



# Hemingford Grey SCHOOL

## **Shared Parental Leave (Birth) Policy**

Date policy was last reviewed and approved:
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<b>JULY 2017</b>
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## **Shared Parental Leave (Birth) Policy**

This policy does not form part of any employee's contract of employment and is not intended to have contractual effect. Subject to minimum statutory requirements from time to time in force, the School reserves the right to vary and amend this policy and any procedure under it at any time and will notify all employees of the details of the change as soon as is reasonably practicable.

### **ELIGIBILITY FOR SHARED PARENTAL LEAVE (SPL)**

Eligible employees are able to make arrangements for shared parental leave and pay in relation to the birth of a child. This policy applies to employees. It does not apply to agency workers or self-employed contractors.

### **FREQUENTLY USED TERMS**

The definitions in this paragraph apply in this policy.

- Expected week of childbirth (EWC): the week, beginning on a Sunday, in which the doctor or midwife expects the child to be born.
- Parent: One of two people who will share the main responsibility for the child's upbringing (and who may be either the mother, the father, or the mother's partner if not the father).
- Partner: spouse, civil partner or someone living with another person in an enduring family relationship, but not a sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.
- Qualifying Week: the fifteenth week before the expected week of childbirth.

### **WHAT IS SHARED PARENTAL LEAVE?**

Shared parental leave (SPL) is a form of leave available to working parents following the birth of a child. It applies in respect of children who are expected to be born on or after 5 April 2015.

SPL allows parents to take up to 52 weeks leave in total on the birth of a child. They may be able to take this leave at the same time or at different times.

## **ENTITLEMENT TO SPL**

Employees are entitled to SPL in relation to the birth of a child if:

- they are the child's mother, and share the main responsibility for the care of the child with the child's father (or your partner, if the father is not your partner);
- they are the child's father and share the main responsibility for the care of the child with the child's mother; or
- they are the mother's partner and share the main responsibility for the care of the child with the mother (where the child's father does not share the main responsibility with the mother).
- The total amount of SPL available is 52 weeks, less the weeks spent by the child's mother on maternity leave (or the weeks in which the mother has been in receipt of SMP or MA if she is not entitled to maternity leave).
- The mother cannot start SPL until after the compulsory maternity leave period, which lasts until two weeks after birth.

### **The following conditions must also be fulfilled:**

(a) employees must have at least 26 weeks continuous employment with the school by the end of the Qualifying Week, and still be employed by the school in the week before the leave is to be taken;

(b) the other parent must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the EWC and had average weekly earnings of at least £30 during 13 of those weeks; and

(c) both parents must give the necessary statutory notices and declarations, including notice to end any maternity leave, statutory maternity pay (SMP) or maternity allowance (MA) periods.

## **COMPULSORY MATERNITY LEAVE**

The mother cannot end her maternity leave (and therefore cannot take SPL) during the compulsory maternity leave period, which is two weeks in most cases.

## **RELATIONSHIP WITH PATERNITY LEAVE**

The child's father or the mother's partner, should consider using their two weeks' paternity leave before taking SPL. Once SPL is started they will lose any untaken paternity leave entitlement. SPL entitlement is additional to the paternity leave entitlement. An employee who intends to take paternity leave must take it in the first 8 weeks after childbirth otherwise it will be lost. An employee will lose any untaken paternity leave entitlement as soon as they have started a period of SPL. It is advisable for an employee to take paternity leave first rather than going straight onto SPL. Unlike maternity leave, time spent on paternity leave does not reduce the amount of SPL available.

## **OPTING IN TO SHARED PARENTAL LEAVE AND PAY**

Not less than eight weeks before the date an employee intends SPL to start, an employee must give the school a written opt-in notice giving:

- their name and the name of the other parent;
- if they are the child's mother, the start and end dates of their maternity leave;
- if they are the child's father or the mother's partner, the start and end dates of the mother's maternity leave, or if she is not entitled to maternity leave, the start and end dates of any SMP or MA period;
- the total SPL available, which is 52 weeks minus the number of weeks' maternity leave, SMP or MA period taken or to be taken;
- how much of that will be allocated to them and how much to the other parent. (they can change the allocation by giving the school a further written notice, and they do not have to use their full allocation);
- if they are claiming statutory shared parental pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of the SMP or MA period taken or to be taken);
- how much of that will be allocated to them and how much to the other parent. (they can change the allocation by giving the school a further written notice, and they do not have to use their full allocation);
- an indication of the pattern of leave they are thinking of taking, including suggested start and end dates for each period of leave. This indication will not be

binding at this stage, but employees will be required to give as much information as they can about their future intentions; and

- declarations by both parents that they meet the statutory conditions for entitlement to SPL and ShPP.

## **ENDING MATERNITY LEAVE**

If the child's mother is still on maternity leave, they must give us at least eight weeks' written notice to end their maternity leave (a curtailment notice) before they can take SPL. The notice must state the date that maternity leave will end. They can give the notice before or after they give birth, but they cannot end their maternity leave until at least two weeks after birth.

They must also give the school, at the same time as the curtailment notice, a notice to opt into the SPL scheme or a written declaration that the child's father or the mother's partner has given his or her employer an opt-in notice and that they have given the necessary declarations in that notice.

The other parent may be eligible to take SPL from their employer before maternity leave ends, provided they have given the curtailment notice.

The curtailment notice will be binding and cannot be revoked. A curtailment notice can only be revoked if one of the following applies:

- if the employee realises that neither parent are in fact eligible for SPL or ShPP, they can revoke the curtailment notice in writing up to eight weeks after it was given;
- if the employee gave the curtailment notice before giving birth, they can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or
- if the other parent has died.

Once revoked, a second curtailment notice cannot be submitted unless the revocation was given in the in circumstances listed above.

If the employee is the child's father or the mother's partner, they will only be able to take SPL once the mother has either:

- returned to work;
- given her employer a curtailment notice to end her maternity leave;

- given her employer a curtailment notice to end her SMP (if she is entitled to SMP but not maternity leave); or
- given a curtailment notice to the benefits office to end her MA (if she is not entitled to maternity leave or SMP).

## **EVIDENCE OF ENTITLEMENT**

You must also provide on request:

- (a) A copy of the birth certificate; and
- (b) The name and address of the other parent's employer (or a declaration that they have no employer).

## **NOTIFYING THE SCHOOL OF THE SPL DATES**

Having opted into the SPL system the employee will need to give a period of leave notice informing the school of the start and end dates of their leave. This can be given at the same time as the opt-in notice, or it can be given later, as long as it is given at least eight weeks before the start of the leave. The employee must also state in their period of leave notice the dates on which they intend to claim shared parental pay, if applicable.

If the period of leave notice gives dates for a single continuous block of SPL the employee will be entitled to take the leave set out in the notice.

Employees can give up to three period of leave notices. This may enable employees to take up to three separate blocks of shared parental leave.

## **PROCEDURE FOR REQUESTING SPLIT PERIODS OF SPL**

In general, a period of leave notice should set out a single continuous block of leave. The School may, in some cases, be willing to consider a period of leave notice where the SPL is split into shorter periods (of at least a week) with periods of work in between. It is best to discuss this with the Headteacher in advance of submitting any formal period of leave notices. This will need to be discussed before submitting any formal leave notices to allow the school time to consider the request and hopefully agree a pattern of leave with the employee from the start.

Employees must submit a period of leave notice setting out the requested pattern of leave at least eight weeks before the requested start date. If the school are unable to agree to the employees request straight away, there will be a two-week discussion

period. At the end of that period, the school will confirm any agreed arrangements in writing. If the school have not reached an agreement, the employee will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in their notice.

Alternatively, employees may:

- choose a new start date (which must be at least eight weeks after their original period of leave notice was given), and tell the school within five days of the end of the two-week discussion period; or
- withdraw their period of leave notice within two days of the end of the two-week discussion period (in which case it will not be counted and the employee may submit a new one if they choose).

### **CHANGING THE DATES OR CANCELLING THE SPL**

An employee can cancel a period of leave by notifying the school in writing at least eight weeks before the start date in the period of leave notice.

An employee can change the dates for a period of leave by giving the school at least eight weeks' notice before the original start date and the new start date.

An employee does not need to give eight weeks' notice if they are changing the dates of their SPL because their child has been born earlier than the EWC, where the employee wanted to start their SPL a certain length of time (but not more than eight weeks) after birth. In such cases the school should be notified in writing of the change as soon as possible.

A notice to cancel or change a period of leave will count as one of the three period of leave notices, unless:

- the variation is a result of the child being born earlier or later than the EWC;
- the variation is at the school's request; or
- the school agrees otherwise.

### **SHARED PARENTAL PAY (ShPP)**

ShPP of up to 39 weeks (less any weeks of statutory maternity pay or adoption pay claimed by the employee or the other parent) may be available provided they have at least 26 weeks' continuous employment with the school at the end of the Qualifying

Week and their average earnings are not less than the lower earnings limit set by the government each tax year. ShPP is paid at a rate set by the government each year.

[You will qualify for enhanced shared parental pay if you have been continuously employed during the [12]-month period ending with the Qualifying Week [and did not take any maternity, adoption or shared parental leave during the [12] months ending with the Qualifying Week].]

11.3 [Enhanced shared parental pay is paid at the full rate of your normal basic salary for the first [NUMBER] months of your SPL [and at half basic salary for the next [NUMBER] months of SPL] and includes any ShPP that may be due for that period. Any enhanced maternity or paternity pay you have received will be treated as enhanced shared parental pay when calculating your entitlement.]

11.4 [Payment of enhanced shared parental pay is conditional upon you confirming in writing, before starting SPL, that you intend to return to work for at least [six] months after the end your SPL. If you later decide not to return to work for this minimum period, you must repay any enhanced shared parental pay (but not ShPP).]

## **OTHER TERMS DURING SHARED PARENTAL LEAVE**

This paragraph replicates an employee's statutory entitlement to the benefit of terms and conditions of employment during shared parental leave.

### **Annual leave and pensions**

An employee's terms and conditions of employment remain in force during SPL, except for the terms relating to pay.

Annual leave entitlement cannot usually be carried over from one holiday year to the next and employees are normally required to take their holiday entitlement within the holiday year in which it accrues or forfeit any accrued but untaken holiday entitlement at the end of the holiday year.

However, the School recognises that this may operate in such a way as to unfairly disadvantage employees who elect to take the maximum statutory entitlement to maternity leave. As such, special exceptions apply in the case of maternity leave.

The Headteacher will usually hold an informal meeting to discuss the best way to manage the employee's holiday entitlement during their proposed period of SPL as soon as possible after notification of the intended start date. The options the School will consider may include:



- Arrangement to take the period of holiday entitlement that the employee would have accrued but been unable to take during that holiday year by reason of proposed SPL prior to the commencement of SPL or Maternity Leave;
- Arrangement to allow for an exceptional carry-over of such holiday entitlement to the following year to be taken at such time or times as the School's operational needs and requirements dictate;
- Discussion regarding the possibility of changing the intended start date of the SPL or Maternity Leave voluntarily to enable the employee to take their holiday entitlement prior to commencing maternity leave. If the employee wishes to choose this option, they will be required to submit notification of intention to delay the start of their SPL or Maternity Leave as above within 28 days of the originally intended start date;
- Discussion regarding the possibility of changing their intended SPL or Maternity Leave dates, voluntarily, by substituting days of AML which are unremunerated for holiday days which will be paid at their normal rate of pay. If they wish to choose this option, they will be required to submit notification of intention to alter their intended return date.

The School must in considering the alternatives with the employee have regard to its operational requirements, needs and demands throughout the academic term to ensure that a mutually satisfactory arrangement can be reached.

If the employee is a member of the Local Government **OR** Teacher's Pension Scheme the school will make employer pension contributions during any period of paid SPL, based on the employee's normal salary, in accordance with the pension scheme rules. Any employee contributions made will be based on the amount of any shared parental pay that is being received, unless the employee informs the Pensions Administrator that they wish to make up any shortfall.

### **KEEPING IN TOUCH**

The SPL Regulations allow the school to make "reasonable contact" with the employee from time to time during shared parental leave.

The school may make reasonable contact with the employee from time to time during their SPL, although the school will keep this to a minimum. This may include contacting the employee to discuss arrangements for their return to work.

The employee may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days (KIT days) during their SPL. This is in addition to any KIT days

that they may have taken during maternity leave. KIT days are not compulsory and must be discussed and agreed with Headteacher

The employee will be paid at their normal basic rate of pay for time spent working on a KIT day and this will be inclusive of any shared parental pay entitlement. [Alternatively, they may agree with the Headteacher to receive the equivalent paid time off in lieu.]

## **RETURNING TO WORK**

If the employee wants to end a period of SPL early, they must give the school eight weeks' prior notice of the return date. This notice should be in writing.

If the employee wants to extend their SPL they must submit a new period of leave notice at least eight weeks before the date they were due to return to work, assuming they still have SPL entitlement remaining and have not already submitted three period of leave notices. If they are unable to request more SPL they may be able to request ordinary parental leave, which will be subject to the school's need.

Employees are normally entitled to return to work in the position they held before starting SPL, and on the same terms of employment. However, if it is not reasonably practicable for the school to allow them to return into the same position, the school may give them another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances:

- if the employee's SPL and any maternity or paternity leave taken adds up to more than 26 weeks in total (whether or not taken consecutively); or
- if the employee took SPL consecutively with more than four weeks of ordinary parental leave.

If the employee wants to change their hours or other working arrangements on return from SPL they should make a request under the school's Flexible Working Policy. It is helpful if such requests are made as early as possible.

If the employee decides they do not want to return to work they should give notice of resignation in accordance with their contract.

