

Wilton and Barford CE VC Primary School



SHARED PARENTAL LEAVE POLICY FOR TEACHERS AND SUPPORT STAFF SCHOOLS

This model policy will apply to teaching and non-teaching staff working in Wiltshire Schools / Academies and has been agreed with the following recognised unions: ATL, NUT, NAHT, NASUWT, ASCL, Unison, Unite and GMB

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Introduction

1. This model policy sets out the statutory minimum entitlement that applies to school teachers and support staff under the Shared Parental Leave Regulations 2014. Where appropriate the model policy also refers to other conditions of service set out in the Burgundy book for teachers and the NJC conditions of service for support staff.
2. This model policy applies to all teachers and support staff within LM/VC Schools and is extended to Foundation, Voluntary Aided Schools.
3. Where a Foundation or Voluntary Aided school has decided not to observe NJC terms and conditions of employment or to enhance the statutory entitlements under the Shared Parental Leave regulations 2014 for their teachers and support staff it must have undergone local consultations and negotiations with the recognised unions to establish any replacement terms and conditions they are offering to such staff.
4. This model policy sets out the arrangements for eligible employees to share the remaining maternity/adoption leave and pay of a mother/primary adopter who elects to end their maternity/adoption leave and take up shared parental leave (SPL).
5. SPL is a statutory entitlement which enables parents/partners to share leave and pay in a more flexible way in the year after their child's birth or placement for adoption for the purpose of carrying out the main caring responsibilities for the child that the SPL and pay relate to.
6. SPL applies to parents of children who are expected to be born or to be placed for adoption on or after 5 April 2015. Both parents must be eligible for SPL to apply regardless of whether they both work for the school or one of the parent's works for an alternative employer. SPL and shared parental pay (ShPP) must be taken between the baby's birth and first birthday (or within 1 year of adoption).

Scope

Who is included in these arrangements?

7. The scheme applies to all eligible teachers and support staff whether full time, part time or on a temporary contract, in schools where they and the other parent meet the eligibility criteria, notification and evidence requirements outlined in this model policy.

Who is excluded from these arrangements?

8. The Agency Workers Regulations specifically excludes such agency workers from maternity, paternity or adoption leave scheme's run by the hirer.
9. Self-employed workers and consultants are also excluded from entitlements to maternity, paternity, adoption leave or shared parental leave.

Main Points

10. All eligible employees will continue to be able to take up to 52 weeks of maternity or adoption leave and statutory maternity/adoption pay will continue to be paid to eligible mothers/ adopters for up to 39 weeks.
11. Shared parental leave will be created where an eligible mother or adopter chooses to bring their maternity or adoption leave to an end early. The untaken weeks of maternity or adoption leave can be taken as SPL if the mother/adopter or their partner is eligible for this – up to a maximum of 50 weeks.
12. Statutory shared parental pay (ShPP) will be available where an eligible mother or adopter chooses to bring their maternity or adoption pay or maternity allowance to an end early. The untaken maternity or adoption pay or maternity allowance will become available as statutory shared parental pay – up to a maximum of 37 weeks.
13. In contrast to maternity/adoption and paternity leave, eligible employees will be able to stop and start their SPL and return to work between periods of leave. They will also be able to take leave off at the same time.
14. This policy applies to employees of the School only. The entitlement to SPL is dependent on both parents meeting the eligibility criteria and requirements of the statutory SPL regulations. If one of the parents is employed by another organisation it is essential that they refer to that organisation's SPL policy and ensure that they comply with this (including the requirement to submit separate notices to the organisation they are employed by) and the requirements of the statutory SPL regulations.

Statutory shared parental leave entitlement

15. The entitlement to SPL is 52 weeks which can be shared between both parents providing that they are both eligible and comply with the notification procedures. The amount of entitlement will reduce in line with any maternity/adoption leave that has been taken or is left to take.
16. The current 2 week period of compulsory maternity leave will continue to be reserved for the mother after the birth of the baby or in the case of adoption the primary adopter, is required to take the first 2 weeks of leave following adoption, leaving 50 weeks to be shared.
17. Employees can take SPL as continuous or discontinuous blocks but leave must be taken in multiples of complete weeks (5 day working weeks).
18. SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the day before the first birthday or first anniversary of placement for adoption is lost.
19. SPL is only available to two people (referred to in this document as the 'parents'). These two people are the birth mother/primary adopter (who is eligible for maternity/ adoption leave and/or pay) and a partner who is:
 - The child's father or

- The mother/primary adopter's spouse or civil partner or
- The mother/primary adopter's partner who is living with the mother/primary adopter and child in an enduring relationship. This does not include the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew etc

SPL is inclusive of same sex partners.

20. SPL and pay will also be available to employee if they are the intended parents in surrogacy arrangements who qualify for statutory adoption leave and/or pay.

Qualifying for shared parental leave

21. Both parents must meet the eligibility criteria for SPL, whether they both work for the school or not. The right to SPL is not only dependant on the employee satisfying the eligibility criteria, but is also dependant on the other parent satisfying certain conditions.

22. To qualify for SPL the employee must meet all the following criteria:

- the mother/primary adopter of the child must be entitled to statutory maternity/adoption leave or, if not entitled to statutory maternity/adoption leave, they must be entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
- the employee must still be working for the school at the start of each period of SPL;
- the employee must share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption and intend to care for the child in each week that SPL leave and pay is taken;
- the employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service with one or more maintained schools or academies at the end of the 15th week before the child's expected due date/matching date;
- the other parent must meet the 'employment and earnings test' requiring them, in the 66 weeks leading up to the child's expected due date/matching date, to have worked for at least 26 weeks and earned an average of at least £30 (this is correct as of 2015 but may change annually) a week in any 13 of those weeks;
- the employee must correctly notify the organisation of their entitlement and provide evidence as required.

23. Where the mother/primary adopter is not entitled to maternity/adoption leave but they are entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), then they must reduce their entitlement to less than the 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

Statutory Shared Parental Pay

24. Where the mother/primary adopter, agrees to curtail their entitlement to the 39 weeks of statutory payments available under the maternity and adoption scheme and chooses to take SPL, any remaining, untaken weeks, after the date of curtailment, of statutory pay out of the 39 week entitlement under these schemes will become available to them and their partner to share as statutory shared parental pay (ShPP).
25. However, the mother/primary adopter, is entitlement to 2 weeks compulsory maternity leave and pay at the time of the birth and the requirement to take at least 2 weeks of adoption leave prior to curtailment, will reduce the number of week's entitlement to ShPP that can be shared to 37 weeks.
26. The entitlement to ShPP is at the basic statutory rate in line with the SPL regulations. Mothers/primary adopters are advised to check their entitlement to occupational payments under the maternity/adoption scheme and give careful consideration to any financial implications and timings relating to switching to SPL.
27. Where employees are entitled to receive ShPP they must give at least eight weeks notice in accordance with this policy before receiving any ShPP. The payment of ShPP cannot begin before the correct notices, declarations and evidence has been provided to their headteacher/line manager. This should be included in their notice of entitlement to take SPL.
28. Employees will need to agree with their headteacher/line manager their entitlement to SPL and how the leave and payments will be shared with the other parent prior to taking leave, and within the timescales set out below. They will need to ensure that the arrangements for leave and pay are co-ordinated with the other parent's employer.
29. Payment of ShPP will be made by the school to employees only. If the other parent works for another employer or they are self-employed, they will need to make their own arrangements to claim their share of ShPP from their employer or the government.

Qualifying for Statutory Shared Parental Pay

30. To be entitled to ShPP, both parents must meet the eligibility criteria for ShPP in relation to their separate employment, whether both parents work for the school or not.
31. To qualify for ShPP in addition to the qualifying criteria for SPL above the employee must meet the following criteria:
 - The mother/primary adopter must be entitled to SMP/ SAP or MA and have agreed to reduce their maternity/adoption pay/maternity allowance period. They must have some entitlement to these statutory payments outstanding to share. This should be at least a full week or more.

- The employee must have average weekly earnings in the 8 weeks leading up to and including the 15th week before the child's expected due date/matching date are not less than the lower earnings threshold applicable in that week.
 - The employee must be absent from work on SPL (and intend to care for the child) during each week in which ShPP is paid (apart from in those situations where it is permissible to work e.g. Shared parental leave in touch (SPLIT) days (see below) or working for a different employer who already employed them in the relevant week).
 - The employee must remain in continuous employment until the first week of ShPP.
 - The employee must give proper notification as set out in this policy.
32. ShPP average weekly earnings calculations will be recalculated to take in to account any pay rises (including increments, annual pay awards or job regradings) which occur during the SPL period (including the unpaid SPL period). Any increase will be back dated to apply from the start of paid SPL.
33. Where the mother is entitled to maternity leave and maternity allowance (not SMP) they may qualify for SPL but they will not be entitled to ShPP. However if their partner satisfies the qualifying conditions for SPL leave and pay and they choose to curtail their entitlement to maternity leave and pay, they would be entitled to take the balance of their maternity leave as SPL and the balance of their maternity allowance as ShPP.

Starting shared parental leave

34. SPL can commence as follows:
- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child.
 - The primary adopter can take SPL after taking at least two weeks of adoption leave.
 - The partner can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as paternity leave and pay cannot be taken once any SPL is taken).
35. The partner of the mother/primary adopter can take SPL while the mother/primary adopter is still using their maternity/adoption entitlements, where the mother/primary adopter has given notice to curtail their maternity/adoption entitlement and the partner has submitted the correct notifications outlined in this policy.
36. Prior to taking any leave employees must complete the notification process including providing the required declarations and evidence as outlined below.

37. Parents can make requests for a variety of different leave patterns through the notification and approval process outlined in this policy. It is possible for requests for SPL to include arrangements where leave is taken at the same time as the other parent and there could be times where both parents return to work between periods of SPL where alternative childcare has been arranged.
38. SPL will generally commence on the employees chosen start date specified in the details they provide in their leave booking notice, or in any subsequent variation notice (see below "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave").
39. Employees must let their headteacher/line manager know of any changes to their circumstances which may affect SPL including early births asap.

Notification of shared parental leave

40. Employees must provide relevant notice to be able to take shared parental leave. The notice is made up of three elements, as follows:
 - Notice 1 - a "maternity/adoption leave curtailment notice" must be provided by the mother/primary adopter, setting out when they propose to end their maternity/adoption leave (unless they have already returned to work from maternity/adoption leave);and
 - Notice 2 - a "notice of entitlement and intention" this must be completed by both parents, giving an initial, non-binding indication of each period of shared parental leave that they are requesting; and
 - Notice 3 - a "period of leave notice" this must be completed by both parents, setting out the start and end dates of each period of shared parental leave that he/she is requesting.

Early discussion

41. Minimum notice periods are set out below; however, the earlier employees inform their headteacher/line manager of their intentions the better. This will allow for early discussions about potential leave.
42. The purpose of such a conversation is to allow the headteacher/line manager to get an idea of the type and pattern of leave they may be interested in taking, giving them time to consider how best to accommodate any forthcoming notice to book SPL. It can also be an opportunity to discuss what forms of discontinuous leave patterns could be accommodated.
43. If an employee has already decided on the pattern of SPL they would take, they can provide more than one type of notice at the same time. For example they could provide maternity leave curtailment notice, notice of entitlement and intention and period of leave notice at the same time.

Notices required for shared parental leave

Notice 1- Maternity/adoption leave curtailment notice

44. The mother/primary adopter must, either return to work before the end of their maternity/adoption leave (by giving the required eight weeks' notice of their planned return) or provide their headteacher/line manager with a maternity/adoption leave curtailment notice before either they or their partner can take SPL.
45. The maternity/adoption 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/adoption leave period, which is the two weeks after birth;
 - at least eight weeks after the date on which they gave the maternity/adoption leave curtailment notice to their headteacher/line manager; and
 - at least one week before what would be the end of the additional maternity/adoption leave period.
46. The mother/primary adopter must provide their maternity leave curtailment notice or declaration that they or their partner will take shared parental leave or pay at the same time as they provide their 'notice of entitlement and intention'.
47. Maternity/adoption leave can be taken at the same time as SPL providing the 'curtailment notice' and 'notice of entitlement and intention' has been completed and returned.
48. The mother/primary adopter can choose to end their maternity/adoption leave early by returning to work, rather than curtailing their maternity leave, they will not be able to restart their maternity/adoption leave.

Withdrawing a curtailment notice

49. The mother/primary adopter, can withdraw notice curtailing maternity/adoption leave in limited circumstances. The withdrawal of a maternity/adoption leave curtailment notice must be given in writing to the headteacher/line manager and may be given only if they have not returned and;
 - it is discovered that neither they nor their partner are entitled to shared parental leave or statutory shared parental pay and they withdraw their maternity/adoption leave curtailment notice within eight weeks of the date on which the notice was given;
 - the maternity/adoption leave curtailment notice was given before the birth of the child and they withdraw their maternity/adoption leave curtailment notice within six weeks of the child's birth; or
 - their partner/other expectant parent has died.

Notice 2 - Notice of entitlement and intention

50. Both parents, must provide a non-binding notice of entitlement and intention to their respective employers. Employees must provide this notice to their headteacher/ line manager in writing at least 8 weeks before the start date of their first period of shared parental leave to be taken.

51. The notice of entitlement and intention must cover specific information required under the statutory regulations. Employees are encouraged to use the notification of entitlement and intention form provided by the school to ensure that they provide all the required information.
52. Where there is a suspicion that fraudulent information may have been provided or where the School has been informed by the HMRC that a fraudulent claim was made, the school will investigate the matter further in accordance with the schools disciplinary policy and procedures.
53. Employees may be required to provide the following information if requested by their headteacher/line manager within 14 days of receiving a notice of entitlement and intention:
 - the name and business address of the other parent's employer (where this person is no longer employed or is self-employed their contact details must be given instead)
 - in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth).
 - in the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption
54. In order to be entitled to SPL, they must produce this information within 14 days of a request from the headteacher/line manager.

Variation or cancellation of notice of entitlement and intention

55. Although non-binding, should employees become aware of any changes to speculative dates of leave provided in their original notification, they should inform their headteacher/line manager in writing as soon as possible of the proposed changes, along with a declaration signed by the other parent that they agree to the variation.
56. These variations will allow for early discussions with the headteacher/line manager about potential leave patterns.
57. There is no limit on the number of variations of notice of entitlement and intention speculative leave dates that employees can make.

Notice 3 - Period of leave notice

58. The employee must provide a written notice setting out the start and end dates of each period of SPL requested in that notice to the headteacher/line manager.
59. A period of leave notice must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice. The notice

may be given at the same time as a 'notice of entitlement and intention' and can be a request for a continuous period of leave or discontinuous periods of leave.

60. SPL can be taken in either continuous or discontinuous blocks but it must be taken in multiples of complete working weeks and before the child is one or within a year of adoption.
61. *Continuous leave* means taking an unbroken period of leave. For example, this could be a notification for a period of six weeks' leave. Eligible employees have a statutory right to take SPL in this way providing it does not exceed the number of weeks available to them through SPL. The request will be approved, unless alternative dates are agreed, providing the necessary notice has been given.
62. *Discontinuous leave* is a period of leave that is arranged around weeks where employees will return to work eg an arrangement where an employee will work every other week for a period of three months.
63. Discontinuous leave is subject to agreement and may either be approved, refused or different dates suggested.

Further discussions about leave requests

64. Employees may already have had preliminary discussions with their headteacher/line manager about their intentions to take SPL but headteachers/line managers may arrange to meet employees for further discussions at this point, particularly in respect of discontinuous periods of leave, to discuss whether leave can be approved or whether alternative dates can be agreed.
65. Although this discussion should be as informal as possible, employees may be accompanied by a workplace colleague, trade union representative or even a personal friend or family member.

Responding to an SPL notification of leave

66. All notices for continuous leave will be confirmed in writing.
67. All requests for discontinuous leave will be carefully considered by the headteacher/line manager, weighing up the potential benefits to the employee and to the school against any adverse impact to the school service.
68. Within 14 days of submitting a notification of leave request employees will receive written notification that:-
 - it has been approved with confirmation of the start date of SPL, or
 - it has been refused, or
 - alternative dates are suggested.
69. If within the 14 days, no agreement is reached **or** the headteacher/line manager refuses the discontinuous leave notification **or** the employee has not received a response to a discontinuous leave notification (and they have checked that a response was received), the following default provisions will apply:

70. Within 14 calendar days of the original notification:-

- the total amount of leave in the discontinues request must be taken as one continuous block. Employees will then have to decide whether to take the leave as a continuous block or to withdraw the request.

71. Within 15 calendar days of the original notification:-

- if no agreement is reached, employees may withdraw their discontinuous leave notification. They must provide this in writing to their headteacher/line manager within 15 days of the original notification.
- if they do withdraw the request it will not count as one of their three notices to book leave.
- if they do not withdraw their request, the discontinuous leave notification automatically defaults to a period of continuous leave.

72. Within 19 calendar days of the original notification:-

- Employees can choose when the continuous leave will commence but it cannot start sooner than eight weeks from the date the original notification was given. They must provide this in writing to their headteacher/line manager within 19 days of the original request.
- if they do not choose, the start date automatically defaults to the date the requested discontinuous leave would have first started.

73. Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

Limit on number of requests for leave

74. Employees have an entitlement to 3 notifications of leave requests; this includes:-

- A notice to book continuous or discontinuous periods of leave that is not withdrawn on or before the 15th day following submission.
- Any notice from employees to vary periods of previously arranged and agreed leave.

75. Both parents must ensure that notifications of leave cover the full shared leave entitlement that they have decided to take.

Varying or cancelling periods of booked SPL

76. Employees may wish to vary or cancel a period of booked leave and will be required to do so in writing as least 8 weeks before the dates they are looking to vary begin.

77. If the variation or cancellation is received less than 8 weeks before the period of leave then it may not be possible for the leave to be varied or cancelled and they would have to take the original request for leave.
78. A notice to vary booked SPL will count as a further notification. Therefore if employees had originally agreed the leave as part of their first notice to book SPL, cancelling or varying the leave would count as a second notification, meaning they would only have one more notification to use any remaining leave.
79. There may be instances, providing employees are in agreement, where the headteacher/line manager proposes a variation to leave, this would not count as a further notification and this should be confirmed in writing.

Multiple Jobs

80. If employees have multiple jobs, and meet the criteria for SPL and/or ShPP in those other jobs, then they can take SPL leave and pay from the other employer as well.
81. Employees who are the mother/primary adopter and are entitled to maternity/adoption leave from the school and another employer must ensure that the curtailment date for maternity/adoption entitlement is the same for both employers. SPL leave and/or pay can only be created if the mother/primary adopter gives all of her employers who are liable to give her maternity/adoption leave or pay notice at the same time. This applies also if they have 2 or more roles with the school.
82. A mother cannot still be on maternity leave in one job and on shared parental leave in another job, because she must curtail all her maternity leave entitlement (from both jobs) for any entitlement to shared parental leave to arise
83. The number of weeks of shared parental leave is calculated by deducting the maximum number of weeks that the mother/primary adopter has taken (i.e. the higher total length of absence, even if it is with different employers).

Working during shared parental leave (SPLIT days)

84. Employees are able to work during SPL on a 'shared parental leave-in-touch' (SPLIT) day without bringing SPL to an end or losing ShPP. This is in addition to the 10 KIT days available to the mother/primary adopter under the maternity or adoption policy.
85. It is possible to work for up to 20 SPLIT days during SPL leave. Working for part of a day will count as one SPLIT day e.g. coming in to work one hour in a day will count as one whole SPLIT day. Both the employee and the other parent are entitled to 20 SPLIT days each.
86. SPLIT days must be agreed by the employee and the headteacher/line manager, at the school is responsible for payment of SPLIT days. SPLIT days are an optional arrangement on both sides. The headteachers/line manager does not have to offer these days and the employee is not obliged to accept them. Before a

SPLIT day is worked employees must discuss with the headteacher/line manager the arrangements and basis on which the SPLIT day would be worked.

87. Employees will be paid for the actual hours which they work on the SPLIT day at their standard hourly rate. Working on a SPLIT day should not result in them receiving a weekly payment that is lower than the weekly rate of ShPP to which they would have been entitled. ShPP will be offset against SPLIT day payments during the period they are in receipt of ShPP.
88. Employees are protected against any detrimental treatment for refusing SPLIT days. Statutory pay can be offset against the payment of a SPLIT day and therefore employees may wish to consider if they want to take a SPLIT day whilst they are in receipt of statutory pay.
89. Please note if an employee works over the 20 SPLIT days allowance (including any part of a day which counts as one complete SPLIT day) and are in receipt of ShPP they will lose ShPP for the whole week in which they worked the additional day/s.
90. SPL will not be extended due to the fact that some work has been carried out during this period.
91. If any KIT days have been taken during any period of maternity/adoption leave this will not affect entitlement for 20 SPLIT days.
92. A 'SPL SPLIT day form' should be completed and sent to education HR payroll and administration team or the schools alternative payroll provider where SPLIT day(s) are worked.

Contact during shared parental leave

93. Headteachers/line managers are entitled to make reasonable contact with employees during their SPL to discuss such issues which could include the return to work or if required flexible working arrangements that might make a return to work easier. Such contact does not count as a SPLIT day and there will be no impact on SPL or pay if contact is made during SPL. The employee must be informed of any proposed changes which might affect their substantive post, such as organisational changes. If there are any re-organisation or redundancy procedures instigated whilst the employee is on SPL, they must be consulted in line with the relevant school policy.

Returning from shared parental leave

94. Employees who are the mother, are prohibited from working for two weeks after their baby is born.
95. It will be assumed that employees will return to work on the first available working day after the date it has been agreed that their SPL will end and which they have been formally advised of in writing. (This can relate to a single period of leave or the end of entitlement to SPL).

96. If employees wish to return to work earlier than this, they must provide the headteacher/line manager with written notice to vary the leave and give 8 weeks' notice of their early return date. This will count as one of their 3 notifications. If employees have already used their three notifications to book and/or vary leave then the headteacher/line manager does not have to accept the notice but may do so if it is considered to be reasonably practicable to do so.
97. Headteachers/line managers should make sure that they inform the HR and payroll administration team or their alternative payroll provider of all employees returning to work from SPL to make sure that the correct changes are made to salaries. Forms should be sent to the HR Payroll and Administration Team.
98. Employees who are unable to return to work at the end of their SPL because of illness will be entitled to sick pay, in accordance with the sickness absence management policy, providing the sickness reporting procedures are followed.
99. Employees who are unable to return to work at the end of their SPL because of illness will be entitled to sick pay, in accordance with the sickness absence management policy, providing the sickness reporting procedures are followed.

Early Births

100. If the child is born before the expected due date and the employee has booked to take SPL within the first eight weeks of the due date, they may take the same period of time off after the actual birth without having to provide eight weeks' notice, by submitting a notice to vary the leave as soon as is reasonably practicable. Unlike most other variation notices, this would not count as one of the employee's three notifications.
101. Any leave arranged after the first eight weeks of the due date is still bound by the eight-week notice required to vary leave.
102. If the child is born more than eight weeks before the due date and the notice of entitlement to SPL and/or a notice to book SPL have not yet been given, then there is no requirement to give eight weeks' notice before the period of leave starts. The notices should be given as soon as is reasonably practicable after the actual birth.

Death of the child before or during birth, or within the first year

103. In the event of the death of the child before a notice of entitlement to take SPL has been submitted, there will be no entitlement to SPL as a qualifying condition is caring for a child. The mother may remain entitled to maternity leave and her partner could still qualify for statutory paternity leave dependant on date of death. Please see maternity policy for more details.
104. If employees have opted into SPL and have booked leave, they will still be entitled to take the booked leave. No further notice booking leave can be submitted and only one variation notice can be given to reduce a period of leave or to rearrange a discontinuous leave arrangement into a single block of leave.

105. An employee who is absent on SPL may cancel agreed SPL and return to work by giving their employer eight weeks' notice of their return to work.

Contractual rights during shared parental leave

106. Subject to certain exceptions (e.g. redundancy and re-organisation where suitable alternative employment may be offered), employees will have the right to return to the job in which they were employed, under the original contract of employment and on terms and conditions not less favourable than those which would have applied if they had not been absent.
107. The contract of employment continues during SPL. The terms and conditions relating to notice periods, redundancy rights and disciplinary and grievance procedures continue to apply. Contractual benefits, with the exception of terms relating to remuneration (wages and salary), are preserved during ordinary and additional SPL leave
108. The school also provides the continuation of the benefits as outlined below:

Child care vouchers

109. If employees are claiming for child care vouchers they will be able to continue to arrange for these during their SPL. For further details please contact staffbenefits@wiltshire.gov.uk.

Annual leave and bank holidays

Support staff

110. Employees will continue to accrue annual leave entitlements during SPL. However, they are encouraged to take their annual leave entitlement prior to commencing their SPL, where their leave year ends during SPL. Unless operational requirements or exceptional circumstances e.g. early birth or sickness absence, prevent them from taking annual leave, any untaken annual leave can only be carried forward to the next leave period in line with the arrangements for all other employees, (i.e. a maximum of 5 days).
111. Where employees decide not to return to work the date used to calculate their leave entitlement will be their last day of employment.
112. If an employee reduces their hours on their return to work their annual leave entitlement will be adjusted accordingly. This will be calculated from the date that the reduced hours commence.
113. If an employee resigns during SPL and they have not taken their full leave entitlement, they will be entitled to pay in lieu of untaken leave. Payment will only be made in lieu of leave entitlement in the current leave year on a pro-rata basis to the last day of employment. If leave has been taken in excess of the contractual entitlement a repayment of the excess will be required.
114. During SPL employees will accrue a leave entitlement for any bank holidays that fall in this period. Any bank holiday leave accrued will be pro rata to contracted

hours. This entitlement will not be lost if their leave year ends during SPL but the time off should be taken at the end of the SPL period. If employees resign during SPL please see above in relation to pay in lieu of untaken leave.

Term time only employees

115. Employees who work on a term time only contract are required to take their annual leave during periods of school closure.
116. The employee and line manager should calculate how much annual leave entitlement i.e. school holidays (closures) in the current annual leave year, they had prior to SPL commencing and assess whether any additional annual leave is owed due to the accrual of leave during the rest of the current leave year on SPL.
117. Where SPL crosses over from one annual leave year to another, employees and their line manager should again ensure that any accrued annual leave on SPL in that leave year is offset against periods of school closure on return from SPL.
118. If there are insufficient school closures to accommodate outstanding annual leave employees should either be allowed to take the leave during term time or carry leave forward in to the next leave year.

Teachers

119. Teachers have no specific entitlement to annual leave, but will not normally be required to work during periods of school closure and public holidays. However, teachers taking statutory maternity, paternity, adoption leave or shared parental leave will have a right to accrue statutory annual leave under the Working Time Regulations. When a teacher is on SPL their entitlement to this statutory annual leave continues to accrue.
120. The current statutory entitlement for teachers is 28 day's annual leave under the Working Time Regulations. This is not an additional entitlement to annual leave on top of the current school holidays.
121. This annual leave entitlement can be offset by any period of school closure that has taken place in the leave year in question i.e. both before and after the SPL period. The headteacher should advise the teacher prior to commencing the SPL that their statutory entitlement to annual leave should be taken before or after the SPL period during school closure periods. On return from SPL, the teacher must be allowed to take any outstanding leave during term time if there are insufficient school closures to accommodate the statutory leave entitlement in that leave year.
122. Where the return from SPL is so close to the end of the leave year that there is not enough time for the teacher to take all their annual leave entitlement, the teacher must be allowed to carry over any balance of leave to the following year. The teacher is required to take this balance during the remaining periods of school closures after the 28 days annual leave for that leave year has been accommodated.

123. It is not possible for either the school to decide to carry over the annual leave into the next leave year if there is time to take the leave in the current leave year i.e in school closure periods or in term time.
124. Teachers who resign and do not, therefore, return at the end of their SPL period may, in some cases, be entitled to additional payment in lieu of their accrued annual leave entitlement. In the case of teachers who resign, any additional payment will help off-set any maternity/adoption pay that has to be repaid following a failure to return to work for 13 weeks.
125. It is not normally possible for a teacher to obtain payment of annual leave to offset not taking leave during the specified leave year.
126. It is recommended that any such accrued leave is taken during the period shortly after the return to work.

Pension scheme

Support staff

127. Employees who are members of the Local Government Pension scheme (LGPS) will continue to pay pensions contributions during paid SPL. Pension contribution during a period of unpaid maternity contributions during a period of unpaid SPL will not be paid unless employees elect to pay these in the form of an Additional Pension Contribution (APC). Employees must confirm their decision whether to pay contributions via an APC for this period on the school form provided.
128. If employees wish to pay an APC and elect to do so within 30 days of returning to work, they will fund 1/3 and Wiltshire Council or the school (foundation and voluntary aided schools) as the employer will fund the other 2/3 of the cost. If employees do not elect to pay an APC within 30 days of returning to work, they will solely be responsible for funding the pension contribution cost.
129. The HR payroll administration team or schools alternative payroll provider will calculate the employee's additional pension contribution and confirm this with them. The additional contribution will be deducted from employees pay once they return to work over a period of time, or as a lump sum payment. A rough estimate of the costs can be calculated using the LGPS 2014 online calculator which can be found on the LGPS website under additional pension contributions.
130. If employees do not elect to pay an APC, they will not pay pension contributions on the period of unpaid SPL and this period will not count towards their pensionable service.

Teacher pensions

131. Where a teacher is a member of the Teachers Pension Scheme (TPS), and they are in receipt of Statutory Shared Parental Pay (ShPP) this will be counted as pensionable and pension contributions will continue to be deducted from their pay. Contributions will be based on the pay they get while they are absent. No contributions will be paid, by either the employee or the school, during any period of unpaid shared parental leave and this will not be counted as pensionable

employment. Further information on the teacher pension scheme please contact Teachers Pensions directly. (<http://www.teacherspensions.co.uk/>).

Employees who decide not to return

132. Employees who decide not to return to work should resign in writing, giving the headteacher the due notice required by their contract of employment.

Additional unpaid leave

133. Additional unpaid leave may be available to employees under the provisions of the parental leave policy.

Right to request flexible working

134. Employees who meet the qualifying conditions have a right to make requests in line with the right to request flexible working policy.

Health and safety risk assessments for new and expectant mothers

135. Headteachers/line managers need to undertake a risk assessment as soon as the employee notifies them of their pregnancy. This should be reviewed during the pregnancy and reassessed in the event that the employee returns to work within six months of giving birth and/ or notifies them that she is breastfeeding when she returns to work.
136. Any role which involves heavy lifting or any other risks which are identified must be discussed with the school's Occupational health provider as a matter of urgency.
137. Please see **Toolkit Appendix 2 – Risk Assessment for new and expectant mothers**. An employee who has concerns about the effect of their work on their own, or their child's, health should be able to contact the school's occupational health provider.

Roles and responsibilities

Employee responsibilities

- To inform the headteacher/line manager as soon as possible of their wish to take SPL.
- To provide the required information in support of their request to take SPL by positively participating in discussions about dates and providing supporting notices, information and evidence as required in line with the timescales outlined in the policy.

Headteacher/line manager responsibilities

- To apply this policy fairly and consistently to all employees.
- Seek early discussions with employees to give timely consideration to requests taking in to consideration school service requirements with a view to coming to agreement on dates particularly in relation to requests for discontinuous leave.

- To ensure that the required information is provided and forwarded to HR payroll administration team or the alternative payroll provider within the required timescales so that pay records can be amended and confirmation of entitlements can be sent out.
- To ensure that appropriate cover arrangements are put in place

Frequently asked questions – see separate sheet

Definitions

"Mother" - the mother or expectant mother of the child.

"Partner" - the father of the child, or the person who, at the date of the child's birth, is married to, the civil partner of, or the partner of the mother. This includes someone, of either sex, who lives with the mother and the child in an enduring family relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

"Expected week of childbirth" - the week, starting on a Sunday, during which the mother's doctor or midwife expects her to give birth.

Legislation

- The Shared Parental Leave Regulations 2014
- The Shared Parental Pay (General) Regulations 2014
- The Maternity and Adoption (Curtailment of Statutory Rights to Leave) Regulations 2014
- Employment Rights Act 1996
- Child and Families Act 2014
- Equality Act 2010

Further related information

There are a number of related policies and procedures that employees should be aware of including:

- Maternity Scheme (separate schemes for teachers and support staff)
- Adoption Scheme (separate schemes for teachers and support staff)
- Maternity support and paternity scheme
- Parental leave
- Time off for family emergencies and compassionate leave
- Parents and carers employment break scheme
- Annual leave and bank holiday entitlement policy

