

**Honiton Community College  
Academy Trust**



This policy was adopted by the Governing Body of  
Honiton Community College Academy Trust  
on 31<sup>st</sup> March 2021  
and will be reviewed every 3 years.

# SHARED PARENTAL LEAVE (BIRTH) POLICY

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## **Introduction**

This policy outlines the arrangements for shared parental leave and pay in relation to the birth of a child. If you or your partner are pregnant or have given birth adopting a child please see the Shared Parental Leave (Adoption) Policy instead.

This policy applies to employees. It does not apply to agency workers or self-employed contractors.

This policy does not form part of any employee's contract of employment and we may amend it at any time.

The Resources Committee has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The Resources Committee ensures the policy's maintenance and review and has delegated to the Principal day-to-day responsibility for operating the policy.

Managers have a specific responsibility to ensure the fair application of this policy and all members of staff are responsible for supporting colleagues and ensuring its success.

## **Definitions**

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 your 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:** your spouse, civil partner or someone living with you in an enduring family relationship, but not your sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.

**Qualifying Week:** the fifteenth week before the EWC.

## **What is shared parental leave?**

Shared parental leave (SPL) is a form of leave that may be available if your child is expected to be born on or after 5 April 2015.

It gives you and your partner more flexibility in how to share the care of your child in the first year after birth than simply taking maternity and paternity leave. Assuming you are both eligible, you will be able to choose how to split the available leave between you, and can decide to be off work at the same time or at different times. You may be able to take leave in more than one block.

## **Entitlement to SPL**

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

- a) you 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);
- b) you are the child's father and share the main responsibility for the care of the child with the child's mother; or
- c) you 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 following conditions must also be fulfilled:

- a) you must have at least 26 weeks continuous employment with us by the end of the Qualifying Week, and still be employed by us 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) you and the other parent must give the necessary statutory notices and declarations as summarised below, including notice to end any maternity leave, statutory maternity pay (SMP) or maternity allowance (MA) periods.

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).

If you are the mother you cannot start SPL until after the compulsory maternity leave period, which lasts until two weeks after birth.

If you are the child's father or the mother's partner, you should consider using your two weeks' paternity leave before taking SPL. Once you start SPL you will lose any untaken paternity leave entitlement. SPL entitlement is additional to your paternity leave entitlement.

### **Opting in to shared parental leave and pay**

Not less than eight weeks before the date you intend your SPL to start, you must give us a written opt-in notice giving:

- a) your name and the name of the other parent;
- b) if you are the child's mother, the start and end dates of your maternity leave;
- c) if you 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;
- d) the total SPL available, which is 52 weeks minus the number of weeks' maternity leave, SMP or MA period taken or to be taken;
- e) how many weeks of the available SPL will be allocated to you and how many to the other parent (you can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- f) if you 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);
- g) how many weeks of available ShPP will be allocated to you and how much to the other parent. (You can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- h) an indication of the pattern of leave you 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 please give as much information as you can about your future intentions; and
- i) declarations by you and the other parent that you both meet the statutory conditions to enable you to take SPL and ShPP.

## **Ending your maternity leave**

If you are the child's mother and want to opt into the SPL scheme, you must give us at least eight weeks' written notice to end your maternity leave (a curtailment notice) before you can take SPL. The notice must state the date your maternity leave will end. You can give the notice before or after you give birth, but you cannot end your maternity leave until at least two weeks after birth.

You must also give us, at the same time as the curtailment notice, a notice to opt into the SPL scheme or a written declaration that the other parent has given their employer an opt-in notice and that you have given the necessary declarations in that notice.

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

The curtailment notice is binding and cannot usually be revoked. You can only revoke a curtailment notice if maternity leave has not yet ended and one of the following applies:

- a) if you realise that neither you nor the other parent are in fact eligible for SPL or ShPP, in which case you can revoke the curtailment notice in writing up to eight weeks after it was given;
- b) if you gave the curtailment notice before giving birth, you can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or
- c) if the other parent has died.

Once you have revoked a curtailment notice you will be unable to opt back into the SPL scheme, unless you revoked it in the circumstances above.

## **Ending your partner's maternity leave or pay**

If you are not the mother, and she is still on maternity leave or claiming SMP or MA, you will only be able to take SPL once she has either:

- a) returned to work;
- b) given her employer a curtailment notice to end her maternity leave;
- c) given her employer a curtailment notice to end her SMP (if she is entitled to SMP but not maternity leave); or
- d) given the benefits office a curtailment notice 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 (or if you have not yet obtained a birth certificate, a signed declaration of the child's date and place of birth); and
- b) The name and address of the other parent's employer (or a declaration that they have no employer).

## **Booking your SPL dates**

Having opted into the SPL system you will need to give a period of leave notice telling us the start and end dates of your leave. This can be given at the same time as your opt-in notice, or it can be given later, as long as it is given at least eight weeks before the start of your leave. You must also state in your period of leave notice the dates on which you intend to claim ShPP, if applicable.

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

You can give up to three period of leave notices. This may enable you to take up to three separate blocks of SPL (although if you give a notice to vary or cancel a period of leave this will in most cases count as a further period of leave notice) .

## **Procedure for requesting split periods of SPL**

In general, a period of leave notice should set out a single continuous block of leave. We 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 **Line Manager** in good time before formally submitting your period of leave notice. This will give us more time to consider the request and hopefully agree a pattern of leave with you from the start.

You must submit a period of leave notice setting out the requested pattern of leave at least eight weeks before the requested start date. If we are unable to agree to your request straight away, there will be a two-week discussion period. At the end of that period, we will confirm any agreed arrangements in writing. If we have not reached an agreement, you will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in your notice (for example, if you requested three separate

periods of four weeks each, they will be combined into one 12-week period of leave). Alternatively, you may:

- a) choose a new start date (which must be at least eight weeks after your original period of leave notice was given), and tell us within five days of the end of the two-week discussion period; or
- b) withdraw your 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 you may submit a new one if you choose).

### **Changing the dates or cancelling your SPL**

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

You can change the start date for a period of leave, or the length of the leave, by notifying us in writing at least eight weeks before the original start date and the new start date.

You do not need to give eight weeks' notice if you are changing the dates of your SPL because your child has been born earlier than the EWC, where you wanted to start your SPL a certain length of time (but not more than eight weeks) after birth. In such cases please notify us in writing of the change as soon as you can.

You can change the end date for a period of leave by notifying us in writing at least eight weeks before the original end date and the new end date.

You can combine split periods of leave into a single continuous period of leave by notifying us in writing at least eight weeks before the start date of the first period.

You can request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between. We will consider any such request as set out.

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

- a) the variation is a result of your child being born earlier or later than the EWC;
- b) the variation is at our request; or
- c) we agree otherwise.



## **Shared parental pay**

You may be able to claim Statutory Shared Parental Pay (ShPP) of up to 39 weeks (less any weeks of SMP or MA claimed by you or your partner) if you have at least 26 weeks' continuous employment with us at the end of the Qualifying Week and your average earnings are not less than the lower earnings limit set by the government each tax year. ShPP is paid by employers at a rate set by the government each year.

## **Other terms during shared parental leave**

Your terms and conditions of employment remain in force during SPL, except for the terms relating to pay.

Annual leave will accrue at the rate provided under your contract. Annual leave cannot usually be carried over from one holiday year to the next. If the holiday year is due to end during SPL, you should ensure that you have taken the full year's entitlement before starting your SPL.

### Teachers only:

Your leave year, for the purpose of establishing annual leave entitlement whilst on SPL is 1 September to 31 August.

Your statutory holiday entitlement is not an additional entitlement to annual leave on top of the current school closure arrangements.

Whilst you are on SPL you are entitled to your statutory holiday under the Working Time Regulations. You shall not accrue holiday above your entitlement under the Working Time Regulations 1998. Annual leave entitlement will be offset against any period of school closure that has taken place in the leave year in question i.e. both before and after your SPL period.

On return from SPL, you are permitted to take any outstanding leave during term time during that leave year if there are insufficient school closures to accommodate your holiday in that leave year. Where your return from SPL is so close to the end of the leave year that there is not enough time to take your entire holiday entitlement, you will be permitted to carry over any balance of outstanding holiday to the following leave year. You can be required to take this during the remaining periods of school closure after the statutory holiday for that leave year has been accommodated.

You will not be entitled to a payment in lieu of untaken annual leave. However, payment in lieu may be necessary, if you decide not to return to your job following your SPL. Payment will be made in accordance with the Working Time Regulations and will not be pensionable.

## Public and extra statutory holiday entitlement during shared parental leave (not applicable to teachers)

### Full time employees:

You will accrue holiday entitlement for any public holidays which fall within your SPL, with substitute paid leave being provided at another time.

### Part time employees:

You will accrue pro-rata holiday entitlement for any public holidays which fall within your SPL, and will be given substitute paid leave at another time.

### Term time employees:

You are entitled to a substitute day of paid leave where a public holiday/statutory holiday falls during term time during your SPL period.

Substitute days of leave may be taken immediately following the end of the period of SPL. Alternatively, any substitute days of leave may be added to the leave entitlement to be taken upon the return to work.

## **Pensions**

### Teachers

During a period of paid SPL, pension contributions will be paid and deducted from your pay in the usual manner. Your contributions will be based on the pay you get while absent. Any unpaid period of SPL will not be pensionable/reckonable.

If you require any further information you should contact Teachers Pensions on 0845 6066166 and ask for a fact sheet. Alternatively this information is available from their website: [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk).

### All other staff:

During any period of paid SPL, if you are a member of the Local Government Pension Scheme, you will pay basic pension contributions on the pay actually received but the College will pay pensions contributions on the pay you would have received had you been at work (notional pay). Your service will count as normal for pensionable purposes i.e. as if you had been at work.

You can, within 30 days of returning to work or the termination of your contract if you do not return, elect to pay the relevant pension contributions in respect of this unpaid period. You will need to notify **the Finance Office**

of your decision to pay contributions during this unpaid period and you will need to complete the appropriate paperwork.

If you work on a keeping in touch day, both you and the College will pay contributions based on the pay you receive for that day. The day will count as a day of scheme membership.

### **Keeping in touch**

We may make reasonable contact with you from time to time during your SPL although we will keep this to a minimum. This may include contacting you to discuss arrangements for your return to work.

You may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days (KIT days) during your SPL. This is in addition to any KIT days that you may have taken during maternity leave. KIT days are not compulsory and must be discussed and agreed by the Principal.

You will be paid at your normal basic rate of pay for time spent working on a KIT day and this will be inclusive of any shared parental pay entitlement.

### **Returning to work**

If you want to end a period of SPL early, you must give us eight weeks' written notice of the new return date. If you have already given us three period of leave notices you will not be able to end your SPL early without our agreement.

If you want to extend your SPL, assuming you still have unused SPL entitlement remaining, you must give us a written period of leave notice at least eight weeks before the date you were due to return to work. If you have already given us three period of leave notices you will not be able to extend your SPL without our agreement. You may instead be able to request annual leave or ordinary parental leave (see our Staff leave Absence Policy), subject to the needs of the College.

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

- a) if your SPL and any maternity or paternity leave you have taken adds up to more than 26 weeks in total (whether or not taken consecutively); or

- b) if you took SPL consecutively with more than four weeks of ordinary parental leave.

If you want to change your hours or other working arrangements on return from SPL you should make a request under our Flexible Working Policy. It is helpful if such requests are made as early as possible.

If you decide you do not want to return to work you should give notice of resignation in accordance with your contract.

### **Document Change History**

- **21<sup>st</sup> November 2018** – Personnel Committee amended to Resources Committee.