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**This policy applies to the whole of CfBT Schools Trust (CST), including all schools.**

## **Policy: Family Friendly & Leave of Absence Policy 4: Shared Parental Leave and Pay**

### **Introduction and purpose**

Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. It gives parents more flexibility in considering how to best care for, and bond with, their child. This policy sets out the statutory rights and responsibilities of employees who wish to take Shared Parental Leave.

### **Scope**

This policy applies to all staff employed by CST, including directly employed central team staff, the Education Executive team (EET) (this term includes the CEO and Education Directors), Headteachers, teachers, NQTs and school support staff.

For the purposes of this policy the term ‘Headteachers’ includes Headteachers and Principals. In this policy, the term ‘teacher’ refers to classroom teachers, middle and senior leaders.

### **Accessibility**

A copy of this policy and a copy of all relevant documents will be made available for all staff. The policy is also available in hard-copy on request and can be made available in large print or other accessible formats if required.

### **Shared Parental Leave entitlement**

You and your partner may be able to get Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP) if you are having a baby or adopting a child.

In the first year after the child’s birth or the child is placed with you, you can share:

- Up to 50 weeks of leave and
- Up to 37 weeks of pay

SPL is taken in blocks separated by periods of work or taken all in one go. You can choose to be off work together or stagger the leave and pay.

### **Eligibility for Shared Parental Leave**

SPL can only be used by two people, the mother/primary adopter and either

- The father of the child (birth); or
- The spouse, civil partner or partner of the child's mother; or
- The secondary adopter

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

**Birth parents**

You must:

- Have at least 26 weeks continuous employment with the Trust by the end of the qualifying week
- Still be employed by us at the start of the period of SPL

The other person must:

- Have worked in an employment or self-employed capacity in at least 26 of the 66 weeks before the baby is due and have average weekly earnings as indicated in the current regulations

You must both:

- Give your respective employers the necessary notice and declarations set out in this policy.

The mother must:

- Be, or have been, entitled to statutory maternity leave and statutory maternity pay or maternity allowance; and
- Ended or given notice to reduce maternity entitlements.

**Adoptive parents**

You must:

- Have at least 26 weeks continuous employment with the Trust by the end of the week you were matched with the child
- Still be employed by us at the start of the period of SPL

The other person must

- Have worked in an employment or self-employed capacity in at least 26 of the 66 weeks before the baby is due and have average weekly earnings as indicated in the current regulations

You must both:

- Give your respective employers the necessary notice and declarations set out in this policy.

The primary adopter must;

- have been entitled to statutory adoption leave and statutory adoption pay; and
- Ended or given notice to reduce adoption entitlements,

**The Start of SPL**

You can only start SPL once the child has been born or placed with you for adoption.

If you are the mother, you cannot start SPL until after the first two weeks after the birth (compulsory maternity leave period).

If you are the primary adopter, you cannot start SPL until after taking at least two weeks of adoption leave.

If you are the father or the secondary adopter, you can take SPL immediately following the birth or placement of the child, but you may wish to exhaust Paternity Pay entitlements first. You cannot take Paternity Leave or receive Paternity Pay once you have taken SPL or ShPP.

The mother or primary adopter must:

- Return to work; or
- Give their employer 'binding notice' of the date they plan to end their leave

You may start your SPL while your partner is still on maternity or adoption leave as long as they have given binding notice.

### **Notification of SPL**

Notification must be in writing, using the appropriate forms (FFSPL1 – FFSPL4). You must submit the notice at least eight weeks before the start of the period of SPL. The notification must include:

- Your full name
- The full name of the other parent
- The start and end date of maternity or adoption
- The total SPL available. This is 52 weeks minus the number of weeks maternity or adoption leave taken/to be taken
- The expected date of the baby's birth or the matching date and placement date for adoption
- The amount of SPL to be allocated to you
- The amount of SPL to be allocated to the other parent
- The pattern of SPL you and your partner intend to take. This is not binding at this stage but you should give as much information as possible
- A signed declaration that you and the other parent meet the statutory conditions of entitlement to SPL and ShPP.

If you are the mother or primary adopter and want to opt into the SPL scheme you must:

- Give at least eight week's written notice to end your maternity leave early (curtailment notice) before you can start SPL. You may give this notice before the baby is born.
- Submit the appropriate forms (FFSPL1 – FFSPL4)

On request, you must provide:

- A copy of the birth certificate
- Name and address of the other parent's employer or a declaration that they are self-employed
- Name and address of the adoption agency
- Date you were matched with a child
- Date the child will start living with you

### **Cancelling a curtailment notice**

The curtailment notice is binding and cannot usually be revoked. However the mother or adopter can change their decision to opt out of maternity or adoption leave early if they have not already returned to work and the planned end date has not passed. One of the following must also apply:

- You or your partner realise that you are not eligible for SPP or ShPP, in which case you can revoke the curtailment notice in writing up to eight weeks after it was given;
- You submitted the curtailment notice before the birth, in which case you can revoke it in writing up to eight weeks after it was given or six weeks after the birth
- The other partner has died

Once you have revoked a curtailment notice you cannot opt back in to the SPL scheme

### **Discussions regarding Shared Parental Leave**

You are encouraged to talk to us as early as possible so we can informally discuss your potential entitlement, talk about your plans and enable us to support you. This is particularly important if you are hoping to take discontinuous leave (see below).

We may, upon receiving a notification of entitlement to take SPL, seek to arrange an informal discussion with you to talk about your intentions and how you currently expect to use your SPL entitlement.

Upon receiving a leave booking notice we will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can without further discussion be approved in the terms stated in your notice booking leave, a meeting may not be necessary.

Where a meeting is arranged it will take place in private and be arranged in advance. If the initial date is problematic then another date will be arranged if possible. If an alternative date cannot be arranged then the meeting may be held over the telephone.

At the meeting you may, if you wish, be accompanied by a workplace colleague, trade union representative.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while you are away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a different arrangement would be agreeable to you and us, and what the outcome may be if no agreement is reached

### **Booking your SPL dates**

Once you have opted in to the SPL scheme you will need to give Notice of Dates for Shared Parental Leave. This is often done at the same time as the Opt-in Notice but it must be given at least eight weeks before the start of the leave.

You can book up to three separate blocks of SPL instead of taking it all in one go, even if you are not sharing leave with your partner. Each block requires a separate Opt-in Notice.

Each block of SPL can start on any day of the week but must be taken in complete weeks. Each block of leave may be:

- Continuous: a number of weeks taken in a single unbroken period; or
- Discontinuous: two or more weeks of leave where you return to work between periods of leave (e.g. a period of three months working two weeks on and two weeks off)

A period of continuous leave will be automatically agreed and confirmed in writing.

We will consider requests for discontinuous leave but reserve the right to refuse such requests. If we have concerns about discontinuous leave, we will discuss our concerns with you. If we refuse your request, you will be entitled to take the full amount of SPL requested as a continuous period. If we refuse discontinuous leave, you may withdraw the request without detriment within 15 days of the Opt-in Notice.

Once we receive the Opt-In Notice we will respond within 14 days.

## Variations to Shared Parental Leave

You may vary or cancel an agreed and booked period of SPL, provided you advise us in writing as follows:

- To cancel a block of leave: eight weeks' notice before the start date of that block
- To change the start date for a block of leave: eight weeks' notice before the original start date and the new start date.
- To change the length of the block of leave: eight weeks' notice before the original start date and the new start date
- To change the end date for a block of leave: eight weeks' notice before the original end date and the new end date
- To combine a discontinuous block of leave into a continuous block of leave: eight weeks' notice before the original start date
- To change a continuous block of leave into a discontinuous block of leave: we will consider such requests as set out above

A variation or cancellation request will normally be treated as a new notification i.e. one of your three Opt-in Notices, reducing your right to request leave by one. The exceptions to this are:

- If the child is born earlier or later than the EWC
- The variation is as a result of our request
- We agree otherwise

## Shared Parental Pay (ShPP)

If you are eligible for SPL you may be entitled to take up to 37 weeks of ShPP. (39 weeks of SMP less the first 2 weeks of compulsory maternity leave).

ShPP may be payable during some or all of SPL, depending on the length and timing of the leave. In addition to meeting all the eligibility requirements for SPL, you must satisfy each of the following criteria:

- The mother/adopter must be/have been entitled to SMP, adoption pay of Maternity Allowance and must have curtailed their maternity/adoption leave period.
- You must intend to care for the child in the weeks that ShPP is payable
- You must have average weekly earnings in the 8 weeks up to and including the 15<sup>th</sup> week before the child's expected due date/matching date at or above the lower earnings limit for National Insurance contributions
- You must remain in continuous employment until the first week of ShPP has begun
- You must give proper notice

ShPP will be paid at the rate set by the Government for the relevant tax year.

## Contract

All terms and conditions of employment will be maintained throughout SPL, with the exception of pay. You have the right not to be dismissed or subjected to any detriment by reason of taking the leave.

## Returning to Work

We will confirm your expected date of return to work. You are expected to return to work on that date unless you notify us otherwise.

If you wish to return to work earlier than the expected date of return you must give us at least eight weeks' notice of the new return date. This will count as one of your three Opt-in Notices. If you have already used all three Opt-in Notices we may refuse your request to return early.

If your SPL plus statutory maternity/paternity/adoption leave in total amounts to 26 weeks or less you are entitled to return to the same post that you held before starting your SPL. If your SPL plus statutory maternity/adoption/paternity leave amounts to more than 26 weeks you have the right to return to the same post that you held before starting your SPL or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions that are no less favourable.

If you took SPL consecutively with more than 4 weeks of unpaid parental leave you have the right to return to the same post that you held before starting your SPL or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions that are no less favourable.

Failure to return to work at the end of the SPL without an explanation will be treated as unauthorised absence. The relevant disciplinary procedures will apply.

### **Unfit to return**

If, for a reason connected to your health, you are not fit to return to work at the end of your maternity leave (including an earlier notified date), you will be treated as having returned to work and the usual sickness absence policy and procedures will apply.

### **Reasonable contact**

Managers may make reasonable contact with you during SPL period. This can be to discuss a range of issues such as arrangements for a return to work, training, to inform about important workplace developments etc. Contact can be by telephone, email, letter or visit to the workplace.

### **Performance management**

Wherever appropriate, a performance management review will take place prior to the start of your shared parental leave. The review will be based on the evidence of performance to date in that performance review period. Where it was not possible to arrange the review prior to the leave commencing, the reviewer may consider the previous performance management period.

### **Pay progression**

You will not be denied pay progression as a result of absence due to shared parental leave. On your return to work from shared parental leave, you will be given any pay increase that you would have received, following your performance review appraisal, had you not been on shared parental leave.

### **Shared Parental Leave In Touch (SPLIT) Days**

SPLIT days are not the same as reasonable contact (see above).

By mutual agreement, you may work for up to 20 days under your contract of employment during SPL without bringing SPL to an end or affecting ShPP. This is in addition to any Keeping In Touch (KIT) days that you may have taken during maternity leave. SPLIT days do not extend the period of SPL.

Neither party can insist that you undertake a SPLIT day. They are a matter for agreement between both parties. It is highly recommended that the work to be undertaken is agreed and documented in advance of the SPLIT day.

The work carried out may be an activity which would ordinarily be classed as work under your contract of employment.

Any work undertaken on an occasion during SPL will count as using one SPLIT day. So, for example, if you attend a 3 hour training session and do no other work that day, you will have used a whole SPLIT day.

Payment can be made for half days or whole days so, in the above example, you would be paid for a half day (assuming you work a full day normally) but would use a full day from your allowance.

## **Pensions**

If you are a member of a pension scheme, we will make employer contributions during any period of SPL based on your normal salary, in accordance with pension scheme rules. Employee contributions will be automatically deducted from SPP based on the amount you are actually receiving.

Some pension schemes permit contributions by the member to cover periods of unpaid leave. You are advised to contact the scheme administrators for further details.

## **Annual Leave**

Annual leave will accrue at the rate provided under your contract.

In some cases, the period of SPL will continue beyond the holiday year. Any holiday entitlement for that year that has not been taken, or cannot reasonably be taken before starting SPL, may be carried over to the next holiday year. It must be taken immediately before returning to work or within 3 months of returning to work unless agreed otherwise. You should try to limit the carry-over to a maximum of one week's leave. Carry-over of more than one week will be at our discretion.

You should discuss your annual leave plans before starting your SPL. All annual leave dates are subject to approval by us.

N.B. Teachers only: Teaching staff have an entitlement to statutory annual leave of 28 days per academic year, which must be taken during school closure periods. It is highly unusual that a teacher returning from SPL will not have been able, or will not be able, to take that leave during school closure periods in the academic years either side of their SPL.