

Shared Parental Leave - Birth

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This procedure has been adopted by the governing body of the Rowan Learning Trust following consultation with staff and their trade union / professional association. This procedure supersedes and procedure previously in place either formally or through custom and practice.

1. Scope and Purpose

This policy outlines the arrangements for shared parental leave and pay in relation to the birth of a child. If an employee or their partner is adopting a child, please see the Shared Parental Leave (Adoption) Policy.

This policy does not form part of any employee's contract of employment and it may be amended at any time by the Rowan Learning Trust after consultation with our recognised Trade Unions.

No employee will be subject to a detriment for taking or seeking to take shared parental leave in accordance with this policy.

2. Who is Covered by the Policy?

This policy covers all employees at all levels and grades including senior managers, employees, trainees, part-time and fixed term employees (referred to as employees in this policy).

It does not apply to agency staff and self-employed contractors.

3. Who is Responsible for the Policy?

The Trust has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The Trust has delegated day-to-day responsibility for operating the policy to the Headteacher of the school.

The Headteacher has a specific responsibility to ensure the fair application of this policy and all employees of staff are responsible for supporting colleagues and ensuring its success.

The Chief Executive of the Trust will be responsible for administering the policy in relation to the Headteacher (where the policy is applied to the Headteacher, all references to Headteacher should be replaced with Chief Executive of the Trust).

The Board of Trustees will be responsible for administering the policy in relation to the Chief Executive of the Trust (where the policy is applied to the Chief Executive of the Trust, all references to Headteacher should be replaced with Board of Trustees).

4. Definitions

The following definitions apply in this policy:

Expected Week of Childbirth (EWC): the week, beginning on a Sunday, in which the doctor or midwife expects an employee's child to be born.

Parent: means 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: means a spouse, civil partner or someone with whom an employee lives in an enduring family relationship, but who is not an employee's sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.

Qualifying Week: the fifteenth week before the EWC.

5. What is Shared Parental Leave?

Shared Parental Leave (SPL) is a form of leave that may be available if an employee's child is expected to be born on or after 5 April 2015.

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

6. Entitlement to Shared Parental Leave

An employee is 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 their partner, if the father is not their 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 following conditions must also be fulfilled:

- the employee must have at least 26 weeks continuous employment with the Trust by the end of the Qualifying Week, and still be employed by the Trust in the week before the leave is to be taken;

- 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
- the employee 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 an employee is the mother, she cannot start SPL until after the compulsory maternity leave period, which lasts until two weeks after birth.

If an employee is the child's father or the mother's partner, they should consider using their two weeks' paternity leave before taking SPL. Once an employee starts SPL they will lose any untaken paternity leave entitlement. SPL entitlement is additional to any paternity leave entitlement.

7. Opting in to Shared Parental Leave and Pay

Not less than eight weeks before the date an employee intends for their SPL to start, they must give the Headteacher 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 any 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 many weeks of the available SPL will be allocated to the employee and how many to the other parent (an employee can change the allocation by giving the Headteacher a further written notice, and they do not have to use their full allocation);
- if they are claiming Statutory Shared Parental Pay (SSPP), the total SSPP available, which is 39 weeks minus the number of weeks of the SMP or MA period taken or to be taken;
- how many weeks of available SSPP will be allocated to the employee and how much to the other parent (an employee can change the allocation by giving the Headteacher 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 should give as much information as possible about any future intentions; and

- declarations by the employee and the other parent that they both meet the statutory conditions to enable them to take SPL and SSPP.

8. Ending Maternity Leave

If an employee is the child's mother and wants to opt into the SPL scheme, she must give the Headteacher at least eight weeks' written notice to end her maternity leave (a curtailment notice) before she can take SPL. The notice must state the date her maternity leave will end. An employee can give the notice before or after she gives birth, but she cannot end her maternity leave until at least two weeks after birth.

An employee must also give the Headteacher, at the same time as the curtailment notice, a notice to opt into the SPL scheme (see paragraph 7 above) or a written declaration that the other parent has given their employer an opt-in notice and that the employee has given the necessary declarations in that notice.

The other parent may be eligible to take SPL from their employer before an employee's maternity leave ends, provided the employee has given the curtailment notice.

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

- if the employee realises that neither they nor the other parent are in fact eligible for SPL or SSPP, in which case 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 an employee has revoked a curtailment notice they will be unable to opt back into the SPL scheme, unless they revoked it in the circumstances in paragraph 8.4.2.

9. Ending a Partner's Maternity Leave or Pay

If an employee is not the mother, and she is still on maternity leave or claiming SMP or MA, the employee will only be able to take SPL once she 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 the benefits office a curtailment notice to end her MA (if she is not entitled to maternity leave or SMP).

10. Evidence of Entitlement

An employee must provide on request:

- A copy of the birth certificate (or if they have not yet obtained a birth certificate, a signed declaration of the child's date and place of birth); and
- The name and address of the other parent's employer (or a declaration that they have no employer).

11. Booking Shared Parental Leave Dates

Having opted into the SPL system an employee will need to give a period of leave notice telling the Headteacher 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 employee's leave. An employee must also state in their period of leave notice the dates on which they intend to claim SSPP, if applicable.

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

An employee can give up to three period of leave notices. This may enable them to take up to three separate blocks of SPL (although if the employee gives a notice to vary or cancel a period of leave this will in most cases count as a further period of leave notice; see paragraph 12 below). **[In exceptional circumstances an employee may be allowed to give more than three period of leave notices but there is no obligation for the Headteacher to allow an employee to do so.]**

12. Procedure for Requesting Split Periods of Shared Parental Leave

In general, a period of leave notice should set out a single continuous block of leave. The Headteacher 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 for an employee to discuss this with their manager in good time before formally submitting a period of leave notice. This will give the Headteacher more time to consider the request and hopefully agree a pattern of leave with the employee from the start.

An employee must submit a period of leave notice setting out the requested pattern of leave at least eight weeks before the requested start date. If it is not possible to agree to a request straight away, there will be a two-week discussion period. At the end of that period, the Headteacher will confirm any agreed arrangements in writing.

If an agreement is not reached, an 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 (for example, if an employee requested three separate periods of four weeks each, they will be combined into one 12-week period of leave). Alternatively, an employee may:

- choose a new start date (which must be at least eight weeks after the original period of leave notice was given), and tell the Headteacher 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).

13. Changing the Dates or Cancelling Shared Parental Leave

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

An employee can change the start date for a period of leave, or the length of the leave, by notifying the Headteacher in writing at least eight weeks 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 employee should notify the Headteacher in writing of the change as soon as they can.

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

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

An employee can request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between. The Headteacher will consider any such request as set out in paragraph 12 above.

A notice to change or cancel a period of leave will count as one of an employee's three period of leave notices, unless:

- the variation is a result of their child being born earlier or later than the EWC;
- the variation is at the Headteacher's request; or
- it is agreed otherwise.

14. Statutory Shared Parental Pay

SSPP of up to 39 weeks (less any weeks of SMP or MA claimed by the mother) may be available provided an employee has at least 26 weeks' continuous employment with the Trust 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. To qualify for SSPP an employee must also have complied with the notification and information requirements set out within this policy.

SSPP is paid at a rate set by the government each year.

15. Terms and Conditions during Shared Parental Leave

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

16. Annual Leave

During SPL annual leave will accrue. Annual leave cannot usually be carried over from one holiday year to the next.

This entitlement applies to all employees including term time only teachers.

Term Time Only Workers – In order to calculate the entitlement to annual leave it is necessary to carry out a 'Balance of Salary' calculation at the start of the SPL period and a second calculation at the end of the leave period. This calculation takes into account an employee's start date with the Trust and the number of completed weeks of the academic year up to the point they start their SPL. The proportion of completed weeks will then be compared to the salary the employee has been paid for the same period. In most cases this results in a payment of a balance of salary, however, there may be instances where the salary paid exceeds the weeks which have been worked and a recovery of salary is necessary. Once an employee returns to work, a second calculation is carried out to identify whether they are entitled to a payment in respect of annual leave they have accumulated whilst on SPL. Please note: The date on which an employee starts and ends their SPL can significantly affect the balance of salary calculation. An employee should contact their Establishment's finance team to determine how this is likely to affect them.

Teachers – The nature of a teacher's employment with the Trust is such that their contract of employment makes no reference to an entitlement to annual leave for teachers. There is however a statutory right to a minimum of 28 days per annum under the Working Time Regulations. Periods of school closure count towards this entitlement, consequently it is unlikely that teachers returning to their posts following a period of SPL will have acquired a right to additional annual leave. It is possible

that teachers who resign their post and do not return could have an outstanding balance of annual leave payable.

The School's holiday year runs from 1 April to 31 March.

If the holiday year is due to end during an employee's absence on SPL, the employee should ensure that they have taken their full year's entitlement before their SPL leave starts.

17. Pensions

For details of the implication of SPL on an employee's pension please contact the establishment's finance team who will advise further.

18. Keeping in Touch during Shared Parental Leave

The School may make reasonable contact with an employee from time to time during their SPL.

An employee may 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 an employee may have taken during maternity leave. The arrangements, including pay, would be set by agreement with the Headteacher. An employee is not obliged to undertake any such work during SPL.

Shortly before an employee is due to return to work, the Headteacher may invite them to have a discussion (whether in person or by telephone) about the arrangements for their return. This may cover:

- updating them on any changes that have occurred during their absence;
- any training records they might have; and
- any changes to working arrangements (for example if they have made a request to work part-time).

19. Returning to Work

An employee is normally entitled to return to work following SPL to the same job they held before commencing leave. An employee's terms of employment shall be the same as they would have been had the employee not been absent.

However, if an employee has taken any period of SPL and it is not reasonably practicable to allow them to return into the same position, the School may give the employee 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 they have 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 an employee wishes to end a period of SPL early, they must give the Headteacher at least eight weeks' prior written notice of the new return date. If an employee has already given three period of leave notices, they will not be able to end their SPL early without the Headteacher's agreement.

If an employee wants to extend their SPL, assuming they still have unused SPL entitlement remaining, the employee must give the Headteacher a written period of leave notice at least eight weeks before the date they were due to return to work. If the employee has already given three period of leave notices, they will not be able to extend their SPL without the Headteacher's agreement. An employee may instead be able to request annual leave or Ordinary Parental Leave, subject to the needs of the Trust.

20. Deciding not to Return

If an employee does not intend to return to work or are unsure, it is helpful if they discuss this with the Headteacher as early as possible. If an employee decides not to return they should submit their resignation in accordance with their contract of employment. Wherever possible, the employee should provide as much notice as possible in order to facilitate workforce planning.

Once an employee has given notice that they will not be returning to work, they will be unable to change their mind without the Headteacher's agreement.

21. Returning to Work Part-Time

The Headteacher will deal with any requests by employees to change their working patterns (such as working part-time) after SPL on a case-by-case basis. The Headteacher will try to accommodate an employee's wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the business. It is helpful if requests are made as early as possible. The procedure for dealing with such requests is set out in the Trust's Flexible Working Policy.