



## Shared Parental Leave & Pay

This Policy applies will apply to all schools and employees within the Lighthouse Trust Partnership.

Policy approved by the Trust Board

Signed:

Date:

Name:

Chair of the Board of Trustees

Authorised for issue

Signed:

*PENDING SIGNATURES*

Name:

Date:

Chief Executive Officer (CEO)

### Document History

Version	Author/Owner	Drafted	Comments
1.0	Amy Sutton	07.08.20198	Separation from Maternity policy

## **1.0 Introduction**

The Trust is fully committed to helping working parents balance the needs of work and family life, and appreciates the importance of providing greater choice for parents in how they arrange parental care during the first year of a child's life or following their adoption. Shared Parental Leave (SPL) is aimed at giving parents flexibility over how they share childcare during the first year of the child's life/placement. This provision applies to children: - whose expected week of childbirth begins on or after 5 April 2015 including those born through a surrogacy arrangement, subject to additional eligibility requirements relating to the granting of a Parental Order - who are matched with a person who is notified of having been matched on or after 5 April 2015 - who are placed for adoption on or after 5 April 2015. This policy does not apply to those expecting a child through a surrogacy arrangement, and further guidance should be sought from the central HR team.

All eligible employees, regardless of gender or the gender of an employee's partner.

### **Key principles:**

1. All **eligible** staff are entitled to share up to a maximum of 50 weeks shared parental leave, combining both paid and unpaid leave, regardless of the number of hours they work.
2. Each parent has to qualify separately to be able to apply for Shared Parental Leave.
3. Shared Parental Leave can be taken by the partner, while the mother is still on maternity/adoption leave but only if the mother reduces their entitlement to maternity/adoption leave.
4. The Trust's shared parental leave pay provision, which is an enhanced provision and incorporates the statutory entitlement where applicable, is available to staff who meet specific eligibility criteria. Where the criteria are not met an individual may alternatively be able to meet the Statutory Shared Parental Pay (ShPP) eligibility criteria.
5. All contractual benefits with the exception of pay will continue to accrue during the whole period of shared parental leave.
6. Keeping in touch days are available to support continued communication during the absence.
7. Annual leave can be used flexibly outside of the absence; subject to Headteacher agreement and contract type.
8. Where parents are intending to combine maternity/adoption leave with shared parental Leave this policy should be read in conjunction with the Maternity Policy and Adoption Policy.
9. This policy does not apply to agency workers or Self-employed contractors.

## **2.0 Eligibility for leave**

2.1 Following the curtailment of maternity/adoption leave, where the full entitlement to Statutory Maternity Leave or Statutory Adoption Leave has not

been used before returning to work, the parents may be eligible to share up to 50 weeks Shared Parental Leave (SPL), subject to satisfying the eligibility and notification requirements detailed in section 3 / 4.

2.2 A birth mother must take at least two weeks' maternity leave following the birth of a child but can otherwise choose to end their maternity leave at any stage. An adopter must also take a period of at least two weeks' leave after the first day of the statutory adoption, but can otherwise choose to end their entitlement at any stage.

2.3 The curtailment date cannot fall within the compulsory 2-week maternity leave period.

2.4 A curtailment notice (i.e. where the mother/adopter notifies the employer of the date they plan to cease their maternity/adoption leave and pay) can only be withdrawn if: a) it has been issued pre-birth/pre-placement; b) there is no entitlement to SPL (either parent); c) the expectant mother/principle adopter's partner dies; d) it is done so within 8 weeks of being given or within 6 weeks of the child's date of birth.

2.5 SPL may be taken as a continuous period of leave or as discontinuous periods of leave, in multiples of complete weeks.

### **3.0 Entitlement to SPL when a child is born**

3.1 You are entitled to SPL in relation to the birth of a child if: you are the child's mother, and share the main responsibility for the care of the child with the child's father (or your partner, if the father is not your partner); you are the child's father and share the main responsibility for the care of the child with the child's mother; or you are the mother's partner and share the main responsibility for the care of the child with the mother (where the child's father does not share the main responsibility with the mother).

3.2 The following conditions must also be fulfilled:

- you must have at least 26 weeks' continuous employment with us by the end of the Qualifying Week, and still be employed by us in the week before the leave is to be taken;
- the other parent must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the EWC and had average weekly earnings of at least £30 during 13 of those weeks; and
- you and the other parent must give the necessary statutory notices and declarations as summarised below, including notice to end any maternity leave, statutory maternity pay (SMP) or maternity allowance (MA) periods.

3.3 The total amount of SPL available is 52 weeks, less the weeks spent by the child's mother on maternity leave (or the weeks in which the mother has been in receipt of SMP or MA if she is not entitled to maternity leave).

3.4 If you are the mother you cannot start SPL until after the compulsory

maternity leave period, which lasts until two weeks after birth.

3.5 If you are the child's father or the mother's partner, you should consider using your two weeks' paternity leave before taking SPL (see section C Paternity leave and pay). Once you start SPL you will lose any untaken paternity leave entitlement. SPL entitlement is additional to your paternity leave entitlement.

#### **4.0 Entitlement to SPL when a child is adopted**

4.1 You may be entitled to SPL if an adoption agency has placed a child with you and/or your partner for adoption and you intend to share the main responsibility for the care of the child with your partner.

4.2 The following conditions must be fulfilled: you must have at least 26 weeks' continuous employment with us by the end of the Qualifying Week, and still be employed by us in the week before the leave is to be taken;

- your partner must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the Qualifying Week and had average weekly earnings of at least £30 during 13 of those weeks; and
- you and your partner must give the necessary statutory notices and declarations as summarised below, including notice to end adoption leave or statutory adoption pay (SAP).

4.3 Either you or your partner must qualify for statutory adoption leave and/or SAP and must take at least two weeks of adoption leave and/or pay.

4.4 If your partner is taking adoption leave and/or claiming SAP, you may be entitled to two weeks' paternity leave and pay (see section C Paternity leave and pay). You should consider using this before taking SPL. Paternity leave is additional to any SPL entitlement you may have, but you will lose any untaken paternity leave entitlement once you start a period of SPL.

4.5 The total amount of SPL available is 52 weeks, less the weeks of adoption leave taken by either you or partner (or the weeks in which your partner has been in receipt of SAP if they were not entitled to adoption leave).

#### **5.0 Opting in to shared parental leave and pay**

5.1 Not less than eight weeks before the date you intend your SPL to start, you must give the Trust a written opt-in notice giving the information in 5.2 or 5.3 as appropriate.

5.2 When a child is born:

- your name and the name of the other parent;
- if you are the child's mother, the start and end dates of your maternity leave;
- if you are the child's father or the mother's partner, the start and end dates of the mother's maternity leave, or if she is not entitled to maternity leave, the start and end dates of any SMP or MA period;

- the total SPL available, which is 52 weeks minus the number of weeks' maternity leave, SMP or MA period taken or to be taken;
- how much of that will be allocated to you and how much to the other parent. (You can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- if you are claiming statutory shared parental pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of the SMP or MA period taken or to be taken);
- how much of that will be allocated to you and how much to the other parent. (You can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- an indication of the pattern of leave you are thinking of taking, including suggested start and end dates for each period of leave. This indication will not be binding at this stage, but please give as much information as you can about your future intentions; and
- declarations by you and the other parent that you meet the statutory conditions for entitlement to SPL and ShPP.

### 5.3 When a child is adopted:

- your name and your partner's name;
- if you are taking adoption leave, your adoption leave start and end dates;
- if you are not taking adoption leave, your partner's adoption leave start and end dates, or if your partner is not entitled to adoption leave, the start and end dates of their SAP;
- the total SPL available, which is 52 weeks minus the number of weeks' adoption leave or SAP taken or to be taken by you or your partner;
- how many weeks of the available SPL will be allocated to you and how many to your partner (you can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- if you are claiming statutory shared parental pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of SAP taken or to be taken);
- how many weeks of the available ShPP will be allocated to you and how many to your partner (you can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- an indication of the pattern of leave you are thinking of taking, including suggested start and end dates for each period of leave (see section 14 for information on taking leave). This indication will not be binding at this stage, but please give as much information as you can about your future intentions; and
- declarations by you and your partner that you both meet the statutory conditions to enable you to take SPL and ShPP.

## **6.0 Ending your maternity or adoption leave**

6.1 If you choose to take SPL then the maternity or adoption leave that you, your partner or the other parent are taking will come to an end. This is called curtailment.

6.2 If you are still on maternity leave or adoption leave, you must give us at

least eight weeks' written notice to end your maternity or adoption leave (a curtailment notice) before you can take SPL. The notice must state the date your maternity or adoption leave will end. You can give the notice before or after you give birth or your child is placed, but you cannot end your maternity or adoption leave until at least two weeks after the birth or placement.

6.3 You must also give us, at the same time as the curtailment notice, a notice to opt into the SPL scheme (see clause 5 above) or a written declaration that the child's other parent or your partner has given his or her employer an opt-in notice and that you have given the necessary declarations in that notice.

6.4 The curtailment notice is usually binding and cannot be revoked. You can only revoke a curtailment notice if maternity or adoption leave has not yet ended and one of the following applies:

- a) if you realise that neither you nor the other parent are in fact eligible for SPL or ShPP, you can revoke the curtailment notice in writing up to eight weeks after it was given;
- b) (birth only) if you gave the curtailment notice before giving birth, you can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or
- c) if the other parent has died.

6.5 Once you revoke a curtailment notice you cannot submit a second curtailment notice, unless the revocation was given in the circumstances in paragraph 6.4 (b).

## **7.0 Ending the mother's maternity leave or your partner's adoption leave**

7.1 When a child is born, if you are the child's father or the mother's partner, you will only be able to take SPL once the mother has either: returned to work;

- given her employer a curtailment notice to end her maternity leave;
- given her employer a curtailment notice to end her SMP (if she is entitled to SMP but not maternity leave); or
- given a curtailment notice to the benefits office to end her MA (if she is not entitled to maternity leave or SMP).

7.2 When a child is adopted if your partner is taking adoption leave or claiming SAP from their employer, you will only be able to take SPL once your partner has either: returned to work;

- given their employer a curtailment notice to end adoption leave; or
- given their employer a curtailment notice to end SAP (if they are entitled to SAP but not adoption leave).

7.3 You should use the form at the end of the policy to give us notice of curtailment of maternity or adoption leave. (Part A)

## **8.0 Evidence of entitlement**

You must also provide on request:

- A copy of the birth certificate (or if you have not yet obtained a birth certificate, a signed declaration of the child's date and place of birth); OR
- One or more documents from the adoption agency showing the agency's name and address and the expected placement date; AND
- The name and address of the other parent's employer (or a declaration that they have no employer).

## **9.0 Notifying the Trust of your SPL dates**

9.1 Having opted into the SPL system you will need to give a period of leave notice telling us the start and end dates of your leave. This can be given at the same time as your opt-in notice, or it can be given later, as long as it is given at least eight weeks before the start of your leave. You must also state in your period of leave notice the dates on which you intend to claim shared parental pay, if applicable.

9.2 If your period of leave notice gives dates for a single continuous block of SPL you will be entitled to take the leave set out in the notice.

9.3 You can give up to three period of leave notices. This may enable you to take up to three separate blocks of shared parental leave. In exceptional circumstances we may agree to accept more than three period of leave notices.

## **10.0 Procedure for requesting split periods of SPL**

10.1 In general, a period of leave notice should set out a single continuous block of leave. We may, in some cases, be willing to consider a period of leave notice where the SPL is split into shorter periods (of at least a week) with periods of work in between. It is best to discuss this with your Headteacher in advance of submitting any formal period of leave notices. This will give the Trust more time to consider the request and hopefully agree a pattern of leave with you from the start.

10.2 You must submit a period of leave notice setting out the requested pattern of leave at least eight weeks before the requested start date. If we are unable to agree to your request straight away, there will be a two-week discussion period. At the end of that period, the Trust will confirm any agreed arrangements in writing. If we have not reached an agreement, you will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in your notice (for example, if you requested three separate periods of four weeks each, you will be entitled to one 12-week period of leave). Alternatively, you may:

- choose a new start date (which must be at least eight weeks after your original period of leave notice was given), and tell the Trust within five days of the end of the two-week discussion period; or

- withdraw your period of leave notice within two days of the end of the two week discussion period (in which case it will not be counted and you may submit a new one if you choose).

## **11.0 Changing the dates or cancelling your SPL**

11.1 You can cancel a period of leave by notifying us in writing at least eight weeks before the start date in the period of leave notice.

11.2 You can change the dates for a period of leave by giving us at least eight weeks' notice before the original start date and the new start date.

11.3 You can change the end date for a period of leave by notifying us in writing at least eight weeks before the original end date and the new end date.

11.4 You can change split periods of leave into a single continuous period of leave by notifying us in writing at least eight weeks before the start date.

11.5 You can request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between. The Trust will consider any such request as set out in paragraph 1.

11.6 You do not need to give eight weeks' notice if you are changing the dates of your SPL because your child has been born earlier than the EWC, where you wanted to start your SPL a certain length of time (but not more than eight weeks) after birth. In such cases please notify us in writing of the change as soon as you can.

11.7 A notice to cancel or change a period of leave will count as one of your three period of leave notices, unless:

- the variation is a result of your child being born or placed earlier or later than the EWC or expected placement date;
- the variation is at our request; or
- we agree otherwise.

## **12.0 Shared parental pay**

12.1 ShPP of up to 39 weeks (less any weeks of SMP or SAP claimed by you or the other parent/eligible partner) may be available provided you have at least 26 weeks' continuous employment with us at the end of the Qualifying Week and your average earnings are not less than the lower earnings limit set by the government each tax year. ShPP is paid at a rate set by the government each year.

12.2 You will qualify for occupational shared parental pay if you have been continuously employed during the 12-month period ending with the Qualifying Week and did not take any maternity, adoption or shared parental leave during the 12 months ending with the Qualifying Week.



12.3 Please see table A detailing eligibility criteria/requirements and the entitlement pay. Any occupational maternity, adoption or paternity pay you have received will be treated as occupational shared parental pay when calculating your entitlement.

12.4 Payment of occupational shared parental pay is conditional upon you confirming in writing, before starting SPL, that you intend to return to work for at least six months after the end your SPL. If you later decide not to return to work for this minimum period, you must repay any occupational shared parental pay (but not ShPP).

### **13.0 Other terms during shared parental leave**

13.1 Your terms and conditions of employment remain in force during SPL, except for the terms relating to pay.

13.2 If you are a member of the pension scheme, we will make employer pension contributions during any period of paid SPL, based on your normal salary, in accordance with the pension scheme rules. Any employee contributions you make will be based on the amount of any shared parental pay you are receiving, unless you inform the school business manager or LSP HR Manager, that you wish to make up any shortfall.

### **14.0 Annual leave**

14.1 All staff continue to accrue annual leave during SPL at the rate provided under your contract of employment.

### **14.2 TEACHERS**

14.2.1 The salary calculation for teaching staff includes proportionate annual leave entitlement and there is no entitlement to annual leave except during school closure periods.

14.2.2 Your accrued annual leave entitlement will be offset by any period of school closure that occurs in the leave year before and after your SPL. Usually, there will be sufficient time within the school closure periods to accommodate the outstanding annual leave entitlement that you have accrued during the SPL period. However, on the rare occasions that there are insufficient school closure periods to accommodate your outstanding annual leave entitlement, you will be entitled to take any remaining leave during term time at a time mutually agreed with your Headteacher.

### **SUPPORT STAFF - term time only/term time plus**

14.2.3 The salary calculation for support staff contracted to work term time only or term time plus additional working weeks, includes proportionate annual leave entitlement and there is no entitlement to annual leave except during school closure periods.

14.2.4 Your accrued annual leave entitlement will be offset by any period of school closure that occurs in the leave year before and after your SPL. Usually, there will be sufficient time within the school closure periods to accommodate the outstanding annual leave entitlement that you have accrued during the SPL period. However, on the rare occasions that there are insufficient school closure periods to accommodate your outstanding annual leave entitlement, you will be entitled to take any remaining leave during term time at a time mutually agreed with your Headteacher.

#### **SUPPORT STAFF - full working year**

14.2.5 Annual leave entitlement will continue to accrue at the rate provided under your contract. If your SPL will continue into the next holiday year, any holiday entitlement that cannot reasonably be taken before starting your leave can be carried over and must be taken immediately before returning to work unless your Headteacher agrees otherwise. You should try to limit carry over to one week's annual leave or less. Carry-over of more than one week is at your manager's discretion. Please discuss your annual leave plans with your manager in good time before starting SPL. All annual leave dates are subject to approval by your manager. The Trust holiday year runs from 1 September to 31 August.

#### **15.0 Keeping in Touch**

15.1 We may make reasonable contact with you from time to time during your SPL although we will keep this to a minimum. This may include contacting you to discuss arrangements for your return to work.

15.2 You may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days (KIT days) during your SPL. This is in addition to any KIT days that you may have taken during maternity leave. KIT days are not compulsory and must be discussed and agreed with Headteacher.

15.3 You will be paid at your normal basic rate of pay for time spent working on a KIT day and this will be inclusive of any shared parental pay entitlement. Alternatively, you may agree with Headteacher to receive the equivalent paid time off in lieu.

#### **16.0 Shared Parental Leave in Touch days**

16.1 A member of staff can agree to work for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP/SPLP for that week. These days are in addition to the 10 'keeping in touch' (or KIT) days already available to those on maternity or adoption leave. These are known as "Shared Parental Leave in Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

16.2 The Trust has no right to require the member of staff to carry out any work, and is under no obligation to offer the member of staff any work during the member of staff's SPL. Any work undertaken is a matter for agreement between the School and the member of staff. SPLIT days must be authorised by the Headteacher. The type of work may be normal day to day activity to assist the return to work process; enabling attendance at a

conference, undertaking a training activity or attending a team meeting, for example. SPLIT days do not normally involve working from home, such as checking emails.

16.3 SPLIT days are paid at the normal daily rate (based on 1/260<sup>th</sup> of the annual salary) and can be paid in full or half days only.

16.4 If the employee is receiving SPLP/ShPP at the time of any SPLIT days, they will continue to do so as normal. Payments for SPLIT days will not exceed full pay and the staff member cannot be paid more than one day's pay. This is applicable if the staff member works a SPLIT day when they are still in receipt of full pay via SPLP. If SPLP has reduced to half plus the lower rate of ShPP, the employee's pay will be increased up to their normal rate when a SPLIT day is used. If the employee is in the unpaid period of shared parental leave, their normal rate will be processed in this event. This arrangement only applies to SPLIT days.

16.5 Shared parental leave start and end dates are not affected by SPLIT days as these form part of the whole shared parental leave package and can only be taken during shared parental leave.

16.6 SPLIT days are non-pensionable.

16.7 SPLIT days can be taken at any point during shared parental leave (paid or unpaid) by agreement with the School with the exception of the two weeks following the birth of the child (child's mother) or during the statutory two weeks' minimum of adoption leave, if the employee is an adopter. If the employee is the father or mother/adopter's partner, they can take SPLIT days immediately following the birth/placement of the child **once** the mother/adopter has given notice to end maternity or adoption leave.

16.8 School Business Managers should promptly inform their payroll contact of any SPLIT days worked to ensure payment is made for them correctly.

## **17.0 Returning to Work**

17.1 If you want to end a period of SPL early, you must give us eight weeks' prior notice of the return date. You should give this notice in writing.

17.2 If you want to extend your SPL you must submit a new period of leave notice at least eight weeks before the date you were due to return to work, assuming you still have SPL entitlement remaining and have not already submitted three period of leave notices. If you are unable to request more SPL you may be able to request annual leave or ordinary parental leave (see section E), which will be subject to business need.

17.3 You are normally entitled to return to work in the position you held before starting SPL, and on the same terms of employment. However, if it is not reasonably practicable for us to allow you to return into the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances: if your SPL and any maternity, adoption or paternity leave you have taken adds up to more than 26 weeks in total (whether or not taken consecutively); or if you took SPL consecutively with more than four weeks of ordinary parental leave (under Parental Leave section).

17.4 If you want to change your hours or other working arrangements on return from SPL you should make a request under the Trust's Flexible

Working Policy. It is helpful if such requests are made as early as possible.

17.5 If you decide you do not want to return to work you should give notice of resignation in accordance with your contract.

### **18.0 Fraudulent claims**

18.1 The Trust can, where there is a suspicion that fraudulent information may have been provided or where the Trust has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual Trust investigation and disciplinary procedures.

**TABLE A****Types of Leave/Scheme****Eligibility criteria/requirements****Entitlement/Pay****Trust Shared Parental Leave Scheme**

- a) At least 12 months' continuous service with the Lighthouse Schools Partnership Trust by the expected week of childbirth (EWC), which means the week starting on a Sunday, during which the member of staff's doctor or midwife expects her to give birth OR by the EWC of the baby (which means the week starting on a Sunday) OR Leading into the week in which the staff member is notified of being newly matched with a child for adoption by an approved agency.
- b) Provides a written undertaking to return to their post for a minimum of three months following the end of their final shared parental leave period via notification form.
- c) Provides written notice of their entitlement and intention to that the first 18 weeks of their leave as a continuous SPL period.
- d) Has or expects to have, the main responsibility for the care of the child.
- e) Mother/Primary Adopter is entitled to statutory maternity/adoption leave/pay and has curtailed these rights or returned to work.
- f) Remains in continuous employment until the week before any period of ShPP by the employee.
- g) Member of staff's partner meets the eligibility criteria for Statutory Shared Parental Leave Scheme.
- h) Has provided required evidence i.e. MATB1 form.

**Option A: Trust Scheme**

- 18 weeks at full pay (includes compulsory 2-week maternity/adoption leave period).
- +21 weeks at the appropriate rate of ShPP;
- +up to 13 weeks unpaid.
- Weeks which have been paid through the maternity leave policy will be deducted from remaining weeks available in the Shared Parental Leave entitlement.

**TABLE A****Types of Leave/Scheme****Eligibility criteria/requirements****Entitlement/Pay****Statutory Shared Parental Leave Scheme****a) Satisfies the duration of employment test:**

- Has been continuously employed for a period of not less than 26 weeks ending with the relevant week\* and remains in continuous employment with that employer until the week before any period of shared parental leave taken by the employee OR
- Has been engaged in employment as an employed or self-employed earner for any part of the week in the case of at least 26 of the 66 weeks immediately preceding the expected week of childbirth/or in the case of adoption, the week in which the staff member was notified of having been matched with the child.

**b) Satisfies the earnings test:**

- Has average weekly earnings not less than the lower earnings limit for national insurance contribution purposes.

**c) Provides written notice of their entitlement and intention to take leave.****d) Has or expects to have the main responsibility for the care of the child (apart from the responsibility of the staff member).****e) The other parent satisfies: (a), (b), (d) above, and in the case where the other parent is the mother/primary adopter they are entitled to statutory maternity/adoption leave and or pay/allowance, and has curtailed this or returned to work.**

\*15 weeks before the expected week of childbirth or the week in which the staff member is notified of being newly matched with a child for adoption by an approved agency.

**Option B: ShPP Only**

6 weeks at the equivalent of 90% of the member of staff's average weekly earnings;

+

A flat rate payment for a further 33 weeks, which is the lesser of:

the standard rate of ShPP (paid at a rate set by the government for the relevant tax year (OR

90% of the member of staffs average weekly earnings calculated over a period of eight weeks up to and including the qualifying week;

Up to 13 weeks unpaid

Weeks which have been paid through the maternity leave policy will be deducted from remaining weeks available in the Shared Parental Leave entitlement.