

Aylesford School

and Sixth Form College



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SHARED PARENTAL LEAVE POLICY

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'from potential to reality'

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Shared Parental Leave

Introduction

The statutory scheme for shared parental leave came into force on 1 December 2014 and is available to parents whose children are due on or after 5 April 2015. The provisions are complex and this policy summarises the existing legislation in this area.

The legislation essentially enables the mother of the child to curtail her leave and any associated statutory maternity pay. The balance of her entitlement is then put into a pot to be distributed between her and her partner as shared parental leave (SPL) and statutory shared parental pay (SSPP).

The person who is sharing the parental leave need not, necessarily, be the father of the child. For ease of reference 'partner' will be used throughout this guide to cover anyone entitled to share parental leave with the mother. In brief:

- Only two people have the benefit of SPL
- SPL is available for 50 weeks.
- SPL cannot start sooner than two weeks after the birth (or four weeks if the mother works in a factory).
- Leave can be shared between the mother and her partner as they wish, but it must be taken in blocks of whole weeks.
- Each employee can take up to three blocks of leave, but an employer does not have to agree discontinuous periods of leave.
- All SPL must be used within the first year.
- Rights for adoptive parents will mirror the rights of natural parents.
- Ordinary paternity leave (two weeks) will still exist but additional paternity leave is being abolished.

Eligibility

The mother must be entitled to statutory maternity leave (SML) and statutory maternity pay (SMP). If the mother qualifies for maternity allowance her partner will be entitled to SPL even though she is not.

The person claiming SPL and shared statutory parental pay (SSPP) must have been continuously employed for 26 weeks up to and including the 14th week before the expected week of birth. Statutory maternity leave is available to all employees regardless of length of service.

In order for employees to qualify for SPL or SSPP, their partner must meet the 'employment and earnings test', namely they must have:

- been employed or a self-employed earner in Great Britain for a total of 26 weeks (not necessarily continuously) in the period of 66 weeks leading up to the expected week of birth, and
- earned an average of £30 a week in 13 of those weeks; self-employed parents will not be eligible for SPL or SSPP but if they satisfy this test their employed partner may be able to access SPL and SSPP, and
- both parents must remain in employment until the first period of leave.

Process

Step 1: The mother states her intention to curtail her maternity leave and, if appropriate, her entitlement to statutory maternity pay.

Step 2: Both parents need to notify their respective employers of how they intend to divide the resulting period of SPL by completing a booking notice (see below).

The notice of intention and entitlement must be given to the employer at least eight weeks before the planned start of SPL. Notices must include a non-binding indication of how they intend to share out SPL entitlement.

The notices in more detail

The notice provisions are extremely complex. Please discuss your wishes with your employer informally at first.

As stated above, maternity leave can either happen by returning to work or by the mother giving notice to her employer that she will end her maternity leave on a specified date.

The following notices need to be sent to the mother and/or the partner's employer, unless specified otherwise.

1. The leave curtailment notice:

- must be in writing to the employer
- must state the date ordinary maternity leave or additional maternity leave will end
- must be given at least eight weeks before she wishes her SML is to end
- must be accompanied by either a notice of her entitlement to SPL or a declaration of consent and entitlement (see below).

2. The maternity pay period curtailment notice:

- This must be served on whoever pays SMP (usually the employer).
- The date on which maternity pay will end must be on the last day of a full week of maternity pay.
- The date on which it will end must be at least eight weeks after the date on which notice is given.

3. The declaration of consent and entitlement:

- This is a written declaration stating her partner has given notice of entitlement, and she consents to the amount of leave requested.

4. The notice of entitlement to SPL:

- must be in writing
- must be submitted at least eight weeks before the employee intends to take SPL
- must include a signed declaration by both mother and partner (the contents of which will vary depending on whose notice it is)
- can also be accompanied by a notice of entitlement for SSPP

5. Revoking a curtailment notice:

- If it transpires neither parent is entitled to SPL, notice may be withdrawn up to eight weeks after it was given.
- If notice was provided before the baby's birth, the mother may withdraw it without reason up to six weeks following the birth.
- If the partner dies it can be withdrawn within a reasonably practicable time.
- Note that notice of curtailment of the maternity pay period can only be revoked if notice was given before the birth (unless the partner dies).

6. The booking notice:

- must be in writing
- must contain the start and end dates of each period of leave requested
- may be given at the same time as other notices (but not before)
- may request more than one period of leave
- cannot be submitted less than eight weeks before the start date of the first period of leave requested.

Please note: an exception to the eight week time periods may apply if the baby is born eight or more weeks early.

Patterns of leave

According to the regulations an employer cannot refuse a request for a continuous block of leave, provided the notice requirements have been met.

It is extremely unlikely that the school will agree to short and repeated bouts of leave as this would cause unreasonable disruption to teaching and learning. It is most likely that a request for a single block of leave is the model that an agreement can be reached.

SPLIT days

Shared parental leave in touch (SPLIT) days are similar to the keeping in touch (KIT) days under the maternity regulations. An employee (either parent exercising their right to SPL) can take 20 SPLIT days. An employee does not have to work such days (if requested by the employer) and has no right to them, so they only operate if both parties agree. They do not extend the period of SPL. They are in addition to KIT days available during maternity leave. Both SPLIT and KIT days are unpaid if agreed.

Further information is also available from www.gov.uk and www.acas.org.uk