of the child but if you wish to take paternity leave, you must do so before taking any SPL.

As long as both you and your partner satisfy the eligibility criteria, then you can take SPL in the following ways:

- you can take your leave together as a couple
- you can take your leave in turns or
- if you are the mother/primary carer or primary adopter, you can return to work and allow your partner to take the balance of your leave.

If you are eligible to take SPL, you can stop and start your SPL and return to work between periods of leave. You and your partner are each able to submit up to **three notices** booking **'periods of leave'**.

You can request a ***continuous*** or a ***discontinuous*** period of leave. (A continuous 'period of leave' is one consisting of a single unbroken block of leave and a discontinuous period of leave is one consisting of two or more blocks of leave with breaks between them where you return to work (e.g. four weeks SPL followed by three weeks back at work, followed by a further four weeks SPL.)

You can only take SPL in blocks of at least a week and you must take blocks of longer than a week in multiples of complete weeks. The block can start on any day of the week (so if a block of SPL lasts for one week and starts on a Tuesday, it must finish on the following Monday).

Your SPL must end no later than one year (52 weeks) after the birth or placement of your child. If you have not taken all your SPL by the first birthday of your child or the first anniversary of your child's placement with you, the balance will be lost.

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[3] The 'primary adopter' is the partner who elected to take statutory adoption leave.

[4] To qualify as the 'partner' of the mother/primary carer or primary adopter you must be the child's biological father or the partner of the mother / primary carer / primary adopter (a spouse, civil partner or person living in an enduring relationship with the mother / primary carer / primary adopter and the child). A 'partner' cannot be the mother's / primary carer's / primary adopter's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew. **However, unless it is made clear that 'partner' specifically means the partner of the mother/primary carer or primary adopter, the term 'partner' is used in this guidance to simply mean the other parent/carer or adopter.**

You can take SPL when your partner is on another type of leave, such as paternity or unpaid parental leave.

Notification

Notice to end or 'curtail' maternity / adoption leave

SPL can only be used after the mother / primary carer / primary adopter has:

- already returned to work, ***or***
- given notice to their employer that reduces their maternity / adoption leave, confirming when their maternity / adoption leave will come to an end. Notice is binding except in certain circumstances (*see 'Changes to your circumstances'*).

If you are the mother/primary carer or primary adopter you must give the school and the School's Payroll provider a minimum of 21 days' notice but preferably eight weeks' notice to end your maternity or adoption leave / pay early using the appropriate notification form. Alternatively, you can give the school and the School's Payroll provider a leave curtailment notice, bringing forward the date that your maternity / adoption leave will end at a future point. You can give this notice before or after the birth or placement for adoption and you can submit this notice with your notice of entitlement to SPL[5]

If you are the mother/primary carer or primary adopter and you are not entitled to maternity or adoption leave (i.e. because you are not an employee) then you must have ended or given notice to reduce your maternity or adoption pay period or maternity allowance period for your partner to be eligible for SPL.

Notice of Entitlement

If you intend to take SPL you must submit a **'notice of entitlement'** at least 8 weeks before the intended start date to the School and the School's Payroll provider. A form for this purpose is available from the School or the School's Payroll provider.

You do not have to take your leave on the dates stated in the 'notice of entitlement' but providing indicative dates will give your School an idea of what your intentions are.

This step in the process should be seen as an opportunity for you and your line manager to talk informally about your preferences, what can be accommodated operationally and what patterns of leave might work best for you and the School.

Your notice of entitlement must be accompanied by a declaration from your partner that, at the time of the birth or placement for adoption they:

- share the main responsibility for the care of the child with you
- meet the employment and earnings test
- consent to you taking the number of weeks SPL specified in your notice of entitlement.

You can vary your entitlement notice. To vary, you must notify the school in writing of the following:

- details of the leave you originally intended to take and of any leave for which a period of notice has been provided
- the fact you are changing it
- how and when you now intend to take the available SPL.

Your partner must sign the notice to confirm that they are in agreement with the variation. If you booked leave that will no longer take place you must also give notice to vary a 'period of leave' (see below).

[5] The leave curtailment notice must be provided at the same time as the notice of entitlement.

Period of Leave Notice

You may submit a notice to book leave to the School at the same time as, or following, your submission of your notice of entitlement. A notice to book leave form is available from the School or the School's Payroll provider.

You are entitled to submit three separate notices to book a 'period of leave' in your child's first year in your family, inclusive of any variations or cancellations of leave (*see 'Changes to your' Circumstances'*).

You must submit your notice to book SPL at least 8 weeks before any period of leave is due to begin.

You must clearly set out the leave you intend to take (i.e. the start and end dates of the block or blocks of leave you are requesting).

If the child has not yet been born / adopted your booking can specify that your leave will commence after a period of time following the birth, e.g. "two weeks after the child's birth / placement".

If you request a ***continuous*** period of leave you are entitled to take that period of leave. However, the School is entitled to suggest a change to your continuous leave period. In that event, you can either opt to change the period of leave to the one suggested or keep to the original period.

If you request a ***discontinuous*** period of leave this must be agreed by the School and the School will be consider your request. The School may refuse a request for discontinuous leave or propose alternative dates.

If you make a request for **discontinuous leave**, you and your line manager have a discussion period of 14 calendar days to talk about the request. In determining their response to your request the considerations of your manager will include:

- whether the period requested coincides with a challenging or busy period for the School
- how your role will be covered
- if there are any known staffing issues during the period requested
- impacts on pupils / other employees / the school community
- whether modification of your request would reduce the negative impacts on the School that would otherwise make the request unreasonable.

If your manager is not immediately agreeable to a *discontinuous leave* period then they will seek to arrange a meeting with you within the 14 day discussion period.

Period of Leave Notifications: Outcomes

Within 14 days of the date of the period of leave notice the school may:

- agree to the periods of leave you have requested
- refuse the leave you have requested but propose alternative dates or
- refuse the leave you have requested.

Modifications to requested leave that are suggested by your manager will not count as one of your three notices to book leave.

If, within 14 calendar days of your original request being made, no agreement is reached regarding when you will take your leave, **or** your request is refused **or** you have not received a response to your request, then the following default provisions will apply:

Within 15 calendar days of your original request	If no agreement has been reached, you may withdraw your discontinuous leave notification without it counting towards one of your three possible notices to book leave and you may then submit a new request.

	If you do not withdraw your request, the leave will automatically default to a period of continuous leave.
Within 19 calendar days of your original request	You can choose when the default continuous leave block will commence, so long as it is no sooner than 8 weeks from the date of your original request. If you do not elect a start date within the 19 days, the start date of your continuous leave will automatically default to the date your requested discontinuous leave would have started.

You must notify the School's Payroll provider of any period of leave once it has been agreed within 14 days. If the period of leave is made up of discontinuous blocks your manager must confirm the school's agreement to the School's Payroll provider.

Evidence

As stated above, you must submit a notification of entitlement with the necessary declarations as evidence of your entitlement to claim SPL or Pay. This will generally be sufficient for the purposes of processing claims for SPL and Pay. However, the School may request supporting evidence from you within 14 days of the date on which you give your notice of entitlement and intention to take SPL.

In cases of maternity, the school may request from you:

- a copy of the child's birth certificate
- the name, address or other contact details of your partner's employer

In cases of adoption, the school may request from you:

- a copy of the document(s) from the adoption agency confirming the agency's name and address, the date of matching and the actual or expected date of placement
- the name, address or other contact details of your partner's employer

Where evidence is required, you must provide this evidence within 14 days of the date it is requested from you (or within 14 days of the date when the child is born / placed if the evidence is requested before the birth or placement).

Changes to your Circumstances

You may need to vary or cancel a period of booked leave. You may request:

- to vary the start or end date of any period of SPL, provided that you give the notice to vary at least 8 weeks before both the date to be varied and the new date
- to vary the leave so that a single period of leave becomes discontinuous periods of leave or vice versa
- to vary the amount of leave requested (or cancel the leave requested) provided that you give the notice to vary at least 8 weeks before any period of leave to be varied is due to commence.

To vary a period of leave, you must submit a notice to vary leave signed by both you and your partner at least 8 weeks before the originally requested date. A notice to vary leave form is available from the School or the School's Payroll provider.

Cancelling or varying a period of leave will count as one of your three allowable period of leave notices.

If you have already used up all three of your notifications, there is no obligation on your line manager to consider further variations or cancellations but they may still consider and accept the request if it is reasonably practicable to do so.

Specific Circumstances

1. If your manager proposes a variation to continuous or discontinuous leave and you agree, then it does not count as a further notification and this will be confirmed in writing. Similarly, the withdrawal of a refused request for discontinuous leave does not count as one of your three notices.

2. If your c*hild is born before the expected due date and you have booked SPL* within the first eight weeks of the due date, you may take the same period of time off after the actual birth by varying the leave without meeting the 8 week notice requirement. (If your child is born before the expected due date but SPL has been arranged to take place *after* the first 8 weeks after the due date, then the 8 weeks' notice to vary leave is still required.)

3. If your child is born more than 8 weeks before the due date and you have not yet given the notice of entitlement and / or notice to book SPL, then there is no requirement for you to give 8 weeks' notice before the period of leave starts. However, you must still supply the correct notices as soon as reasonably practicable.

If you are the mother/primary carer or the primary adopter and you have given notice to end your maternity or adoption leave and if either you or your partner have informed your employer of your entitlement to take SPL then the notice to end that leave is binding and can only be withdrawn by you (as the mother/primary carer or primary adopter) if:

- within 8 weeks of you submitting notice to end your maternity or adoption leave, it transpires that neither you or your partner qualifies for SPL or Pay
- you served your leave curtailment notice before the birth of your child and wish to withdraw it no later than six weeks after the birth or
- your partner dies.

Death of the child before or during birth or in the first year

If you have opted into SPL and have booked leave and your child then dies, you will still be entitled to take the booked leave and you will be allowed one variation notice (to either reduce a period of leave or to rearrange a discontinuous period of leave into one continuous block). You will not be able to submit further notices to book leave.

If the child dies before a notice of entitlement has been submitted then SPL may not be taken. If you are the mother/primary carer you will however remain entitled to maternity leave and if you are the mother's /primary carer's partner you may still qualify for statutory paternity leave.

If the child dies whilst you are absent on SPL, you may cancel the agreed SPL by giving 8 weeks' notice of a return to work.

Change in responsibility for the child

If you have booked SPL but no longer have responsibility for the care of the child you must provide written notification of this and your entitlement to both SPL and Pay will immediately cease.

If you had any SPL arranged within 8 weeks of the entitlement ceasing, you may still be required to take it as SPL if it is not reasonably practicable for the school to accommodate cancellation of your leave (for example, if alternative cover has been arranged). In this event, your leave will start on the same date that your next period of SPL was due to start. This leave must end as soon as the school can accommodate your return to work and in any event when the period was due to end or eight weeks from the date you informed the school of your change in circumstances, whichever is earlier.

You must cancel any weeks of SPL arranged for more than 8 weeks after your entitlement ceases.

If you as the remaining parent/carer will be continuing to care for the child then you will still be eligible to take your SPL entitlement and, subject to agreement from your partner, you will be able to transfer their entitlement to your own. You should do this using a variation notice.

Death of a parent / carer / adopter during the child's first year

If your partner dies and you are taking or are entitled to take SPL then you will continue to be eligible. Any SPL that was due to be taken by your partner may be transferred to you if you are eligible to take SPL.

If you need to take a further period of SPL or to vary pre-agreed leave then notice may be given as soon as reasonably practicable if you cannot give 8 weeks' notice. If you have already submitted three notices to take leave, you are allowed to submit one further notice to book or vary SPL.

Multiple births / adoptions

You are not entitled to extra SPL or Pay if more than one child is born or adopted.

Shared Parental Pay

Statutory Shared Parental Pay (ShPP)

You have the right to share up to 37 weeks statutory shared parental pay. The remaining 13 weeks of SPL, if taken, are unpaid.

If you are a mother/primary carer or a primary adopter and you meet the qualifying criteria, you are entitled to statutory maternity / adoption pay / maternity allowance for up to 39 weeks. If you are the mother/primary carer or primary adopter and you give notice to reduce your entitlement before having received statutory maternity or adoption pay for 39 weeks then any remaining weeks become available as Statutory Shared Parental Pay (ShPP) provided you meet the eligibility criteria.

Statutory Shared Parental Pay is paid at a standard flat rate (currently £156.66) or 90% of your average weekly earnings (whichever is lower).

For you to qualify for Statutory Shared Parental Pay:

- you or your partner as the mother/primary carer/primary adopter must have given notice to reduce their entitlement to SMP / SAP
- you must pass the continuity of employment test and still be employed with the same employer at the start of your first period of pay
- you must have earned an average salary of the lower earnings limit[6] for the 8 weeks' prior to the 15th week before the expected due date or matching date and
- your partner must meet the employment and earnings test.

If both of you qualify for ShPP, you must decide who will receive it, or how it will be divided, and you must each inform your employer of your entitlement (you can do this using your notice of entitlement (see above)).

If your employment comes to an end while you are still entitled to some statutory ShPP then any remaining weeks will usually remain payable unless you start working for another employer. *For further*

[6] The Lower Earnings Limit is the amount of gross weekly earnings that allow you to qualify for certain state benefits. This usually changes each April. From April 2022 it is £123.

information about the receipt of statutory pay, see the statutory pay section of our maternity or adoption guidance.

Occupational Shared Parental Pay (OShPP)

The School may choose to pay you Occupational Shared Parental Pay in line with Occupational Maternity and Adoption Pay. ***If the School determines it will pay OShPP it needs to notify its Payroll provider of this decision.***

General information on Shared Parental Leave Pay

Shared Parental Leave Pay will be paid to you in the normal way on the last working day of the month. Tax and national insurance will be deducted.

You must notify the School's Payroll provider as soon as possible of any change in your circumstances which may affect your entitlement to receive Shared Parental Leave pay.

For further information on shared parental leave pay please contact the School's Payroll provider.

Contact and Work during Shared Parental Leave

Contact

The School is entitled to make reasonable contact with you whilst you are on SPL.

SPLIT days (SPL in Touch Days)

If you are an eligible mother/primary carer or primary adopter or their partner you will have an entitlement to 20 'keeping in touch days' during which you can work without bringing the SPL to an end.
These days are in addition to the 10 KIT days available during maternity or adoption leave.

Like KIT days, SPLIT days can only be arranged by mutual agreement between you and the School.

You will receive contractual pay for the hours you attend work during SPLIT days. Your manager needs to notify the School's Payroll provider of any SPLIT days on which you work and the hours worked.

Annual Leave

You will continue to accrue annual leave and bank holidays while on SPL.

If you are a teacher or a term time only member of support staff, your accrued leave will be taken during school holidays.

If you are an all year round member of support staff you should take all your accrued leave within the applicable leave year wherever possible. If this is not possible due to the SPL being taken in one single continuous block that perhaps runs over two consecutive leave years, then you may wish to consider taking your accrued leave immediately after your period of SPL. You should discuss how any accrued leave might be taken with your line manager.

If you are an all year round employee and you return to work on a different number of hours, your annual leave accrued whilst on shared parental leave will be based on your working hours prior to your shared parental leave.

Return to work

For notice requirements relating to Shared Parental Leave, including giving notice of the end dates of periods of SPL, please see the notification section above.

You must return to work at the end of your Shared Parental Leave entitlement unless you have given the required notice of your resignation.

If the total amount of leave you have taken (i.e. leave inclusive of any maternity, adoption or paternity leave as well as SPL) is 26 weeks or less, you are entitled to return to the job in which you were employed before your absence.

If you return to work:

- from a period of leave that is more than 26 weeks in total (inclusive of any maternity, adoption or paternity leave as well as SPL) or
- after a period of SPL which was consecutive with a period of unpaid parental leave of more than 4 weeks or
- after a period of SPL which was the last of two or more consecutive periods of statutory family leave which were consecutive with a period of parental leave of more than 4 weeks

you are entitled to return to the job in which you were employed before your absence, or if it is not reasonably practicable for your employer to enable you to return to the same job, to another job which is both suitable and appropriate for you to do in the circumstances.

If you are unable to return on the expected day due to sickness your absence will be covered by the sickness scheme in the normal way.

You have the right to request a permanent change to your working pattern effective from your return to work under your School's Flexible Working Policy.

Resignation

If you decide not to return to work after SPL you must inform your line manager and the School's Payroll provider in writing giving the required notice of termination.

If you are a member of support staff you are required to give your contractual notice. If you are a teacher you are you are requested to give notice as soon as possible and must give at least 21 days' notice.

Temporary Contracts and Shared Parental Leave

If you are on a temporary contract and your contract ends, your SPL will end with the contract.

Pension Information

Pensionable pay is the element of your pay from which your pension contribution is calculated.

Assumed pensionable pay is the amount of pensionable pay you would have received had you not taken shared parental leave. This is determined by the average pensionable pay for the three complete pay periods prior to the start of your unpaid shared parental leave.

Support Staff

If you are a member of support staff you will accrue 1/49th of your assumed pensionable pay (or 1/98th of your assumed pensionable pay if you have opted for the 50/50 scheme) during any period of paid shared parental leave.

You will accrue 1/49th of the actual pensionable pay received for any KIT or SPLIT days during periods of paid leave if this is greater than 1/49th of assumed pensionable pay (or 1/98th if you have opted for the 50/50 scheme)

For any period of unpaid SPL, you can elect to pay optional Additional Pension Contributions to buy back the 'lost' pension at any time. If you elect to do so within 30 days of your return to work from your last period of SPL, the contribution is shared between you as the employee (1/3) and the School (2/3).

The amount of pension you purchase will be added to the pension accrual for the year in which the additional contributions are made. If you elect not to make APCs then the pension accrual will be less. However, if you work a KIT or a SPLIT day during a period of unpaid leave, you will accrue 1/49th of pensionable pay received for the day (or 1/98th if you have opted for the 50/50 scheme).

Existing Additional Pension Contributions (APCs)

If you are already paying APCs, these remain payable for your period(s) of unpaid SPL. These payments will be rolled over and recovered from your pay once your last period of SPL has ended.

Existing Additional Voluntary Contributions

AVCs will only be deducted while your level of pay allows them to be. You will need to contact the School's Payroll provider if you wish to continue making AVC payments once you enter the period of unpaid SPL.

Teachers

If you are a teacher, SPL is treated as pensionable employment as long as you are receiving at least half pay or are being paid statutory shared parental leave pay. Unpaid SPL will not count as pensionable employment and buy-back is not possible under the Teachers' Pensions scheme.

All our policies and guidance can be found at http://ww.supportservicesforeducation.co.uk

Trustee Board Chair 3/5/2023