



# Shared Parental Leave Policy/Guidance for Staff

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## **SECTION 1      Guidance/Policy**

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### **1.1      Introduction**

This document sets out how requests for shared parental leave will be managed.

Shared parental leave allows a mother or person with whom a child is, or is expected to be placed with for adoption to end a period of statutory maternity/adoption leave and pay and share the untaken balance as shared parental leave and pay with their partner.

It should be noted that shared parental leave differs from the existing entitlement to 18 weeks unpaid parental leave.

### **1.2      Principles**

This procedure acknowledges the right to request to access shared parental leave but recognises that the prime objective of the Council / School is the effective delivery of services and that where any flexibility exists in the timing of such arrangements they should be applied in this context

### **1.3      Application/Scope**

Shared parental leave is open to the parents of children expected on or after 5 April 2015, or adoptions matched with a person on placed for adoption on or after 5 April 2015. It applies to:

- The mother (or expectant mother) of a child or person with whom the child is, or is expected to be placed for adoption
- The partner, this is the father of the child, or the person who is married to, or the civil partner or partner of the mother (or expectant mother) of a child, or person with whom the child is, or is expected to be placed for adoption

A partner is a person (whether of a different sex or the same sex) who lives with the mother or person with whom the child is, or is expected to be placed in an enduring family relationship but is not their child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

#### **1.3.1 Transition arrangements**

Where a child is born before 5 April 2015 but their due date was on or after 5 April 2015 the parents will still be eligible to apply for shared parental leave under the new arrangements.

Where a child was due before 5 April 2015 however is born later than this date the parents will not be eligible to apply for shared parental leave, in such circumstances Additional Parental Leave would still be available

### **1.4      Eligibility criteria**

Both the mother/person with whom the child is, or is expected to be placed and the partner they intend to share their leave with must meet the qualifying conditions to be eligible for shared parental leave and pay.

They must

- Satisfy the duration of employment requirements
- Have, or expect to have with their partner the main responsibility for the care of the child
- Curtail their statutory maternity/adoption leave
- Comply with the notice requirements
- Supply the required evidence to the employer
- Provide the required period of notice
- Have a partner who satisfied the employment and earnings test
- Have a partner who has, or expects to have (with the mother or person with whom the child is, or is expected to be placed) the main responsibility for the care of the child

The partner must

- Satisfy the duration of employment and earnings test
- Have or expect to have the main responsibility for the care of the child
- Comply with the notice and evidence requirements

### **1.5. Earnings test**

A person must be employed or a self-employed earner for at least 26 weeks in the 66 weeks immediately before the expected week of childbirth, or in cases of adoption, the week in which the mother or person with whom the child is or is expected to be placed was notified of having been matched with the child.

The average gross earnings of both the mother or person with whom the child is, or is expected to be placed and their partner should be assessed and must be equal to or above the threshold (known as the lower earnings limit (£111 from April 2014)).

The earnings are averaged over a 13 week period from within the 66 week test period, the individuals can choose which 13 weeks are best for them, these may be separate or consecutive.

### **1.6 Continuity of employment test**

The mother or person with whom the child is, or is expected to be placed and their partner must have worked continuously for their employers for at least 26 weeks up to the 15<sup>th</sup> week before the expected week of childbirth (the qualifying week). Therefore shared parental leave is only available if both parents have worked for their employer for 40 weeks before the child's due date, or week in which notification of having been matched with the child was received in cases of adoption.

### **1.7 Entitlement (maximum period)**

The mother or person with whom the child is, or is expected to be placed is entitled to 52 weeks of maternity/adoption leave, and can switch part of this into shared parental leave and shared parental pay.

Of the 52 weeks, 2 weeks must be taken as 2 weeks maternity/adoption leave (4 weeks for manual workers), the remaining 50 weeks can be shared.

Shared parental pay is limited to 39 weeks (less any maternity or adoption leave taken),

the final 13 weeks are unpaid.

This does not affect the existing entitlement to 2 weeks basic paternity leave

Shared parental leave can be taken at any point within the 50 weeks following the mandatory 2 weeks maternity/adoption leave.

Sheffield City Council have decided to enhance shared parental pay in line with contractual maternity pay provisions rather than limit this to statutory pay.

Where an employee shares their leave with a partner who works for another organisation they should check that organisations policy in relation to shared parental pay.

### **1.8 Restrictions on taking shared parental leave**

It is up to parents to decide how they intend to share the parental leave, it can be taken in turns or they may choose to take time off together

- Shared parental leave must be taken in multiples of complete weeks
- It may be taken as one continuous period or in discontinuous blocks.
- The minimum period which can be taken is one week
- An employee may be absent on shared parental leave at the same time as their partner.
- Their combined leave must not exceed 52 weeks
- All shared parental leave must be taken by the child's 1<sup>st</sup> birthday

### **1.9 How to make an application to share leave with a partner**

Both parents have to notify their employer of their intention to opt in to the shared parental leave scheme by completing the application and leave notice form (see Appendix 1) at least 8 weeks before they want the shared parental leave to start, this form also serves as written notice to curtail their maternity/adoption leave and convert to shared parental leave, and book the period of leave requested

The manager/headteacher should set up a short meeting to discuss/confirm the arrangements, and ensure the employee understands who to do if their circumstances change or they would like to terminate or vary the arrangement. Although this discussion should be as informal as possible, employees may be accompanied by a workplace colleague, trade union representative, or partner.

Where a request is made for one continuous period of shared parental leave, the employee is entitled to that leave. Taking leave in discontinuous blocks requires manager/headteacher approval. Please refer to section 1.18 for details of how to manage requests for discontinuous blocks.

The outcome of the application will be notified to the employee in writing. (see Appendices for model outcome letters).

### **1.10 Notification/evidence requirements**

The written notice must include the name and national insurance number of both parents and set out how much maternity/adoption leave has already been taken, if any

as this will reduce the amount of shared parental leave available.

The notice should also set out the expected pattern of shared parental leave during this period.

If notice is given before the birth, the mother or person with whom the child is, or is expected to be placed can change their mind up to 6 weeks after the birth.

The manager/headteacher can request a copy of the child's birth certificate or evidence in the form of 1 or more documents issued by the adoption agency that matched the child, confirming the placement for adoption and the name and address of the partner's employer; this should be supplied within 14 days.

Where a birth certificate has yet to be issued, a declaration which confirms the date and location of the child's birth can be substituted (this still has to be submitted within 14 days of the employers request)

If the employer makes a request for evidence before the date of the birth, the parent can send a copy of the birth certificate or declaration within 14 days of the birth.

Where a headteacher/manager requests this information after the birth of the child, the employee must supply them with this information within 14 days beginning with the date on which that request was made.

### **1.11 Varying arrangements**

Employees can vary their period of shared parental leave for the following reasons

- Vary the start or end date of any period of shared parental leave (provided at least 8 weeks' notice is given before both the date varied and the new date)
- Request to change a single period of leave into discontinuous blocks of leave or vice versa
- Vary (including cancel) the amount of leave requested provided at least 8 weeks' notice is given before the leave is due to commence

A written notice to vary shared parental leave is required (see Appendix 2)

Employees can give up to 3 notices in total, although more may be permitted at the discretion of the manager/headteacher. This does not count notices withdrawn due to failure to agree discontinuous blocks of shared parental leave, those given where a child is born earlier or later than the expected week of childbirth or those given in response to a request from the employer that the employee vary their leave.

### **1.12 Change of circumstances**

If less than 8 weeks before a period of shared parental leave is due to start the employee informs their manager/headteacher that they no longer are entitled to shared parental leave, and it is not reasonably practicable for the change in circumstances to be accommodated the manager/headteacher may require them to take the leave.

This will be treated as shared parental leave and must start on the start date on which the shared parental leave was due to commence, and end no later than the end date on which the next period of shared parental leave was due to end, or 8 weeks after the

manager/headteacher was informed of the change in circumstances.

If after the mother has curtailed her maternity leave it becomes clear that neither parent is entitled to share parental leave or pay, the maternity leave has to end on the date she specified in the curtailment notice, the maternity pay or allowance period does not, however, end.

### **1.13 Revoking the curtailment of maternity leave**

If an employee chooses to revoke their curtailment of their maternity/adoption leave within the 6 weeks following the birth/placement of their child their maternity leave entitlement will revert back to the 52 weeks less any leave already taken. The entitlement to shared parental leave will cease immediately therefore the employees manager and payroll should be notified immediately.

Where an employee has already commenced shared parental leave and the curtailment notice is revoked the manager may require the employee to remain off work on unpaid leave for some or all of this period. The absence would be treated as Shared Parental Leave although there would be no entitlement to Shared Parental Pay from the point of revocation.

Where an employee has revoked the curtailment of their maternity/adoption leave this would not prevent them from curtailing the leave and opting for Shared Parental leave in the future.

### **1.14 Redundancy protections and right to return to work following a period of shared parental leave**

Employees who have taken shared parental leave have the right to return to the same job if the total leave taken is 26 weeks or less in aggregate, even if the leave is taken in discontinuous blocks.

Any subsequent leave (over 26 weeks) will attract the right to return to the same job, or if that is not reasonably practicable, a similar job.

If a redundancy situation arises during a period in which the employee is taking shared parental leave, they can be placed in the redundancy pool however where there is a suitable alternative vacancy they are entitled to be offered the post in priority over other employees in the same way as those employees on maternity/adoption leave would be.

For discontinuous shared parental leave the protected period is the block of leave and not the period in between separate blocks of discontinuous leave. Therefore the priority to offers of suitable alternative posts is only applicable where a notice of redundancy has been issued during a block of discontinuous leave.

### **1.15 Shared Parental Leave in touch (SPLit) days**

Each parent is entitled to up to 20 'shared parental leave in touch' (SPLit) days during shared parental leave (this is additional to the 10 days allowed during maternity and adoption leave).

There is no restriction on reasonable contact during a period of Shared Parental Leave

between the employer and the employee, this includes SPLit days and phone calls.

Employees will receive one day's pay at their contractual daily rate for each SPLit day, even if they only work for part of a day. Pension contributions will be payable for SPLit days.

### **1.16 Providing false information**

It is the employee's responsibility to ensure that the information provided on the shared parental leave declaration is accurate. Deliberately providing false information in relation to any shared parental leave notice is a breach of the Code of Conduct and would be dealt with under the disciplinary procedure.

### **1.17 Surrogacy**

Shared parental leave is also available to intended parents through surrogacy, the following points apply. Surrogate parents who meet the criteria to apply for a Parental Order will be eligible for statutory adoption leave and pay and shared parental leave and pay if they meet the qualifying criteria.

The right to maternity leave and pay for the birth mother in a surrogacy arrangement is unaffected by the leave and pay arrangements of the surrogate parents.

### **1.18 Requests to take leave in discontinuous blocks**

Where a notice is given to request discontinuous periods of shared parental leave the manager/Headteacher has two weeks in which to consider the request. The manager will take into account

- Important events/days planned
- Any challenging/busy periods coming up
- How the role will be covered
- Staffing issues during the period
- Customer impact in client facing roles
- The impact the leave arrangements will have on the business and how these could be mitigated
- Whether any modifications to the leave may reduce the impact on the business and whether the employee may be agreeable to this.

In the two weeks following the date the notice was given the manager/headteacher may

- Consent to the periods of leave requested;
- propose alternative dates for the periods of leave;
- refuse the periods of leave requested without proposing alternative dates;
- the employee may withdraw the notice.

Where the manager/headteacher agrees to the periods of leave requested in the notice or agrees with the employee alternative dates for the periods of leave, the employee is entitled to take the leave on the dates agreed.

Where two weeks after the notice was given no agreement has been reached and the employee has not withdrawn the notice, the employee is entitled to

- withdraw the notice, or

- take the total amount of leave requested in the notice as a continuous period of leave. Where this is the case the employee must choose a start date for that leave which is not less than 8 weeks from the date that the period of leave notice was given and must notify the employer within 5 days of the end of the 2 week period. If the employee does not choose a start date the leave must start on the start date of the first period of leave requested in the period of leave notice.

The outcome of the application will be notified to the employee in writing (see appendices for model outcome letters)

It may be the case that during the two week discussion period the partner's employer cannot agree the proposed discontinuous leave the employee can withdraw the booking notice at the end of the 2 weeks period (on the 15th day) without penalty, this does not count towards the cap of 3 notifications.

### **1.19 Appeal**

Any employee that has had discontinuous blocks of leave refused can appeal via the schools grievance procedure, where the request was refused by the headteacher this should be heard by governors.

### **1.20 Antenatal appointments**

There is a statutory right for fathers and partners of pregnant women to unpaid time off work to attend up to two ante-natal appointments. This also applies to intended parents of children born through surrogacy.

Individuals are not required to provide evidence of the pregnancy to qualify for time off.

Headteachers/managers cannot refuse such a request.

### **1.21 Employees with more than one job**

An employee with more than one job, even if this is with more than one employer is entitled to take Shared Parental leave with each employer.

An employee cannot still be on maternity or adoption leave with one employer and on Shared Parental leave with another. In order to be eligible for Shared Parental leave the maternity or adoption leave must be curtailed with all employers.

### **1.21 Sickness during period of Shared Parental Leave**

If an 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 the statutory shared parental pay when they are sick if eligible. Shared parental pay would recommence after the Statutory Sick Pay period ends. It should be noted that to be eligible for SSP during this period there are statutory minimum pay requirements for the preceding 8 weeks and the employee must be in 'gainful employment' as specified in social security legislation, therefore no SSP may be payable this would be reviewed on case by case basis.

## **1.22 Notifications to payroll**

Headteachers/managers should ensure that payroll are informed of any approved requests for shared parental leave/pay including any revocations and variations and SPLit days; and any curtailment of maternity/adoption leave.

## SECTION 3 Appendices

Appendix 1

### SHARED PARENTAL LEAVE SCHEME FORM

#### **Section A – Notice to end Maternity / Adoption Leave**

*To be filled in by the mother / primary adopter of a child*

I am writing to confirm that I intend to end my maternity / adoption leave on:

\_\_\_\_\_

Expected week of childbirth (EWC): \_\_\_\_\_

Or actual date of birth (if child already born): \_\_\_\_\_

Name:	Post title:
Employer/School/Service:	National Insurance No:
Signed:	Dated:

#### **Section B – Details of father / partner**

Name:	Post title:
Employer/School/Service:	National Insurance No:
Signed:	Dated:

#### **Section C – Notice of intention to access the shared parental leave scheme**

*To be filled in by both partners wishing to access shared parental leave*

Date maternity / adoption leave started	
Date statutory maternity / adoption pay started	

Date maternity / adoption leave will end / has ended	
Date statutory maternity / adoption pay will end / has ended	



I confirm that I satisfy the conditions for and am therefore entitled to shared parental leave, or where I do not already do so, I will satisfy the conditions before I take any shared parental leave. The information contained in the notice is accurate. I will immediately inform my employer if I cease to meet the conditions for entitlement to shared parental leave.

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Signed Partner 1

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Signed Partner 2

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Print Name

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Print Name

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Date

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Date



Proposed date shared parental pay entitlement will start	
Proposed date shared parental pay entitlement will end	

Revised dates shared parental leave and pay will start and end – if to be taken in discontinuous blocks

I confirm that I satisfy the conditions for and am therefore entitled to shared parental leave, or where I do not already do so, I will satisfy the conditions before I take any shared parental leave. The information contained in the notice is accurate. I will immediately inform my employer if I cease to meet the conditions for entitlement to shared parental leave.

\_\_\_\_\_  
Signed Partner 1

\_\_\_\_\_  
Signed Partner 2

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Model letter

**Agreement to request for Shared Parental Leave or agreed alternative**

**Date**

**Dear**

**Request for Shared Parental Leave**

Following receipt of your application and our meeting on (date).....  
The Governing Body has considered your request for shared parental leave.

#I am pleased to confirm that the School is able to accommodate your request.  
(\*mandatory for requests for single continuous block of leave)

OR (delete as appropriate)

#The School is unable to accommodate your original request for blocks of discontinuous leave. However, I am able to offer an alternative, which we have discussed, and which you have agreed will be suitable to you.

Your period(s) of shared parental leave will be:

Yours sincerely

Name  
Chair, Governing Body

Cc Headteacher  
Trade Union Representative  
Human Resources

**Model letter**

**Refusal of request for discontinuous blocks of shared parental leave**

**Date**

**Dear**

**Request for discontinuous blocks of shared parental leave**

Following receipt of your application and our meeting on (date).....

The Governing Body has considered your request for discontinuous blocks of shared parental leave.

I am sorry but the School is unable to accommodate your request for the following business reasons(s).

The reasons apply in the current circumstances because:

You are entitled to either withdraw your request or take the total amount of leave requested as a continuous period of leave, if you wish to do so please notify the school of the start date for that leave within 5 days, otherwise your shared parental leave will start on the start date of the first period of leave requested in your original period of leave notice.

Yours sincerely

Name  
Chair, Governing Body

Cc Headteacher  
Trade Union Representative  
Human Resources