



Thistly Meadow Primary School SHARED PARENTAL LEAVE POLICY



**Leicestershire
Traded Services**

Shared Parental Leave Policy

This policy applies to all employees, including Head Teachers/Principals, Teachers and all Support Staff.

This policy does not form part of employees' terms and conditions of employment and therefore may be subject to change at the discretion of the Trust/Governing Body.

For the purposes of this policy Head Teachers/Principals will be referred to as Head Teacher and School/Academy will be referred to as school.

1. Purpose

- 1.1 This policy outlines the entitlements covering Shared Parental Leave and an employee's entitlement to both leave and pay in respect this.
- 1.2 The policy covers individuals who are:
 - Having a baby
 - Using a surrogate to have a baby
 - Adopting a child
 - Fostering a child, with plans to adopt.
- 1.3 Maternity, Adoption and Parental leave is covered in a separate policy.

2. Shared Parental Leave & Pay

- 2.1 Shared Parental Leave (ShPL) provides additional flexibilities in the way in which two parents can care for their child, with eligible parents entitled to the following:
 - a period of up to 50 weeks' leave - Shared Parental Leave (ShPL), and
 - 37 weeks' of statutory pay - Shared Parental Pay (ShPP)
- 2.2 The birth parent/main adopter is required to take 2 weeks' compulsory maternity/adoption leave following the birth/adoption of their child before leave can be curtailed to allow parents to take Shared Parental Leave.
- 2.3 ShPL leave can be taken consecutively or concurrently, but the total time taken by both parents cannot exceed 52 weeks (this includes 2 compulsory weeks of maternity or adoption leave).
- 2.4 All leave must be taken within the first 52 weeks of the child's birth or adoption placement, ending the day before:
 - The child's first birthday; or
 - The first anniversary of the date on which the child was placed for adoption (or entered Great Britain in the case of overseas adoptions).
 - The first anniversary of the date on which a parental order was given, where parents have a child through surrogacy.
- 2.5 The tables provided below outline the eligibility requirements for both leave and pay and how and when an employee can take leave. With the exception of pay, all other terms and conditions of employment will remain unchanged during the Shared Parental Leave Period.

SECTION A: Leave Eligibility

For either parent to be eligible for ShPL, the birth parent or primary adopter must do one of the following:

- end their maternity or adoption leave and return to work (after taking the compulsory 2 weeks leave immediately after the birth/adoption of the child),
- give their employer notice to end ('curtail') their maternity or adoption leave early.

To be eligible for ShPL both parents must:

- be sharing responsibility for the child from the day of the child's birth, or the date the child is placed with the employee (where adopting or fostering to adopt)
- be classed as an employee,
- pass the '**continuity of employment test**' and their partner must pass the '**employment and earnings test**' (see below),
AND
- Provide the necessary notification to the school.

There is no additional entitlement to ShPL where more than one child is born as a result of the same pregnancy or more than one child is adopted at the same time.

Continuity of Employment Test

The parent who is to take ShPL must:

- have at least 26 weeks continuous service with the same employer by the end of the 15th week before their baby is due or 26 weeks by the week in which the adopter is notified of being matched with a child,
and
- remain in employment with the same employer at the start of each block of leave they take.

Employment & Earnings Test

The other parent must, up to the expected birth date/adoption match date:

- have worked for at least 26 of 66 weeks before the week the baby is due or the week the child is placed for adoption (the 26 weeks don't need to be consecutive)
- have earned an average of at least £30 a week in any 13 of the 66 weeks (the weeks do not need to be consecutive).

IMPORTANT: For **both** parents to qualify to share the leave, all the above criteria must be met. However, there may be occasions where only one parent may meet the eligibility criteria to qualify for ShPL. In such circumstances, leave cannot be shared between the parents and only the eligible employee would be able to use ShPL in order to book blocks of leave, for example:

Where the birth parent/main adopter does not satisfy the Continuity of Employment test (required to be eligible for ShPL), then they themselves cannot take ShPL. However, where the partner satisfies the Continuity of Employment Test and the birth parent/main adopter meets the Employment and Earnings test, the partner may be eligible to take ShPL.

If both parents are eligible for ShPL, they can choose how to use the leave between them (subject to the provisions laid out below), however they are not obliged to share the leave. In such cases, either parent may take the ShPL rather than share it.

SECTION B: Pay Eligibility

To get Statutory Shared Parental Pay (ShPP), the parent taking the leave must:

- pass the Continuity of Employment test, and
- earn at least £120 a week, for 8 weeks before the 15th week of the expected birth or adoption match date

- The other parent must meet the Employment & Earnings test.

If an employee fails to comply with the relevant notification requirements they may lose their entitlement to ShPP or payment may be delayed.

SECTION C: Statutory Shared Parental Pay

Eligible employees can claim statutory Shared Parental Pay (ShPP) after the birth parent or primary adopter stops their Maternity/Adoption Pay or Maternity Allowance by curtailing their maternity/adoption leave as follows:

Example: if a mother stops their maternity pay after 30 weeks, they or their partner could get ShPP for the remaining 9 weeks.

Statutory Shared Parental Pay (ShPP) will be paid at a rate of either:

- Paid at a rate set by the Government for the relevant tax year or 90% of the employee's average weekly earnings (whichever is the lower).

Statutory Shared Parental Pay (ShPP) is payable whether or not the employee intends to return to work after their period of SPL.

There is no entitlement to occupational pay for any period of ShPL.

SECTION D: Notification

Step 1: Ending Maternity/Adoption leave:

An eligible employee wishing to take ShPL or enable their partner to take ShPL, must give their notice to end their maternity/adoption leave ('notice of curtailment') to create an entitlement to ShPL by:

- Ending the maternity or adoption leave period by returning to work before the leave period ends, giving 8 weeks' notice in writing; or
- Give notice to end the maternity or adoption leave on a date in the future that is specified by the mother/primary adopter. At least 8 weeks notice of the leave dates must be given.

Where notice is given to curtail the maternity/adoption entitlement, the partner of the person taking Maternity/Adoption Leave can take leave while maternity/adoption leave entitlements are still in use.

An employee may change their mind on how much SPL or ShPP they plan to take and when they want to take it. Employees must provide written notification of any changes at least 8 weeks before the start of any leave.

Changing/cancelling the Decision to end Maternity or Adoption Leave.

A decision to end maternity or adoption leave early may be changed only where:

- The planned end date has not passed; **and**
- They have not already returned to work.

The birth parent or primary adopter cannot restart maternity or adoption leave once they've returned to work. If they've given a notice of curtailment, they cannot cancel ('revoke') it, unless:

- the notice was given before birth. NB. it can be revoked up to 6 weeks after the birth or adoption placement start date,
- the employee's partner dies,
- the parent discovers that neither parent qualifies for SPL or ShPP;

The school will confirm any agreed change(s) of date in writing within 28 days of receiving the employee's request.

Step 2: Giving notice of entitlement to Shared Parental Leave

To create an entitlement to ShPL, the parent must give their employer a 'notice of entitlement'. The timing and periods of leave must be agreed with the employee's manager. To do this the employee must:

- notify the school of their entitlement and intention to take ShPL,
- state how much maternity/adoption entitlement has been used,
- state how much maternity/adoption entitlement is left over (i.e. how much of the entitlement was not taken),
- state how much leave each parent wants to take and when they want to take it,
- Provide notice at least 8 weeks prior to the start ShPL (except if the child is born early),
- Provide signatures from both parents.

The parent must also provide a declaration from the other parent that confirms at the time of the birth or adoption placement they:

- share responsibility for the care of the child,
- meet the Employment & Earnings test, and
- agree to the amount of SPL and ShPP given to the employee,

Within 14 days of applying for ShPL and/or ShPP, the employee should also submit the following information/evidence:

- a copy of the child's birth certificate*
- For an adopted child:
 - the name and address of the adoption agency/Local Authority,
 - the date on which the employee was notified of being matched with the child,
 - the date on which the agency expects the child will start living with the employee and
- For both birth/adoption: the name and address of their partner's employer (where the employee's partner is self-employed their contact details must be given instead). Where the employees partner is no longer employed a declaration of this should be provided.

*Where a birth certificate has not been issued yet, the employee should submit a declaration as to the date and location of the birth and statement confirming the birth certificate has not yet been issued.

The school will inform the employee that they have received the notice.

Step 3: Booking the leave

Each eligible parent has the right to submit up to **3** notifications outlining when they wish to take periods of leave. Leave can be taken at different times or parents may choose to book leave at the same time.

To book leave an employee must:

- provide at least 8 weeks' notice each time they want to book leave using the relevant forms (<https://www.acas.org.uk/shared-parental-leave-forms>).
- book their ShPL in blocks of weeks (leave can start on any day, for example if the first day of a week's leave is Tuesday, the last day of leave would be the next Monday),
- Where the child has not yet been born a booking can specify that it will commence after a period of time following birth.

Leave can either be taken as continuous or discontinuous blocks of leave:

Continuous leave: Leave can be booked in up to 3 blocks.

- Continuous leave can be taken in a single unbroken period (e.g. 8 weeks in a row), but not exceeding the total number of weeks of ShPL available to the employee.
- An employee can submit up to 3 separate notifications for continuous periods of leave.
- A request for a continuous block of leave must be granted providing that notice requirements have been complied with.

Discontinuous leave: Leave can be taken in blocks on and off throughout the year.

- An employee can request 2 or more periods of discontinuous leave (e.g. an employee may take 6 weeks of ShPL and work every other week for a 3 month period).
- Requests for discontinuous leave can be refused, for example if there are valid operational reasons for doing so, or where the request is not suitable for the work or workplace. In such cases discussions may need to take place to agree a different arrangement that's more suitable.
- The manager and employee should come to an agreement within 14 days of the employee's request. Where an agreement is not reached, the employee can either:
 - withdraw their request
 - agree alternative dates with their manager
 - take continuous leave instead

Withdrawing their request: on or before the 15th calendar day (after the original request was made) will not count as one of the 3 notices to book or vary leave.

Withdrawing a request after the 15th calendar day will count as a notice to vary leave, and the employee will be considered to have used 2 notices in total.

Where an employee lets their discontinuous leave request become continuous leave, within 19 calendar days of their original request they can either:

- choose when the continuous leave will start (it cannot start sooner than 8 weeks from the date of the original leave request)
- let the continuous leave start when the discontinuous leave would have started

The employee should put the option they choose in writing to their manager.

Booking leave before the baby is born/premature birth:

As its not always possible to know the exact date a baby will be born, a parent may choose to book ShPL leave based on a number of weeks after the baby is born, e.g an employee can state they wish to take 6 weeks of ShPL after their maternity leave ends. The school will therefore be aware the dates of leave could move depending on when the baby is born.

Where the baby is born more than 8 weeks' premature, the parent does not need to give the usual 8 weeks' notice to book or change leave dates. In such cases the parent should give the necessary notices to their Manager as soon as possible.

If changing ShPL dates already booked, it will not count as one of the employee's 3 notices to vary ShPL.

Step 4: Changing the Leave/Varying the Notice of Intention to take Shared Parental leave

Each eligible parent has up to 3 times to either:

- change the dates of booked ShPL ('notice to vary leave')
- book a block of ShPL ('notice to take leave')

Each time the employee cancels or changes booked ShPL, it counts as a notice to vary leave, unless the employer agrees otherwise.

To change ('vary') or cancel the dates of any SPL booked, the employee must give their employer:

- 8 weeks' notice (unless there is a clear and justifiable reason why 8 weeks' notice cannot be given, the manager can, at their discretion, accept a shorter period of notice of variation).
- a 'notice to vary leave'

The school can ask the employee to change dates of booked ShPL. If the employee agrees, this would not count as a notice to vary leave. The employee does not have to agree and must not be treated unfairly if they do not.

Changing the amount each parent takes

Parents who are both entitled to ShPL can change the amount of leave each of them will take. They must both agree and sign each other's notices of entitlement with the updated amount of ShPL they're each entitled to.

They should tell their employers as soon as possible.

Withdrawing a Shared Parental Leave Request

The employee must advise the school in writing if their circumstances change and they:

- Are the person taking Maternity Leave and Pay or Adoption Leave and Pay and no longer wish to take ShPL;
- Are a partner who no longer has the main responsibility for the child's upbringing (apart from the responsibility of their partner).

Where either of these applies the employee will not be entitled to ShPL.

3. Annual Leave

3.1 Annual leave will accrue during maternity/adoption leave.

3.2 Teachers:

Accrued annual leave will be offset against any school closure periods during the academic year (or annual leave year where this is different to the academic year). Where there are insufficient closure periods available before the end of the leave year to allow for the accrued leave to be taken, the employee will be allowed to carry over any remaining leave to the next leave year.

3.3 Support Staff (Term-time / annualised hours only):

Accrued leave should be taken in the current leave year if possible. In agreement with the Head teacher, the options for taking any accrued holiday are either:-

- During non-term time periods. In such circumstances the employees will receive an additional payment for the amount of accrued holiday taken during the closure period paid at normal salary rates*.
- During term time where this cannot be taken during school closure periods. Time off taken during this period will be paid at normal salary rates.
- Immediately following the end the maternity leave and before the employee returns to work. Paid at normal salary rates.

All requests to take annual leave must be made in writing to the Head teacher.

If there are insufficient school closure periods available before the end of the annual leave year to allow for the accrued leave to be taken, the employee must be allowed to carry over any remaining leave into the next annual leave year. Where possible leave should be taken during school closures to accommodate the leave in that year. The employee will be paid at normal salary rates for this annual leave.

All calculations for holiday are at hourly rate x hours taken

4. Returning to Work: Shared Parental Leave

4.1 Employees returning to work after their Shared Parental Leave are entitled to return to the same job on the same terms and conditions.

4.2 If an employee returns to work at the end of their ShPL, they are entitled to return to the same job, but if that is not reasonably practicable, to another suitable job on comparable terms and conditions.

4.3 Employees taking the ShPL are not required to provide further notification of returning to work, provided they intend to return on the date originally stated on the notification form (<https://www.acas.org.uk/shared-parental-leave-forms>). However, employees are encouraged to re-confirm their return date to ensure that the school are clear on when the employee intends to return to work.

- 4.4 Where an employee wishes to return to work before the end of the ShPL Period they should notify the Head Teacher in writing, at least 21 days before the day on which they propose to return if this is before the end of any ShPL period. Where less than 21 days notice is given, the Head Teacher can delay the return until after 21 days' notice has been received, or until the end of the full ShPL leave period if this is earlier than 21 days.
- 4.5 Since arrangements may have been made to cover the employees' absence on ShPL the employee is required to give as much notice as possible, where the return to work is concerned.

Delayed return due to sickness

- 4.6 If the employee is unable to return to work at the end of their period of leave due to sickness, ShPL leave will cease and normal sickness absence reporting arrangements will apply.

If the Employee Does Not Return to Work (with their current employer):

- 4.7 An employee who decides not to return to work must notify their Head Teacher in writing of their decision, confirming their resignation. The resignation will take effect on the date the ShPL would have ended.

Employees whose Fixed Term Contract ends during ShPL:

- 4.8 Where a fixed term contract expires during the ShPL leave, the school must comply with the normal fixed term contract termination process. The reason for non-renewal must not be related to maternity/adoption or shared parental leave.
- 4.9 When a contract ends, the parent's ShPL entitlement ends. This is even if they start working for another employer, because they'll no longer meet the eligibility test. The other parent keeps their entitlement, if they had it. If the contract ends while the employee is on ShPL, they could still be entitled to ShPP.

Employees who return to work and then resign

- 4.10 Employees who return to work and subsequently resign from their post will be subject to their normal contractual notice provisions.

5. In the event of a child's/Parents death.

- 5.1 **If the child dies:** the parents can still take the ShPL they've booked. They can also either:

- decide to take less ShPL
- change discontinuous leave into one block of continuous leave

- 5.2 8 weeks' notice should be given before the employee returns to work (although there is discretion to waiver this notice).

- 5.3 The employee cannot book any new blocks of ShPL.
- 5.4 Parents cannot apply for ShPL after the death of a child. The birth parent can still get maternity or adoption leave and their partner could still be eligible for statutory paternity leave.
- 5.5 **If a parent dies:** where a parent is eligible for ShPL and the other parent dies, they can:
- decide if they still wish to take ShPL as planned
 - transfer and use any ShPL due to be taken by the parent who died
- 5.6 Where the employee wishes to book another block of ShPL or they wish to change the dates of the booked ShPL, 8 weeks notice is not required, however, the employee should inform their manager as soon as practically possible.
- 5.7 Where 3 notices to book or vary a period of leave have already been used, in such circumstances the employee may submit a 4th notification.

6. Shared Parental Leave Keeping In Touch Days (SPLIT)

- 6.1 SPLIT days are intended to help the employee keep in touch with the workplace during their leave for example to allow the employee:
- Keep up to date with work,
 - to attend a work related activity or training session,
 - to attend away or development days with the team
 - to work part of a week to help the team,
 - attend a Personal Development Reviews,
 - to communicate significant changes within the school, or
 - allow a gradual return to work i.e. taking 2 SPLIT days and working 3 days a week to start with.
- 6.2 An employee may work up to, but not exceed, 20 SPLIT (Shared Parental Leave In Touch) days during their ShPL. These days are in addition to the 10 Keeping In Touch (or KIT) days available to those on maternity or adoption leave.
- 6.3 SPLIT days can be worked separately or in a block and either as full or part days, by agreement between the employee and the school. Working for any part of a day will count as one day towards the 20 KIT days.
- 6.4 Employees will only be paid for the hours worked and at their normal rate of pay for the hours/days worked as SPLIT days and this will be offset against their Shared Parental Leave pay. The hours worked should not exceed the employee's normal weekly contracted hours.
- 6.5 The Head Teacher is responsible for completing and certifying a SPLIT form for payment of the hours / days worked.
- 6.6 If the employee exceeds the 20 days by only one day, the full week of ShPP will be forfeited.

6.7 The school will not require an employee to undertake SPLIT days and an employee does not have any entitlement to be offered them. The amount and type of work that is to be done should be mutually agreed between the employee and the Head Teacher, subject to the above provisions.

6.8 **Where maternity or adoption leave is curtailed to undertake Shared Parental Leave, the entitlement for KIT days would be forfeited and Shared Parental Leave In Touch Days (SPLIT) would be applicable.**

7. Reasonable Contact During Periods of Leave

7.1 The Head Teacher is entitled to make reasonable contact with the employee during their leave, to enable them to be kept informed of developments/vacancies or changes within the school and to discuss plans for returning to work. How this is undertaken, and the extent to which an employee would like to be contacted should be discussed with the employee prior to the commencement of maternity leave or shared parental leave. The level of contact will be minimal and would not be considered as work and would not count towards the SPLIT days.

8. Continuous Service

8.1 **Teachers:** Continuous service dates are not broken by approved periods of Shared Parental Leave whether paid or unpaid.

8.2 **Support Staff:** Shared Parental leave shall be regarded as continuous service for the purposes of calculating a redundancy payment, occupational sick pay and annual leave entitlement. For employees who have had a break in local government service for maternity reasons, or reasons concerned with caring for children or other dependants, they will be entitled to have previous service taken into account in respect of occupational sick pay and maternity/ adoption leave provided that the break in service has not exceeded 8 years and that no permanent paid full time employment has intervened.

9. Pensions

9.1 For an employee who is a member of either the Teachers' Pension Scheme (TPS) or the Local Government Pension Scheme (LGPS), pension contributions will continue to be deducted each month from their salary during the paid period of their ShPL. Contributions will be based on the levels of pay applicable at the various stages of the leave.

9.2 When an employee enters a period of unpaid leave, it will not be possible to collect pension contributions.

9.3 Payment for SPLIT days will be pensionable.

9.4 Teachers' Pension Scheme

For members of the TPS, pension contributions cease at the end of the paid period of maternity / adoption leave, and membership of the scheme suspended. For further information regarding pensions, employees should contact:

Teachers' Pensions,
Mowden Hall,
Darlington,
DL3 9EE or visit their website <https://www.teacherspensions.co.uk/public/contact-us.aspx> .

Alternatively members may contact the Employee Service Centre by telephone on 0300 3030222 or email at escservicedesk@emss.org.uk .

9.5 Local Government Pension Scheme – Support Staff

Members of the Local Government Pension Scheme are able to make up “missing” contributions so that the period of service concerned can be counted for pension purposes.. An employee wishing to make up their contributions must notify the Pensions Section of their decision by completing and returning the Maternity Leave or Adoption Absence Option form (please contact the Pensions Teams at County Hall for more information) within 30 days of their return to work. The outstanding contributions can be paid either as a lump sum or, by agreement, in instalments.

NOTIFICATION THAT EMPLOYEE HAS UNDERTAKEN KEEPING IN TOUCH DAYS (SPLIT)

Form to be completed by Head Teacher and returned to the EMSS Service Desk or Payroll Provider.

EMPLOYEE	
PAYROLL REFERENCE	
JOB TITLE	
SCHOOL / ACADEMY	
ESTABLISHMENT / BASE	
DATE EMPLOYEE UNDERTOOK WORK	
HOURS OF WORK TO BE PAID FOR	

Signed (Head Teacher): Date:

Print Name:

Signed (Employee): Date:

Print Name: