



Engage MAT

Shared parental leave and shared statutory procedure

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Introduction and scope

This document outlines the shared parental leave and pay (SPL&P) statutory provision (set out as regulations contained in the Children’s and Families Act 2014). Shared parental leave and pay is one part of the family friendly provisions available to employees (see section 15 for other family friendly policies). The regulations are complex but have been designed to give parents the flexibility to choose how they share the care of their child in the first year after birth.

A shared parental leave process flowchart (G219a) and a Shared parental leave and pay audio presentation G219 is available on HR InfoSpace to help employees and Headteachers understand the process.

Shared parental leave (SPL) means that an eligible mother¹ can choose to bring her maternity or adoption leave to an end early and convert the balance of that leave into a period of shared parental leave. This can then be taken by either parent, as long as they meet the eligibility criteria. Both parents can take the leave at the same time or in succession. The policy applies to any child due to be born (including children born to parents through surrogacy) or placed for adoption on or after the 5 April 2015.

1. Equal opportunities

The Trust and CEO recognise their responsibilities under equality legislation, specifically the Equality Act 2010.

¹ Where ‘mother’ is referenced in this document it also applies to the primary parent in a same sex relationship, or the adoptive mother, or the mother (by parental order) through surrogacy.

The Trust and CEO expect employees to adhere to this policy in line with their obligations under equality legislation. Managers must ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age, gender, ethnicity, sexual orientation, disability, faith or religion, gender identity, pregnancy or marital status.

2. Entitlement

Leave: Eligible employees can share up to 50 weeks² of the 52 weeks leave available to the mother during maternity/adoption leave as shared parental leave. The entitlement to SPL will be minus any maternity or adoption leave already taken (excluding the compulsory two weeks detailed in footnote two below).

The 50 week leave and pay period runs from the end of the compulsory maternity leave or the end of the first two weeks of adoption leave, regardless of which partner is taking the leave. E.g. if the father starts his first shared parental leave period at week 26 of the 50 week entitlement, this is classed as week 26, not week one.

If both parents are taking leave at the same time then the amount of leave they are entitled to is reduced by the number of weeks that both parents have taken. E.g. if both parents take four weeks of shared parental leave together this will count as eight weeks from their total of 50 weeks (less any maternity/adoption/shared parental leave already taken).

A parent who takes SPL before they have taken paternity leave (where eligible) will lose their entitlement to paternity leave.

Employees who meet the eligibility criteria but have partners who do not qualify in their own right will still be able to opt into shared parental leave to give them more flexibility around the dates they take their leave. See the eligibility section for more details.

Pay: Eligible employees can share up to 37 weeks of the 39 weeks’ pay available to the mother during maternity/adoption leave as shared parental pay. The 37 week entitlement will be minus any maternity or adoption pay already received. This is paid at the lower rate of statutory maternity pay (SMP) known as statutory shared parental pay (ShPP) or 90% of the employee’s average weekly earnings, whichever is lower. For current SMP/ShPP rates please [visit gov.uk](http://visit.gov.uk). **NB.** SPL can be requested as either paid or unpaid and there is no need for paid SPL to be taken before unpaid SPL.

3. Eligibility

Leave: To qualify the employee must meet the criteria below:

Mother	Father
Share care of child with partner	Share care of child with partner

² Following the birth a mother must take a minimum of two weeks maternity leave - compulsory maternity leave. An adoptive mother is also required to take two weeks of adoption leave before accessing SPL but this does not have to be after the child is placed for adoption. Adoption leave and pay can start 14 days before the child is placed for adoption).

Be eligible for maternity leave or adoption leave	Mother must be eligible for maternity or adoption leave or pay or maternity allowance
Have stopped maternity or adoption leave or returned to work	Mother must have stopped maternity or adoption leave and/or pay or maternity allowance or returned to work
Continuity of employment test	
Have been employed continuously by current employer, for 26 weeks at the end of the 15 th week before expected week of childbirth (EWC) / matching date if adopting (known as the 'relevant week')	Have been employed continuously, by current employer, for 26 weeks at the end of the 15 th week before EWC / matching date if adopting (known as the 'relevant week')
Be employed by the same employer and still be employed the week before any period of SPL.	Be employed by the same employer and still be employed the week before any period of SPL.
Employment and earnings test	
Have a partner who has, during 66 weeks before baby is due: <ul style="list-style-type: none"> • been working, in Great Britain, for at least 26 wks (can be discontinuous) • earned at least £30 p/w (mat allowance threshold) on average in 13 of the 66 weeks 	Have a partner who has, during 66 weeks before baby is due: <ul style="list-style-type: none"> • been working in Great Britain, for at least 26 weeks (can be discontinuous) • earned at least £30 p/w (mat allowance threshold) on average in 13 of the 66 weeks

Pay: To qualify the employee must meet the criteria below:

Please note: Sometimes only one parent will be eligible for SPL or ShPP. For example a self-employed parent will not be entitled to SPL but they may still pass the employment and earnings test so their partner, if they are an employee, may still qualify.	
Mother	Father³
Share care of child with partner	Shared care of child with partner
Pass the continuity of employment test (above) and their partner must pass the employment and earnings test (above)	Pass the continuity of employment test and their partner must pass the employment and earnings test (above)
Be eligible for statutory maternity pay or maternity allowance or statutory adoption pay	Partner must be eligible for statutory maternity pay, maternity allowance or adoption pay.
Have stopped maternity or adoption pay or returned to work	Partner must have stopped maternity or adoption pay or returned to work
Intend to care for the child during each week shared parental pay is paid.	Intend to care for the child during each week shared parental pay is paid.
Earned average salary of the lower earnings limit for the 8 weeks prior to the 15 th week of EWC/ relevant week	Earned average salary of the lower earnings limit for the 8 weeks prior to the 15 th week of EWC/ relevant week

³ Where father is referenced in this document it also applies to the mother's partner (who will be sharing the care of the child), or the secondary parent in a same sex relationship, or the adoptive father, or the father (by parental order) through surrogacy.

4. Notifications

Where an employee is eligible and wants to take SPL they must give the school a number of notices to enable them to take SPL. These are:

- notice that they (or their partner) will bring their maternity or adoption leave and pay (where eligible) to an end early (para 2.1)
- notice of entitlement and intention to take shared parental leave and pay (where eligible) (para 2.2)
- intended dates of SPL (para 2.2)
- leave notification (section 3)

5.1 Stopping maternity/adoption leave and pay

The entitlement to SPL is created by the mother ending her maternity/adoption leave and pay (where eligible) before she has taken the full entitlement. The remaining period then becomes SPL. The mother can do this in two ways:

- give notice to return to work early. For teaching and support staff, under national conditions of service, this is 21 days' notice. Please see the relevant maternity scheme, on HR InfoSpace for further information.
- serve the school with a curtailment notice. The *Shared Parental Leave Notification of intention and entitlement – Mother/primary parent form (F219)* on HR InfoSpace can be used, stating the date on which they want their statutory maternity or adoption leave and pay (where eligible) to end. The curtailment notice will come into effect after eight weeks or at the date of chosen curtailment if later. The date chosen for the end of the maternity or adoption leave and pay must:
 - not be before the end of the two week compulsory maternity leave period following the birth of the child
 - be at least eight weeks after the date the notice is given to the employer
 - be at least one week before the date the maternity/adoption leave would otherwise have ended.

If the mother decides to return to work before the date at which she curtails her maternity leave this will not affect the number of weeks of SPL and pay to which she is entitled.

If the mother returns to work early from maternity/adoption leave and opts into SPL at a later date she will need to curtail her maternity/adoption pay period (as this will still be running) to access SPL.

The mother can give notice to end her maternity leave at a future date to allow the father to take shared parental leave whilst the mother is still on maternity/adoption leave.

Please note: Once a curtailment notice has been given, the decision to end maternity/adoption leave and pay early can only be revoked if:

- the planned end dates haven't already passed
- the mother hasn't already returned to work

AND one of the following must apply:

- if during the eight week notice period either parent stops being eligible for shared parental leave and/or pay
- the employee's partner has died
- if the notice was given before the birth, and the mother revokes her maternity leave curtailment notice in the six weeks following the birth. (This is not an option for adopters).

If the mother revokes her notice to end maternity/adoption leave early she will remain on maternity/adoption leave. Her entitlement to maternity/adoption leave is restored to a total of 52 weeks, even if her partner has already taken SPL.

If the mother revokes the curtailment notice in the six weeks following birth and the partner is on SPL during that time, the partner may be required to continue on SPL, until the eight weeks notice has passed or the period of SPL has come to an end, whichever is the earlier. However, this will be unpaid. Managers must ensure payroll are notified.

If a mother has revoked her notice to end maternity leave within six weeks of the birth she will be able to opt back into SPL at a later date, as long as it is with the same partner and she follows the process in section 2. Any SPL&P already taken will be deducted from the total entitlement.

An employee must inform their manager if they wish to revoke their maternity/adoption leave. Their manager must then inform payroll, via email, to ensure the employee is paid correctly.

5.2 Notification of entitlement and leave dates

Employees wanting to take SPL must give written notice of their entitlement and intention to take shared parental leave (or a declaration that the other parent has given notice to their employer if they are not eligible for SPL themselves) and their intended leave dates (these are not yet binding). '*Shared Parental leave Notification of intention and entitlement – mother/primary parent form (F219)*' or '*Shared parental leave Notification of intention and entitlement – father/secondary parent form (F219a)*' can be used on HR InfoSpace, depending on who you are. NB. Eight weeks' notice must be provided before the first period of leave begins.

5.2.1 *It is good practice for the employee and the Headteacher to have an informal discussion at this stage to be clear of expectations and intentions. This will help the Headteacher to get an idea of the type and pattern of leave an employee may want to take, giving them time to consider how to best accommodate the employee's intended leave. The Headteacher can also help the employee to understand what patterns of discontinuous leave will most likely to be agreed to. It is also good practice to allow the employee to be accompanied by a workplace colleague, trade union representative or a personal friend or family member, should they wish to be.*

Please note: If the employee ceases to become eligible for shared parental leave and/or pay, they must immediately notify the school. If the employee becomes eligible again, they will have to resubmit their entitlement form (see section 2.2 above).

Where there is less than 8 weeks before a period of SPL and an employee is no longer eligible for SPL (and pay where applicable), the school can still require them to take or continue taking SPL. This must end when:

- the manager can accommodate the employee's return to work **OR**
- the period of SPL was due to end anyway **OR**
- 8 weeks after the manager was informed of the change in circumstances

whichever is earlier.

5.2.2 *Once the notification has been received the Headteacher can ask the employee for a copy of the child's birth certificate or a /matching certificate for a couple who are adopting (or if the child is not yet born the birth certificate should be provided as soon as is reasonably possible) and the name and address of the employee's partner's employer. The Headteacher has 14 days, from the date they are notified of the entitlement to take the leave, in which to do this. The Headteacher can then decide to write to the partner's employer asking for verification of their employment. This is not a legal requirement and whatever decision is made will need to be applied consistently. NB. the partner is obliged to provide this information (if asked), within 14 days of being asked. The partner's employer is not obliged to respond if the school contacts them.*

5. Leave notifications

A leave notification is defined as a request for a period of leave or a request to change an already booked period of leave (leave variation notice). A leave notification can be for a continuous or discontinuous block and employees are entitled to request a maximum of three blocks of leave or variations to blocks of leave. *Further requests can be agreed by the Headteacher* but the Headteacher is not obliged to do this by law. Any notifications for leave or variations to leave require the employee to give the school at least eight weeks' notice and once given are binding, unless a leave variation notice is given. Leave must be taken in multiples of complete weeks and the minimum period of shared parental leave is one week. *Shared parental leave - Leave or variation to leave request form (F219b)* on HR InfoSpace can be used.

A request for leave is discounted as one of the three allowed if:

- the request is given as a variation of leave if the child is born early or later than expected
- if given in response to a request from the Headteacher to vary the leave request submitted
- the employee withdraws their request on or before the 15th day of the original request made

6.1 Continuous and discontinuous blocks of leave

Employees can request to take the leave in continuous or discontinuous blocks⁴.

6.1.1 The Headteacher must by law agree to a request from an employee for a continuous block of leave. The Headteacher could propose an alternative pattern of leave but there is no legal requirement for the employee to agree. If the employee does not agree they must be allowed to take the continuous block of leave as they originally requested.

6.1.2 If a discontinuous leave request is received the Headteacher can:

- accept the request
- refuse the request but propose a new pattern of leave
- refuse the request

The Headteacher has the right to turn down a request for discontinuous blocks of leave. The request should be carefully considered and if the only option is to refuse the request this should be for valid business reasons. If there is no clear reason for the refusal a potential discrimination claim e.g. sex discrimination could be brought against the school.

Please note: Employees can withdraw a discontinuous leave request up to the 15th day from the notification, as long as it has not already been agreed. This provision is essential when two parents might be applying for a complementary period of leave at the same time and one may be refused. *Employees are not entitled to withdraw a continuous leave request but may do so if the Headteacher agrees.*

⁴A continuous block is one request for an uninterrupted block of leave e.g. 10 weeks off work on SPL and then return to work. A discontinuous block is one request for separate blocks of SPL e.g. 2 weeks on SPL, 2 weeks at work, 3 weeks on SPL etc.

Please note: Default provisions

If the Headteacher refuses the request the employee has several options:

- Within 15 days of the original notification the employee can withdraw their request. This would not count towards one of their three leave requests.
- If the employee does not withdraw their request the discontinuous leave notification automatically defaults to a period of continuous leave which the employee can choose will either:
 - start on the day of the original discontinuous leave notification (default position) or;
 - start on a new date. The employee has 19 days from the original notification to specify a date. This cannot start sooner than eight weeks from the date the original notification was given. If no date is chosen the default position above applies.
- Change the original pattern of leave to a period mutually agreed by both parties. This does not count as a further leave notification.

6. Shared parental leave in touch days (SPLIT days)

During SPL an employee and the school will be able to agree up to 20 SPLIT days. There is no obligation on the school to offer these days or for an employee to agree to them. SPLIT days can be used in situations where both parties feel it would be beneficial for the employee to attend a work-related activity e.g. work activities, training, INSET day or to work part of a week to help the employee return to work gradually. These 20 SPLIT days are in addition to the ten KIT days the mother is entitled to when she is on maternity leave.

Employees who attend a SPLIT day will be paid their contractual pay for that day and any ShPP entitlement for that week will be offset against the employee's actual earnings. Working for part of a day will count as one day's work. Completion of a SPLIT Day Claim Form is required. SPLIT day claim form (F219c) on HR InfoSpace can be used.

Reasonable contact with the employee whilst they are on SPL is advised. It will help to keep the employee up to date on changes in the workplace and the Headteacher/Principal on changes to personal circumstances that can help ease the employee's return to work. The school has legal obligations to the employee while they are away from work and therefore should keep the employee informed about everyday issues e.g. staffing changes or job opportunities.

7. When the child is born early

Where an employee has given notice to book a period of SPL to start within 8 weeks of the child's expected week of birth and the child is born early, the parent may take the leave and pay that they have booked after the actual birth if they wish. They need to give the Headteacher a notice to vary the shared parental leave and pay that they originally applied for as soon as practicable following the birth. Unlike other variation notices, this would not count as one of the employee's three notifications.

This arrangement does not apply to SPL that was booked for a period starting after 8 weeks after the birth; or to any change in the number of weeks of leave or pay booked. Any changes to such leave or pay would be subject to the notice variation process.

8. Entitlement if a parent or child dies

In the event of the child or one of the parents dying the employee, or school, should contact Educator Solutions HR Services (01603 307760 or HRenquiry@educatorsolutions.org.uk) for advice.

9. Returning to work after SPL

Employees are entitled to return to the job they left if they have taken 26 weeks or less (in aggregate) shared parental leave and maternity/adoption leave. If they have taken more than this they are entitled to return to the job they left or if not reasonably practicable, they are entitled to return to a suitable alternative role. Either way, employees are entitled to return on terms and conditions no less favourable than those that would have applied to the job they had if they had not been absent.

Headteachers will need to inform their payroll provider when an employee's shared parental leave ends for good (i.e. not each time they return from a period of SPL), even if they are not returning to work straight away e.g. due to being on sick leave or annual leave. For customers of NCC payroll services, this can be done by email and will ensure the employee is paid correctly.

Customers whose payroll provide is Norfolk County Council can do this by email. It will ensure the employee is paid correctly.

Schools: Hrschoolspayroll@norfolk.gov.uk

Academies: hrcceexternals@norfolk.gov.uk

Please include the date of return from maternity leave and if there are any changes e.g. changes to hours.

Please include the date of return from shared parental leave and if there are any changes e.g. changes to hours

10.1 Returning to work on a part time basis after SPL

The employee may wish to return to work part time or adjust their working hours on their return from shared parental leave. There is no automatic right to allow this but the employee does have the right to request it. *Flexible working guidance (G204)* on HR InfoSpace provides advice on this.

10. Contractual status whilst on shared parental leave

An employee's contractual benefits and status will mirror those of an employee taking maternity or adoption leave.

11. Annual leave whilst on shared parental leave

Employees continue to accrue their statutory and contractual holiday entitlement during shared parental leave.

12. Pension contributions

Local Government Pension Scheme members: contributions will be deducted on all payments made to the employee. Pensionable pay, for calculating LGPS pensions, during periods of paid shared parental leave is assumed to be equal to average pay before the leave commenced. During unpaid shared parental leave, the employee will have the option of making up the "lost" pension contributions. An

option form will be sent to employees by the HR Shared Service Centre if they are going to be in a period of unpaid shared parental leave.

Teachers' Pension scheme members: contributions will be payable on payments made to the employee in the form of shared parental pay (ShPP). Service will be counted as reckonable for pension purposes during any paid employment. Service will not count for pension during unpaid adoption/maternity leave. The employee should contact Teachers' Pensions direct if they wish to make voluntary contributions during their period of unpaid shared parental leave or if they require guidance regarding this matter.

13. Sickness during shared parental leave

If an employee is sick during shared parental leave and it prevents them from being able to look after their child, their entitlement to shared parental leave and/or pay will cease and they should contact Educator Solutions HR Services regarding pay arrangements as normal sickness entitlements will apply, where eligible. This will only be the case where the employee is genuinely not able to take care of their child e.g. hospitalisation.

14. Redundancy during shared parental leave

Employees have the same redundancy rights as they would if they were on maternity or adoption leave.

15. More than one job

If a mother has more than one job (with two or more different employers) she must stop her maternity/adoption leave and pay in both jobs to enable her and/or her partner to access shared parental leave. She cannot claim maternity leave/pay in one job and shared parental leave/pay in the other. The maximum amount of shared parental leave/pay available to her is calculated on the latest date she returned to work (i.e. whichever job they returned to last) or the latest date she stopped her maternity/adoption leave/pay.

16. Protection from detriment and unfair dismissal

An employee is protected from suffering a detriment due to the fact that:

- They took, sought to take, or made use of the benefits for SPL
- The employer believed that the employee was likely to take SPL
- The employee undertook, considered undertaking or refused to undertake a SPLIT day

17. Abuse of the shared parental leave scheme

Any abuse, including fraudulently claiming leave and/or pay, of the shared parental leave scheme will be treated as misconduct in accordance with the school's disciplinary policy.

18. Data Protection

When managing an employee's shared parental leave and pay, the school processes personal data collected in accordance with its data protection policy. Data collected from the point at which an employee informs the organisation that they plan to take shared parental leave is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their shared parental leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's data protection policy immediately. It may

also constitute a disciplinary offence, which will be dealt with under the Trust disciplinary procedure.

19. Additional relevant documents

SPL

- Shared parental leave Notification of intention and entitlement - mother/primary parent form (F219)
- Shared parental leave Notification of intention and entitlement - father/secondary parent form (F219a)
- Shared parental leave - Leave and variation to leave requests form (F219b)
- Shared parental leave in touch (SPLIT) day claim form (F219c)
- Shared parental leave process flowchart (G219a)

Flexible working

- Flexible working policy and procedure (G204)

Other family friendly model policies

- Maternity scheme – teaching staff (P208b)
- Maternity scheme – support staff (P208c)
- Adoption scheme – teaching staff (P208a)
- Adoption scheme – support staff (P208d)
- Paternity procedure – teaching and support staff (P208e)
- Surrogacy procedure – teaching and support staff (P208f)
- Leave and time off policy - includes parental leave (P201)

Disciplinary

- Employee discipline guidelines on conduct for employees (G303c)

Appendix 1 – Table of changes

Date of change	Paragraphs affected	Summary of update
07/12/2018		Updated to ensure the policy is fit for MAT's as well as schools. Changes reflect terminology and MAT structure and set up.
11/05/2018	19	New para added to take account of the General data protection regulations in force from 25 May 2018.
01/03/2017	All	New formatting due to launch of new HR website, HR InfoSpace – no change to content