

# Shared Parental Leave Policy

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Version Control

Version	Reviewed	Changes since last version
1	June 2018	Existing Policy
2	June 2020	Minor change to add clarity in policy.
3	June 2023	No changes – part of a 2 year review

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## **Purpose**

- 1.1 Mulberry Schools Trust aims to be an employer of choice and to create a flexible responsive organisation committed to providing a working environment in which staff can contribute to the success of the Trust.
- 1.2 The Shared Parental Leave Regulations provide an opportunity for parents to take advantage of additional flexibility in the way they choose to care for a new arrival to the family. To this end MST has adopted a policy in line with the regulations for Shared Parental Leave.

## **2 Scope**

- 2.1 All eligible employees have a statutory right to take Shared Parental Leave. In addition, subject to meeting specific eligibility criteria, there may be an entitlement to some Shared Parental Pay. This policy therefore applies to all employees of the MST and sets out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).
- 2.2 The Trust will consider applications for SPL and ShPPP consistent with the entitlements detailed within this Policy, the Shared Parental Leave Guidance and Process, and the Regulations themselves.

## **3. Eligibility for Shared Parental Leave**

- 3.1 SPL can only be used by two people:
  - The mother/adopter and
  - One of the following:
    - the father of the child (in the case of birth) or
    - the spouse, civil partner or partner of the child's mother/adopter.

Both parents must share the main responsibility for the care of the child at the time of the birth or in the case of adoption the time of the placement.

- 3.2 Additionally employees seeking to take SPL must satisfy specific eligibility criteria and their partner must meet the separate "employment and earnings

test”.

- 3.3 It is the employee’s responsibility to correctly notify the Trust of their entitlement and to provide evidence of eligibility as required.

#### **4. The Shared Parental Leave Entitlement**

- 4.1 Eligible employees may be entitled to take up to 50 weeks SPL during the child’s first year in their family. The number of weeks available will be calculated using the mother’s/adopter’s entitlement to maternity/adoption leave, which allows them to take up to 52 weeks’ leave (see also 4.3 below).
- 4.2 If the mother/adopter reduces their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.

A mother/adopter may reduce their entitlement to maternity/adoption leave in two ways either by:

- Returning to work before the full entitlement of 52 weeks has been taken,
- or
- By giving notice to curtail their leave at a specified future date.

- 4.3 SPL can commence as follows:

- The mother can take SPL only after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
- The adopter can take SPL only after taking at least two weeks of adoption leave
- The father/partner/spouse can take SPL immediately following the birth/placement of the child. The father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP.

- 4.4 Subject to meeting eligibility criteria (ShPP) may be paid for some, or all, of the SPL period (see “Shared Parental Pay”).

- 4.5 SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement of adoption will be lost.

#### **5. Booking Shared Parental Leave**

- 5.1 Employees may notify their intention to take or request SPL in two ways; either as a “Continuous Leave notification” or a “Discontinuous Leave Notification”. The relevant forms to make an application are available from the Human Resources.

➤ **Continuous leave notifications**

- 5.2 Employees have the statutory right to take a continuous block of unbroken Leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them and they have given their manager at least the statutory minimum of eight weeks’ notice.
- 5.3 Employees may submit up to three separate notifications for continuous periods of leave.
- 5.4 All requests for continuous leave (provided they are given with the statutory eight weeks notice) will be granted.

➤ **Discontinuous leave notifications**

- 5.5 A single notification may also contain a request for two or more periods of discontinuous leave, (i.e. a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work).
- 5.6 If an employee’s manager has concerns about how this can be accommodated they will discuss this with the employee with the aim of finding a mutually agreed arrangement. The manager will consider a discontinuous leave notification taking into account the employees wishes balanced against the needs of the service but does have the right to refuse it.

Before refusing any notification request the Line Manager should seek advice from a member of the SLT.

If the leave pattern is refused, the employee can either withdraw it within 15 days of giving the notification, or can take the leave in a single continuous block.

**6. Statutory Shared Parental Pay (ShPP)**

- 6.1 Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

- 6.2 ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.
- 6.3 In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:
- The mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
  - The employee must intend to care for the child during the week in which ShPP is payable;
  - The employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the child's expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;
  - The employee must remain in continuous employment until the first week of ShPP has begun;
  - The employee must give proper notification in accordance with the rules set out below.
- 6.4 Where employees are entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.
- 6.5 In addition to what must be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for ShPP must include:
- The start and end dates of any maternity/adoption pay or maternity allowance;
  - The total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
  - A signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the Trust should they cease to be eligible.

- 6.6 It must be accompanied by a signed declaration from the employee's partner confirming:
- Their agreement to the employee claiming ShPP and for the Trust to process any ShPP payments to the employee;
  - In the case whether the partner is the mother/adopter, that they have reduced their maternity/adoption pay or maternity allowance;
  - In the case whether the partner is the mother/ adopter, that they will immediately inform their partner should they cease to satisfy the eligibility conditions.
- 6.7 Any ShPP due will be paid by the Trust at a rate set by the Government for the relevant tax year.

## **7. Fraudulent claims**

- 7.1 Where the Trust has been informed by the HMRC that a fraudulent claim has been made, or has other reasonable grounds for a suspicion that fraudulent information may have been provided, it may investigate the matter further in accordance with the MST Disciplinary Procedure.

## **8. Terms and conditions during Shared Parental Leave**

- 8.1 During the period of SPL, an employee's contract of employment will continue in force and they will be entitled to receive all their contractual benefits, except for salary. Contractual annual leave entitlement will continue to accrue.
- 8.2 Pension contributions will continue to be made during any period when an employee is receiving ShPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the Trusts contributions will be based on the salary that an employee would have received had they not been taking SPL.

## **9. Contact during Shared Parental Leave**

- 9.1 Reasonable contact will be maintained with the employee from time to time during their SPL (this may be by telephone, e-mail or written correspondence as appropriate). This may be to discuss an employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease



their return to work or simply to update them on developments at work during their absence.

## **10. Shared Parental Leave in Touch days (SPLIT Days)**

- 10.1 Employees can agree to work for the Trust (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave "In Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.
- 10.2 The Trust has no right to require an employee to carry out any work, and is under no obligation to offer an employee any work, during an employee's SPL. Any work undertaken is a matter for agreement between the Trust and the employee.
- 10.3 The Trust already offers employees Keeping In Touch (KIT) Days under the maternity leave provisions and therefore employees can elect to choose whether to take KIT days or SPLIT days under the Shared parental Leave Regulations. Employees will not however be permitted to take both.
- 10.4 An employee taking a SPLIT day will receive full pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of SPL.

## **11. Returning to work after Shared Parental Leave**

- 11.1 At the end date of any period of SPL the employee is expected to return on the next working day after this date, unless they notify the Trust otherwise. If they are unable to attend work due to sickness or injury, the Trusts' normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.
- 11.2 If an employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give their manager at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the manager does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.
- 11.3 On returning to work after SPL, an employee is entitled to return to the same job on the same terms and conditions of employment as if they had not been

absent.

## **12. Monitoring and review**

- 12.1 The Head Teacher (or designated staff member) will monitor the implementation of this policy to ensure that it continues to meet business needs, and does not impact adversely and unlawfully on any part of the Trusts staff. The Policy will also be reviewed regularly to ensure that it remains appropriate and reflects up to date statutory guidance. Where there is any conflict between this policy and the statutory guidance the statutory guidance will take priority over this policy.