



MIDDLESEX
LEARNING
PARTNERSHIP

SHARED PARENTAL LEAVE & PAY (BIRTH) POLICY

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1. Scope

This policy applies to employees in the Middlesex Learning Partnership (Academy Trust) who are expecting a child by birth on or after 5 April 2015. Separate procedures exist for employees who are adopting a child.

2. Policy

The Shared Parental Leave regulations provide an opportunity for parents to take advantage of additional flexibility in the way they choose to care for their child in the first year of its life.

This policy sets out the arrangements for shared parental leave and pay for birth parents. The right to shared parental leave applies to employees who are expecting a child on or after 5 April 2015. Entitlement to maternity leave and pay for female employees remains unchanged and is covered under separate procedures.

3. Shared Parental Leave

Shared parental leave is a period of leave which is available to working parents (both mothers and fathers or partners) following the birth of their child. It is available in relation to babies due on or after 5 April 2015.

Shared parental leave will be created where an eligible mother brings her maternity leave to an end early. This is called 'curtailing' maternity leave. The untaken weeks of maternity leave can be taken as shared parental leave, up to a maximum of 50 weeks. This takes into account the first 2 weeks of Compulsory Maternity Leave which must be taken by the mother following the birth.

Leave can be taken from the day the child is born to the day before the child's first birthday. Leave must be taken in complete weeks, with a minimum of one week. It can be taken in one continuous period or in a number of discontinuous blocks where the employee intends to return to work between periods of leave. An employee can make 3 separate requests for shared parental leave.

4. Statutory Shared Parental Pay

Statutory shared parental pay will be created where an eligible mother chooses to bring her maternity pay or maternity allowance to an end early. This is called reducing the maternity pay period and the maternity allowance period respectively. The untaken maternity pay or maternity allowance will become available as statutory shared parental pay, up to a maximum of 37 weeks. This takes into account the 2 weeks' statutory maternity pay paid to the mother to coincide with her period of Compulsory Maternity Leave. Statutory Shared Parental Pay is paid at the statutory rate or 90% of your average weekly earnings, whichever is lower.

5. Eligibility

For a parent to be able to take shared parental leave they must satisfy the following eligibility criteria. The right of one parent to take leave is not only dependent on them satisfying their own eligibility criteria, but is also dependant on their partner also satisfying certain conditions.

An employee can check their eligibility for shared parental leave and pay using the calculator available on the Gov.uk website at <https://www.gov.uk/shared-parental-leave-and-pay/eligibility-for-birth-parents>

5.1 Mother's eligibility (where the mother is the employee)

For the mother to be eligible for **shared parental leave** she must satisfy the following criteria:

- Have 26 weeks' continuous service by the end of the 15th week before the expected week of childbirth and have remained in continuous employment up to the week before any shared parental leave is taken
- Have at the time of the child's birth, the main responsibility (apart from the partner) for the care of the child
- Be entitled to statutory maternity leave
- Have ended her entitlement to statutory maternity leave by curtailing her leave or returning to work before the end of statutory maternity leave
- Satisfies the notice requirements to take shared parental leave, and evidence of birth, and declaration of her own and her partner's eligibility

For the mother to be eligible for **shared parental pay** she must satisfy the following criteria in addition to the above:

- Have earned not less than the lower earnings limit in the 8 weeks leading up to the end of the 15th week before the week in which the baby is due to be born
- Intend to care for the child during each week in which shared parental pay is paid to her
- Be entitled to statutory maternity pay and have reduced her maternity pay period
- Be absent from work on shared parental leave during each week in which shared parental pay is paid to her (apart from in those situations where it is permissible for her to work e.g. Shared Parental Leave in Touch (SPLIT) days).

In addition, for the mother to qualify for shared parental leave and pay, her partner must:

- Have been employed or self-employed in at least 26 of the 66 weeks immediately before the expected week of childbirth and
- Have earned at least £390 in total in 13 of the 66 weeks (they do not need to be consecutive weeks)
- Have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child

5.2 Partner's eligibility (where the partner is the employee)

For the partner to be eligible for **shared parental leave** they must satisfy the following criteria:

- Have 26 weeks' continuous service by the end of the 15th week before the expected week of childbirth and have remained in continuous employment up to the week before any shared parental leave is taken
- Have at the time of the child's birth, the main responsibility (apart from the mother) for the care of the child
- Satisfies the notice requirements to take shared parental leave, and evidence of birth, and declaration of their own and the mother's eligibility

For the partner to be eligible for **shared parental pay** they must satisfy the following criteria in addition to the above:

- Earn at least £120 per week
- Intend to care for the child during each week in which shared parental pay is paid to them

- Be absent from work on shared parental leave during each week in which shared parental pay is paid to them (apart from in those situations where it is permissible for them to work e.g. Shared Parental Leave in Touch (SPLIT) days).

In addition, for the partner to qualify for shared parental leave and pay, the mother must:

- Have been employed or self-employed in at least 26 of the 66 weeks immediately before the expected week of childbirth and
- Have earned at least £390 in total across any 13 of the 66 weeks
- Have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child
- Be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and
- Comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of the statutory maternity leave)

6. Notice Requirements

Where an employee is going to take shared parental leave they must give their employer a number of notices.

The mother must let her employer know that she intends to take leave by providing a notice of entitlement and intention to take leave. If she has not returned to work, she must also provide her leave curtailment notice at this time. She must also provide a notice to curtail her maternity pay (if she is eligible). Finally, either at the same time or at a subsequent point she must provide a period of leave notice, which tells the employer when she wants to take the leave.

If the partner intends to take leave they must give notice of entitlement and intention to take leave and, either at the same time or subsequently, a period of leave notice.

The scheme works on the basis of these notices, which contain declarations from both parents about amount of leave they are entitled to and the consent of the other parent to the taking of leave. There is no requirement for the employer to contact their employee's partner's employer to verify their details, although the employee is required to provide their partner's employer's details if their employer requests them.

6.1 Mother's notice curtailing maternity leave

The mother can curtail her maternity leave in two ways. She can give 21 days' notice to return to work early from maternity leave. Alternatively, she can give her employer a leave curtailment notice. 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 2 week compulsory maternity leave period
- At least 8 weeks after the date on which the mother gave the maternity leave curtailment notice to her employer

The mother must provide her maternity leave curtailment notice at the same time she gives her notice of entitlement and intention to take leave or a declaration of consent and entitlement. The latter notice is provided if the mother does not intend to take shared parental leave herself. It is a written declaration signed by the mother stating that her partner has given notice of entitlement and intention to take leave and the mother has consented to the amount of leave that her partner intends to take.

6.2 Revoking notice curtailing maternity leave

The circumstances in which the mother may change her mind about ending her maternity leave are very limited. She can give her employer a revocation notice (which must be provided before the leave curtailment date) if:

- a) it is discovered in the 8 weeks following the notice that neither the mother or her partner are entitled to shared parental leave or shared parental pay
- b) in the event of the death of her partner
- c) the leave curtailment notice was given before the birth and the mother revokes her maternity leave curtailment in the six weeks following the birth

If the mother revokes their notice in the first two circumstances, there is no further opportunity to opt into shared parental leave at a later date for the same child.

In respect of c) above the mother will be able to opt into shared parental leave at a later date with the same partner either by returning to work and then giving notice of entitlement to shared parental leave, or by giving another notice to curtail her maternity leave.

If the mother revokes her notice to end her maternity leave, she remains on maternity leave. Their entitlement to maternity leave is restored to a total of 52 weeks, even if their partner has taken shared parental leave prior to the mother revoking her leave curtailment notice.

Where the partner has already started taking shared parental leave or agreed a period of shared parental leave which is due to start within the 8 weeks following the revocation, their employer may require them to be absent from work on unpaid leave for some or all of the period. This protects an employer who has put cover in place for when the employee is on shared parental leave. The employer will not have to accept the employee back into the workplace with no notice.

6.3 Mother's notice curtailing maternity pay

Where the mother is entitled to statutory maternity pay she can give 8 weeks' notice to curtail her entitlement to pay to allow the unused amount to become statutory shared parental pay.

A pay curtailment notice is also required where a woman has already ended her maternity leave by returning to work. This is due to the fact that the maternity pay period continues to run (albeit lying dormant when a woman is at work) throughout the 39 week period. She must give her employer a notice to end her maternity pay period at least 9 weeks before the expiry of the 39 week period. The maternity pay period will end on the last day of the pay week in which the notice is given.

A mother can revoke her notice to curtail their maternity pay if their partner dies and curtailment occurs a reasonable period after this.

In addition, in the 6 weeks following birth, a mother can revoke notice to end maternity pay where the notice was given before the birth.

6.4 Mother's Notice of entitlement and intention (where the mother is the employee)

The mother's written notice to her employer must include the following:

- her name
- her partner's name
- the start and end dates of her maternity leave

- the total amount of shared parental leave available (52 weeks minus any maternity leave taken/to be taken) and the total number of weeks shared parental pay available
- the expected week of the birth of the baby (or the actual date of birth if the child has already been born)
- the number of weeks' shared parental leave and pay the mother and her partner each intend to take and an indication of the start and end dates of the periods of shared parental leave the mother intends to take. This indication is not binding.

The mother also needs to give her employer:

- a) a declaration signed by herself confirming that:
 - she has been working with the employer for 26 weeks by the end of the 15th week before the baby's due date
 - she will have the main caring responsibility for the baby (along with her partner), and will inform her employer immediately if this changes
 - she is entitled to statutory maternity leave and pay
 - she has returned to work before her maternity leave has ended or is committing to ending her maternity leave early
 - the information she has given is accurate

- b) a declaration signed by the mother's partner which must:
 - give their name and address, and national insurance number (or they must declare that they do not have a national insurance number)
 - confirm they have worked for 26 weeks out of the 66 weeks leading up to the expected week of childbirth and has earned at least £390 in total in 13 of the 66 weeks (they do not need to be consecutive weeks)
 - confirm they are the child's father, or the mother's partner, civil partner or spouse
 - confirm that they will have the main caring responsibility for the baby (along with the mother)
 - confirm they consent to the mother taking amount of leave set out in the notice that the mother has given to her employer
 - confirm that they consent to the mother's employer processing the information about them included in the declaration

6.5 Partner's Notice of Entitlement and Intention (where the partner is the employee)

The partner's notice of entitlement and intention to the employer must include the following:

- their name
- the name of their partner – the mother of the baby
- the start and end date of the mother's maternity leave or, if the mother is not entitled to maternity leave, the amount of statutory maternity pay or maternity allowance received or to be received
- the total amount of shared parental leave available (52 weeks minus any maternity leave taken/to be taken, or where the mother is not entitled to maternity leave, 39 weeks minus any statutory maternity pay or maternity allowance received or to be received)
- the total number of weeks shared parental pay available
- the expected date of birth of the baby (or the actual date of birth if the child has already been born)
- how the parents think they will split and take their shared parental leave

The partner also needs to give:

- a) a declaration signed by them confirming that:
- they have been working with the same employer for 26 weeks by the end of the 15th week before the baby's due date
 - they will have the main caring responsibility for the baby (along with the mother), and will inform their employer immediately if this changes
 - they are the father of the child or spouse, civil partner or partner of the mother
 - they will inform their employer if the mother revokes her curtailment notice
 - the information given is accurate
- b) a declaration signed by the mother which:
- gives her name and address, and national insurance number (or a declaration that she does not have a national insurance number)
 - confirms she has worked for 26 weeks out of the 66 weeks leading up to the expected due date and has earned at least £390 in total across any 13 of the 66 weeks
 - confirms she is entitled to statutory maternity leave, statutory maternity pay or maternity allowance
 - confirms that she will have the main caring responsibility for the baby (along with her partner)
 - confirms she has ended her maternity leave by returning to work or curtailing that leave and/or curtailed her statutory maternity pay or maternity allowance
 - confirms she will inform her partner immediately if she revokes her curtailment of leave and pay or allowance
 - confirms she consents to her partner taking the amount of leave set out in the partner's notice to their employer
 - confirms that she consents to her partner's employer processing the information about her included in the declaration

6.6 Following notice of entitlement and intention

In the two weeks following the mother/partner giving notice of their entitlement to and intention to take, shared parental leave, the employer may request:

- a copy of the birth certificate
- the name and address of the mother's/partner's employer

The mother/partner has 14 days to respond. If the child has already been born at the time their employer makes the request, the mother/partner must give their employer either a copy of the birth certificate or, if the birth certificate has not yet been issued, a signed declaration stating the date and location of the birth and stating that a birth certificate has not yet been issued.

If the child has not yet been born at the time of their employer's request, the mother/partner must provide a copy of the birth certificate within 14 days of the birth, or if the birth certificate has not yet been issued, a signed declaration stating the date and location of the birth and stating that a birth certificate has not yet been issued.

6.7 Variation of notice to take shared parental leave

The mother/partner can also give a variation notice to their employer to vary how much shared parental leave each of them intend to take or the periods during which they intend to take it.

The notice must contain:

- an indication of when the mother/partner intend to take the leave and pay, including the start and end dates of each period
- the number of weeks shared parental pay that have already been taken
- details of the leave that the mother/partner has provided a period of leave notice for (or shared parental pay where leave is not to be taken)
- A declaration signed by the mother and the partner that they agree to the variation

The indication is not binding. There is also no limit on the number of times an employee can give a variation notice (unlike a period of leave notice, or variation of period of leave notice, where there is a limit of three).

6.8 Period of Leave Notice

Once an employee has notified the employer of their entitlement to take shared parental leave, they will also have to submit a notice to 'book' a period of leave. A notice to book leave must be given at least 8 weeks before leave can be taken. In many cases, a booking notice will be submitted at the same time as the notice of entitlement and intention is submitted.

The employee can only give 3 notices to book leave (including any notice to vary a previously agreed pattern of leave). The employer can choose to allow their employee more than 3 notices to book leave.

Each of the 3 notifications to book leave may notify a single continuous block of leave, or may request discontinuous periods of leave.

The employee can request a pattern of discontinuous leave (e.g. 2 weeks in June, 3 weeks in September, and all of November and December) in the same notification. An employer does not have to agree to this pattern of leave. There is a 2 week discussion period beginning with the date the employer received the notice during which the employer can discuss the pattern of leave requested by the employee and propose alternatives, or to refuse the pattern. An employer cannot stop their employee from taking the amount of leave requested in the notice, but an employer can change how and when it is taken. In the event that the employer refuses the pattern proposed and does not agree any other pattern with the employee, the weeks of leave in the notice may be taken in a single continuous block starting on a date specified by the employee (not less than 8 weeks from the date the original notice was given to the employer). The employee has 5 days after the end of the 2 week discussion period in which to specify the date they will start their leave. If no date is specified, the leave will begin on the start date of the first period of discontinuous leave that the employee originally applied for.

If the employee has given a notice to book discontinuous weeks of leave, they can withdraw their booking notice in the 2 weeks after the booking notice is given (on or before the 15th day), unless the employer has agreed the pattern in the notice or has already reached an agreement with the employee in that period.

It is strongly recommended that the employer and the employee discuss the employee's proposals for taking the shared parental leave at the point of notifying entitlement when a non-binding indication of how they expect to take the leave must be submitted. Such a conversation will enable the employee and employer to understand what is most likely to work for both sides.

6.9 Variation to period of leave notice

Leave arrangements that have been notified can be changed by means of a notice to vary the agreed leave. An employee can give notice to end a period of leave earlier or later than previously notified, or to aggregate a number of discontinuous weeks into a single block using a variation notice.

A note to vary agreed leave counts towards the cap of 3 notifications to book leave.

7. Early births

The requirement to give 8 weeks' notice to vary a period of leave does not apply if the employee is to take leave within 8 weeks of the birth of the child and the child is born before the expected week of childbirth. Where the employee wishes to amend the start date of the leave to take account of the early birth so that the leave will start the same length of time following the birth as it would have done following the expected week of childbirth the requirement is to provide notice to vary the leave as soon as is reasonably practicable after the child's birth.

If the child is born more than 8 weeks before the expected week of childbirth, the requirements in relation to the notice of entitlement and intention and period of leave notice are amended if they have not already been provided. If leave is to be taken 8 weeks of the child's birth, these notices must be provided as soon as reasonably practicable after the child's birth.

The evidence requirements set out above do not apply in these circumstances.

8. Shared parental leave in touch (SPLIT) days

If the employer and employee agree, each employee can work for up to 20 days, either continuously or on odd days, during the period in which shared parental leave can be taken i.e., in the year up to the day before the child's first birthday. These SPLIT days are in addition to the 10 KIT days that are available to the mother during maternity leave. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

Any employee taking a SPLIT day will receive full pay for any hours worked in that day. If a SPLIT day occurs during a week when the employee is receiving shared parental pay, this will be effectively 'topped up' so that the individual receives full pay for the day in question.

9. Terms and conditions during shared parental leave

As with maternity leave, an employee who takes shared parental leave is entitled to the benefit of their terms and conditions of employment apart from remuneration.

10. Right to return after shared parental leave

The employee will have been formally advised in writing by the employer of the date shared parental leave will end. The employee is expected to return on the next working day after this date. An employee is entitled to return to the same job they had before taking shared parental leave where their statutory leave taken in relation to that child is 26 weeks or less. This statutory leave could be made up of, for example, a certain number of weeks of ordinary maternity leave, plus a couple of periods of shared parental leave, but provided the total does not exceed 26 weeks the employee is entitled to return to their previous job.

If the shared parental leave amounts to 26 weeks or more the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions that no less favourable.

11. Further information

<http://www.acas.org.uk/index.aspx?articleid=4911>

<https://www.gov.uk/shared-parental-leave-and-pay/overview>