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Shared Parental Leave Policy

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Contents

Contents.....	3
1 Introduction.....	4
1.1 What is Shared Parental Leave (SPL) and Shared Parental Pay (ShPP)?.....	4
1.2 Scope	4
1.3 Equality Statement	4
2 Entitlement and Eligibility	4
2.1 Entitlement to Shared Parental Leave and Pay	4
2.2 Who is eligible for Shared Parental Leave (SPL)?	5
2.3 How can Shared Parental Leave be taken?	5
2.4 Who is eligible for Shared Parental Pay (ShPP)?	6
2.5 Calculating Shared Parental Leave	6
3 Conditions of Employment	6
3.1 Terms and Conditions.....	6
3.2 Right to Return	7
3.3 Keeping in Touch Days.....	7
4 Notice Requirements and Declarations.....	7
4.1 Maternity Leave Curtailment Notice.....	7
4.2 Withdrawing Maternity Leave Curtailment Notice	8
4.3 Notice of Entitlement and Intention	8
4.4 Variation or Cancellation of Notice of Entitlement and Intention	8
4.5 Requesting Blocks of Leave	9
4.6 False Declaration	9
5 Appendix 1 - Examples	11
Example 1:- Can both parents take shared parental leave at the same time?.....	11
Example 2: - Can Parents take Shared Parental Leave together and separately?	11
6 Policy Feedback.....	14
6.1 History of Policy Changes	14

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1 Introduction

1.1 What is Shared Parental Leave (SPL) and Shared Parental Pay (ShPP)?

Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption.

Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child. All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay.

This policy sets out the statutory rights and responsibilities of employees who wish to take statutory **Shared Parental Leave (SPL)** and statutory **Shared Parental Pay (ShPP)**.

The School recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. It is the School's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the shared parental leave provisions are complex, if an employee wishes to take shared parental leave, he/she should clarify the relevant procedures with **the [School Administrator/Bursar/Business Manager] at the earliest opportunity** to ensure that they are followed correctly.

The School are advised to contact Human Resources to discuss any request for Shared Parental Leave and/or on receipt of any formal notification or request.

1.2 Scope

This policy applies to employees of the School, whether they are the mother/primary adopter or the partner. If it is the mother/primary adopter who is employed by the School, his/her partner must (where relevant) submit any notifications to take shared parental leave set out in this policy to his/her own employer, which may have its own shared parental leave policy in place, if he/she wants to take a period of shared parental leave.

Similarly, if it is the partner who is employed by the School, the mother/primary adopter must (where relevant) submit any notifications to take shared parental leave to her own employer.

1.3 Equality Statement

This policy applies equally to all School employees regardless of their age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, marriage or civil partnership. Care will be taken to ensure that no traditionally excluded groups are adversely impacted in implementing this policy.

2 Entitlement and Eligibility

2.1 Entitlement to Shared Parental Leave and Pay

The amount of shared parental leave to which an individual is entitled will depend on when the mother/primary adopter brings his/her maternity/adoption leave period to an end and the amount of leave that the other parent takes in respect of the child.

Eligible parents will potentially be able to share a maximum of 50 weeks leave and 39 weeks statutory pay for the purpose of caring for a child within the first year of the child's life or in the year after the child is placed for adoption.

Shared parental leave cannot be taken until after the birth/placing of the child. Partners do not have to work for the School but they must satisfy minimum employment and earnings criteria, which are as follows:-

- have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks; and
- have, at the date of the child's birth/ matching, the main responsibility, apart from the mother, for the care of the child.

The partner's employer will need to be able to confirm this in order for them to be eligible to take SPL.

The School's Payroll provider will confirm to School employees their eligibility to SPL and ShPP in writing once they have submitted their request and notice of intention.

2.2 Who is eligible for Shared Parental Leave (SPL)?

To qualify for Shared Parental Leave the employee must be:-

either:-

- the child's mother or primary adopter;
- the biological father of the child;

or:-

- the mother or Primary adopter's: husband/wife, partner (including same sex relationships) or civil partner and;
- have 26 weeks continuous service with the School, 15 weeks before the expected week of childbirth; or being notified of being matched with an adoptive child.

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

2.3 How can Shared Parental Leave be taken?

ShPL must be taken in complete weeks, but can either be taken as one continuous block or in multiples of complete weeks.

Important factors to note:

- ShPL must be taken in blocks of at least one week and must be taken within 52 weeks of the birth or adoption.
- Provided that both parents qualify for ShPL the leave can be taken at the same time by both parents or separately.
- Up to three periods of ShPL leave can be taken per pregnancy or adoption.

2.4 Who is eligible for Shared Parental Pay (ShPP)?

For employees to be eligible for statutory shared parental pay, both parents must meet certain eligibility requirements.

The mother is eligible for statutory shared parental pay if he/she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with her employer until the week before any period of shared parental pay that she gets;
- has normal weekly earnings for a period of eight weeks ending with the 15th week before the expected week of childbirth of at least the lower earnings limit for national insurance contribution purposes;
- has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is absent from work and intends to care for the child during each week in which she receives statutory shared parental pay; and
- is entitled to statutory maternity pay in respect of the child, but the maternity pay period has been reduced.

In addition, for the mother to be eligible for statutory shared parental pay, the partner must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks.

2.5 Calculating Shared Parental Leave

The Government have produced an online calculator for assessing individual entitlements to Maternity, Paternity and Shared Parental Leave and Pay. This will give an indication of statutory benefits and rights based on an individual's circumstances, see link below for further details:

<https://www.gov.uk/pay-leave-for-parents>

3 Conditions of Employment

3.1 Terms and Conditions

During a period of shared parental leave employees will be entitled to the same terms and conditions that would have applied had they not taken the leave, with the exception of remuneration (pay).

All shared parental leave will be:

- Pensionable*;
- Reckonable for incremental pay; and
- Included in any probationary period.

*For Local Government Pension Scheme members' periods of unpaid leave will not be treated as pensionable and will reduce the amount of pension earned during the year. Employees can, however, choose to pay Additional Pension Contributions (APC) to buy the 'lost' pension. Employees can elect to pay an APC within 30 days of returning to work and the School will pay 2/3rds of the APC. For more information please contact your pension administrator (Torbay Council Pensions, Tel: 01803 207410.)

3.2 Right to Return

Employees have the right to return to the same job if they have been on shared parental leave plus any other type of leave for 26 weeks or less.

If you have been on leave for more than 26 weeks you have the right to return to the same job unless this is not reasonably practicable. If due to organisational change your role no longer exists you would be managed in accordance with the School's Redundancy policy.

3.3 Keeping in Touch Days

Both parents who are eligible for shared parental leave may take up to a maximum of 20 Shared Parental Leave Keeping in Touch (SPLIT) days between them. This is in addition to the 10 Keeping In Touch days available during a period of maternity leave. SPLIT days should be approved by the employee's line manager and requested using the SPLIT/KIT Days request form, available via MyView or from the Education HR Portal.

Taking SPLIT days, which are days when you attend work, will not end the employee's entitlement to shared parental leave or statutory pay. On a SPLIT day the employee will be paid for the number of hours that they work.

4 Notice Requirements and Declarations

4.1 Maternity Leave Curtailment Notice

Anyone eligible and intending to take shared parental leave must submit a maternity/adoption leave curtailment notice, **giving at least 8 weeks' notice**, stating that they wish to end their maternity or adoption leave early. ***Shared Parental Leave – Maternity/Adoption Leave Curtailment Notice – (Form 1)***

The maternity leave curtailment notice **must be in writing** and state the date on which maternity leave is to end. That date must be:

- after the compulsory maternity leave period, which is the two weeks after birth;
- at least eight weeks after the date on which the mother gave the maternity leave curtailment notice to her employer; and
- at least one week before what would be the end of the additional maternity leave period.

Once you have ended your maternity/adoption leave and have returned to work you will only be entitled to statutory pay during periods of shared parental leave and at that point you cannot revert back onto maternity leave.

You should give careful consideration to the financial implications of ending your maternity/adoption leave early while still in receipt of occupational maternity/adoption pay. This is because ShPL is paid at the lesser statutory rate.

A template ***Shared Parental Leave – Maternity/Adoption Leave Curtailment Notice (Form -1)*** is available from the Education HR Portal.

4.2 Withdrawing Maternity Leave Curtailment Notice

The mother can withdraw her notice curtailing her maternity leave in limited circumstances. The withdrawal of a maternity leave curtailment notice must be in writing and can be given only if the mother has not returned to work. The mother can withdraw her maternity leave curtailment notice if:

- it is discovered that neither the mother nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother withdraws her maternity leave curtailment notice within eight weeks of the date on which the notice was given;
- the maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth; or
- the partner has died.

A Revocation of ***Shared Parental leave – Maternity/Adoption Leave Curtailment Notice (Form – 1)*** is on the back of the ***Shared Parental Leave – Maternity/Adoption Curtailment notice (Form -1)*** and should be completed in the above circumstances.

4.3 Notice of Entitlement and Intention

Before taking leave, a notice of entitlement and intention to take shared parental leave must be submitted. This may be submitted at the same time as the ***Shared Parental Leave maternity/adoption curtailment notice (Form – 1)*** or at a later date but it cannot be later than 8 weeks before the date of the first period of shared parental leave.

Templates for:

Shared Parental Leave - Notice of Entitlement and Intention (Mother/Primary Adopter) (Form -2)

Shared Parental leave – Notice of Entitlement and Intention (Partner) (Form – 3)

are available from the Education HR Portal.

Within 14 days of receiving a notice of entitlement and intention from the employee, whether the mother or partner, the employee's line manager may request from the employee:

- a copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth - if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice); and
- the name and address of the other parent's employer (or a declaration that the other parent has no employer).

The employee has 14 days from the date of the request to send their manager the required information.

4.4 Variation or Cancellation of Notice of Entitlement and Intention

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of

- ***Shared Parental Leave - Notice of Entitlement and Intention (Mother/Primary Adopter) (Form -2)*** or
- ***Shared Parental leave – Notice of Entitlement and Intention (Partner) (Form – 3)***

Provided that he/she provides the School with a written notice. The written notice must contain:

- an indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave);
- details of any periods of shared parental leave that have been notified through a period of leave notice;

- details of any periods of statutory shared parental pay that have been notified in relation to periods where shared parental leave was not to be taken; and
- a declaration signed by the mother and the partner that they agree to the variation.

A copy of any variation or cancellation must be provided to the Payroll department by the School. Where using Torbay's Payroll Scanned copies and/or emails can be sent to:- hrsupport@torbay.gov.uk

A template ***Shared Parental Leave – Variation or Cancellation of Notice of Entitlement and Intention (Form -4)*** is available from the Education HR Portal.

4.5 Requesting Blocks of Leave

ShPL can be requested in two ways:-

Continuous Leave - requests for a single block of continuous leave **must be agreed** by the School as this is a legal entitlement. Where the School agrees to the request they should write to the employee within 14 calendar days to confirm the request.

A template ***Shared Parental Leave – Notice of Period of Leave (Form – 5)*** is available from the Education HR portal.

Discontinuous Leave - if a request is for more than a single block of leave (i.e. gaps in between leave and being at work) the School may:

1. Agree the request;
2. Propose alternative dates for the leave to be taken; or
3. Decline the request due to a business reason.

A template ***Shared Parental Leave - Notice of Period of Leave (Form 5)*** is available from the Education HR portal.

The School must agree the outcome within 14 calendar days of receiving the request. A template letter is available from the EducationHR web portal.

Up to three separate requests for periods of shared parental leave and three ***Shared Parental Leave – Variation of Period of Leave Notice (Form – 6)*** may be submitted by the employee. Any periods of leave that have been declined do not count towards these totals.

A template form ***Shared Parental Leave – Variation of Period of Leave Notice (Form – 6)*** to vary a Period of Leave Notice is available from the Education HR portal.

If the employee has already decided the pattern of shared parental leave that they would like to take, they can provide more than one type of notice to their manager at the same time. For example, the mother could provide a ***Shared Parental Leave – Maternity/Adoption Leave Curtailment Notice (Form -1)***, a ***Shared Parental Leave Notice of Entitlement and Intention (Mother/Primary Adopter (Form – 2)*** and a ***Shared Parental Leave – Notice of Period of Leave (form 5)*** at the same time. Similarly, the partner could provide his/her ***Shared Parental Leave – Notice of Entitlement and Intention (Partner) (Form 3)*** and their ***Shared Parental Leave – Notice of Period of leave (Form 5)*** at the same time.

On receiving any of the above notices, the School is advised to contact Human Resources for guidance.

4.6 False Declaration

If it is found that an employee is falsely claiming ShPL or ShPP, this would amount to gross misconduct and would be dealt with accordingly under the School's disciplinary procedure. HMRC (Her Majesty's Revenue and Customs) will

also be notified of any false claims which could also result in a fraud conviction against the individual and/or their spouse/partner.

5 Appendix 1 - Examples

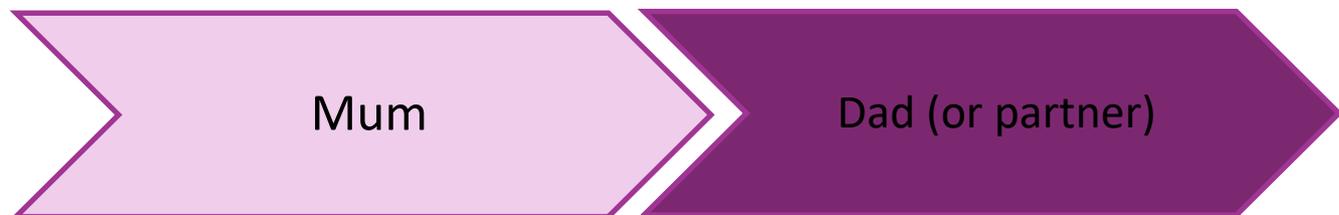
Example 1:- Can both parents take shared parental leave at the same time?

Yes, both parents can be absent from work on shared parental leave at the same time.

The amount of shared parental leave that the parents can share is 52 weeks, minus the amount of maternity leave taken by the mother, or adoption leave taken by the primary adopter. All leave must be taken before the child's first birthday, or before the first anniversary of the day on which the child was placed for adoption. For example, the mother could take two weeks' compulsory maternity leave followed by 40 weeks' shared parental leave. This would leave 10 weeks' shared parental leave for the father (or the mother's partner) to take at any time before the child's first birthday, either at the same time as the mother or when she has returned to work.

In total Mum has taken 42 weeks

In total Mum has taken 42 weeks' Shared Paternity Leave and 39 weeks' Shared Paternity Pay, while Dad (or partner) has taken 10 weeks' un-paid Shared Paternity Leave.



- Mum takes 2 weeks compulsory maternity leave followed by 40 shared parental leave, 39 weeks of which are paid and then returns to work.
- Dad (or partner) takes remaining 10 weeks shared parental leave, unpaid.

Example 2: - Can Parents take Shared Parental Leave together and separately?

Yes, both parents can take Shared Parental Leave together as well as splitting their Shared Parental Leave.

Mum takes 10 weeks' maternity leave and pay. She then commits to going back to work at week 22; and by doing so frees up 30 weeks to be taken as Shared Parental Leave and 17 weeks of Shared parental pay still to be taken. Dad (or partner) takes 12 weeks of leave and pay to coincide with weeks 11 to 22 of Mum's maternity leave.

Then he takes a further 5 weeks' Shared Parental Leave and the last 5 weeks of Shared Parental Pay and 3 weeks' of un- paid Shared Parental Leave, while Mum returns to work.

Then when Dad (or partner) goes back to work Mum takes the final 10 weeks of un-paid Shared Parental Leave.

In total Mum has taken 32 weeks' Shared Paternity leave and 22 weeks' Shared Paternity Pay, while Dad (or partner) has taken 20 weeks' Shared Paternity Leave and 17 weeks' Shared Paternity pay.



- Mum takes first 10 weeks of maternity leave and pay

- Mum commits to going back to work after week 22, she takes another 12 weeks maternity leave and pay and dad takes 12 weeks of shared parental leave

- Dad (or partner) takes another 8 weeks of shared Parental Leave and 5 weeks of pay and Mum returns to work.

- Dad (or partner) goes back to work and Mum takes remaining 10 weeks of Shared Parental Leave.

The Shared Parental Leave process at a glance



6 Policy Feedback

Should you have any comments regarding this policy, please address them to the HR Policy mailbox –

HRpolicy@torbay.gov.uk

6.1 History of Policy Changes

Date	Page	Details of Change	Agreed by:
Sep 2017	All	Reformat	
March 2020	All	Reformat	

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