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SHARED PARENTAL LEAVE POLICY AND PROCEDURE (ADOPTION)

Policy

Introduction

Shared Parental Leave (SPL) enables eligible parents to choose how to share the care of their child during the first year of birth. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child.

All eligible employees have a statutory right to take SPL. There may also be an entitlement to some Shared Parental Pay.

Eligible employees can opt to take SPL when they (or their partner) has ended, or given notice to end, adoption leave. The leave taken by the two partners when added together must not total more than 52 weeks.

SPL should not be confused with Ordinary Parental Leave, which is unaffected by SPL. Ordinary Parental Leave is the entitlement up to 18 weeks' unpaid leave¹.

As the SPL provisions are complex, staff are encouraged to clarify the relevant procedures with Human Resources to ensure that they are followed correctly.

Summary

- The primary adopter can choose to bring their adoption leave to an end at any point after the initial two week compulsory adoption leave period.
- The parents can then choose how to use the remaining 50 weeks of leave between them.
- SPL can be taken by each parent separately or at the same time.

Eligibility

This policy and procedure applies to all directly employed staff of the College.

To qualify for SPL you must be the primary adopter OR the partner of the primary adopter. This can be a spouse, civil partner; or a partner who is living in an enduring relationship with the primary adopter and the child.

Primary adopter's eligibility for shared parental leave

If you are the primary adopter, you will be entitled to SPL if you:

¹ The College has a separate policy on Ordinary Parental Leave.



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- Have at least 26 weeks' continuous employment ending with the matching date and remain in continuous employment with the College until the week before any period of SPL that you take;
- Have, at the date of being matched with the child, the main responsibility, apart from the partner, for the care of the child;
- Are entitled to statutory adoption leave in respect of the child; and
- Comply with the relevant adoption leave curtailment requirements (or have returned to work before the end of statutory adoption), and SPL notice and evidence requirements.

In addition, your partner must:

- Have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the matching date;
- Have average weekly earnings of at least £30 [as at 2015] for any 13 of those 66 weeks; and
- Have, at the date of being matched with the child, the main responsibility, apart from you, for the care of the child.

Partner's eligibility for shared parental leave

If you are the partner of the primary adopter, you will be eligible for shared parental leave if you:

- Have at least 26 weeks' continuous employment ending with the matching date and remain in continuous employment with the College until the week before any period of shared parental leave that you take;
- Have, at the date of matching, the main responsibility, apart from the primary adopter, for the care of the child; and
- Comply with the relevant shared parental leave notice and evidence requirements.

In addition, the primary adopter must:

- Have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the matching date;
- Have average weekly earnings of at least £30 [as at 2015] for any 13 of those 66 weeks;



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- Have, at the date of matching, the main responsibility, apart from you, for the care of the child;
- Be entitled to statutory adoption leave or statutory adoption pay in respect of the child; and
- Comply with the relevant adoption leave or pay curtailment requirements (or have returned to work before the end of statutory adoption leave).

Time taken as shared parental leave

The first two weeks of adoption leave cannot be shared.

SPL must be taken in multiples of complete weeks.

The minimum amount of SPL that you can take is one week, the maximum is 50 weeks. The actual amount which can be taken is 52 weeks less the weeks spent by the child's primary adopter on adoption leave.

If you are the child's secondary carer, you may wish to consider using your two weeks' paternity leave before taking SPL².

If you choose to take SPL but have not taken any entitlement to paternity leave, you will lose any entitlement to paternity leave once you start SPL. SPL entitlement is in addition to your paternity Leave entitlement.

SPL must end no later than one year after child is matched with you. Any SPL not taken by the first anniversary is lost.

Shared Parental Leave Pay (ShPP)

Eligible employees may be entitled to take up to 37 weeks of Shared Parental Leave Pay (ShPP) while taking SPL. The number of weeks available will depend on the amount by which the primary adopter reduces their adoption pay period.

ShPP may be available provided that you have at least **26 weeks'** continuous employment with the College at the end of the qualifying week and your average earnings are not less than the lower earnings limit set by the government.

If you meet these criteria, ShPP is paid at the statutory rate set by the government.

Please check the Government website for the current rate.

² The College has a separate policy on paternity leave.



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Terms and conditions of employment during shared parental leave

Continuity of employment

Continuity of employment is maintained during SPL which means that there is no break in service during your absence from work.

Annual leave

You will accrue your full annual leave provision during SPL.

You may, with your line manager's agreement, use any holiday entitlement accrued prior to commencing SPL, to extend your period of SPL.

It may be the case that your SPL crosses over two leave years. If this is the case, any annual leave accrued on SPL during the first leave year must be used immediately on return from SPL, thereby effectively extending your physical return to work, i.e. if you are due to return to work on date (x) and have a number of days annual leave accrued (y) your new return to work date will be (x+y).

For example, a full-time employee with a planned return to work date of 3 October, who had accrued 10 days leave (during the previous leave year), 6 bank holidays and 6 closure days (see below), would physically return to work 22 working days later than 3 October.

Any annual leave accrued during the second leave year must be used immediately on return from SPL (thereby effectively extending your physical return to work) or during the remainder of the leave year upon returning to work, subject to approval by your department/programme in accordance with the annual leave policy.

Bank holidays and closure days

You are entitled to accrue missed bank holidays and closure days while on SPL (*pro-rated* for part-time staff). The accrued bank holidays and College days must be taken immediately following SPL and cannot be taken at any other time.

Pension

If you are a member of the SAUL pension scheme, periods of paid SPL will be treated as pensionable service, i.e. pension contributions will be deducted from pay received during that period. If you would like to pay contributions to cover any period of unpaid SPL you should contact human resources.

Fixed-term contracts

If you are on a fixed-term contract, you are covered by this policy and associated provisions until the contract expires. Statutory shared parental pay (ShPP) will continue to be paid beyond the contract expiry date via payroll, if you are eligible.



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Contact and 'Shared Parental Leave in Touch' days

Before your SPL starts, your line manager will discuss the arrangements for keeping in touch during your leave, should you wish to do so. The College reserves the right in any event to maintain reasonable contact with you from time to time during your SPL. This may be to discuss your plans for return to work; to discuss any special arrangements to be made; training to ease your return to work; or to update you on developments during your absence.

The College may, at its discretion, offer you the opportunity to work for up to 20 'Shared Parental Leave in Touch days' (SPLiT days) during your SPL. You are under no obligation to undertake the work. Any work undertaken is entirely a matter for agreement between you and the College. Such work will not bring the period of SPL to an end. You will be paid your normal rate for any work undertaken on SPLiT days, unless the SPLiT days fall during the statutory pay period or unpaid period of leave, in which case they will be topped up to a full day's pay.

Pension contributions may be payable for salary received on SPLiT days. Any SPLiT days worked do not extend the period of SPL.

Procedure

Opting into shared parental leave and pay

You must notify the College of your intention to take SPL at least 8 weeks before the date you intend to begin your SPL by completing the **Shared parental leave and pay opt-in form (adoption)** and returning it to human resources.

Part of the eligibility criteria requires you to provide the College with correct notification. Notification must be in writing and requires each of the following:

- Your name;
- The name of the other parent;
- The start and end dates of any adoption leave or pay, taken in respect of the child and the total amount of SPL available;
- The date on which the child is expected to be matched and the actual matching date;
- The amount of SPL you and your partner each intend to take
- A non-binding indication of when you expect to take the leave.

You must provide the College with a signed declaration stating:

- That you meet, or will meet, the eligibility conditions and are entitled to take SPL;
- That the information you have given is accurate;



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- If you are not the primary adopter you must confirm that you are the spouse, civil partner or partner of the primary adopter;
- That should you cease to be eligible you will immediately inform the College.

You must provide the College with a signed declaration from your partner confirming:

- Their name, address and national insurance number (or a declaration that they do not have a national insurance number);
- That they are the primary adopter of the child or they are the spouse, civil partner or partner of the primary adopter;
- That they satisfy the 'employment and earnings test'³, and had at the date of matching the main responsibility for the child, along with you;
- That they consent to the amount of SPL that you intend to take;
- That they consent to the College processing the information contained in the declaration form; and
- (In the case whether the partner is the primary adopter), that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

You must also provide the College with a copy of the child's birth certificate.

Ending adoption leave

If you are the child's primary adopter, you must give the College at least eight weeks' written notice (a "curtailment notice") to end your adoption leave before your partner can take SPL. You should do this by completing the form **Statutory adoption leave and pay curtailment notice** and returning it to human resources.

The other parent may commence SPL from their employer before your adoption leave ends, provided that you have given the curtailment notice.

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

- Neither you nor the other parent are eligible for SPL or shared parental pay (this must be completed within eight weeks after the curtailment notice was given);

³ The Employment and Earnings Test: i) Have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the matching date and, ii) Have average weekly earnings of at least £30 [2015 rate] for any 13 of those 66 weeks.



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- The other parent has died.

If you are the partner, you will only be able to take SPL once the primary adopter has carried out one of the following:

- Returned to work;
- Given their employer a curtailment notice to end their adoption leave;
- Given their employer a curtailment notice to end their Statutory Adoption Pay (if s/he is entitled to Statutory Adoption Pay but not adoption leave);

Booking periods of SPL

In addition to notifying the College of entitlement to SPL, you must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL. You must give the correct notification at least eight weeks before the date on which you wish to start the leave.

You can give your period of leave notice in two ways:

1. By completing section C of the **Shared parental leave and pay opt-in form (adoption)** or
2. By completing a separate **Period of Leave Notice** form

You have the right to submit a maximum of three notifications specifying leave periods you are intending to take.

Each notification may contain either:

1. A single period of weeks of leave;
2. Two or more weeks of discontinuous leave, where you intend to return to work between periods of leave.

Leave must be taken in minimum periods of one week and can begin on any day of the week.

Continuous leave notifications

If you request a single continuous block of SPL in line with the College's procedure, you are entitled to take the leave.

Discontinuous leave notifications

Agreement to a discontinuous period of leave is at the discretion of the College and may be refused.



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It is best to discuss this with your line manager and human resources manager in advance of submitting any discontinuous period of leave notices. This will give the College more time to consider your request and hopefully agree a pattern of leave with you from the start.

If the College is unable to agree to your request immediately, there will be a 14 day discussion period. At the end of that period, the College will confirm any agreed arrangements in writing.

If no agreement is reached:

1. You are entitled to take the full amount of requested SPL as one continuous block, beginning on the start date given in your notice. For example, if you requested three separate periods of four weeks each, you are 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 us within five days of the end of the 14 day discussion period.
2. You may choose to withdraw your period of leave notice within two days of the end of the 14 day discussion period, in which case it will not be counted and you may submit a new period of leave notice if you choose.

Changing the dates or cancelling your SPL

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 of notice.

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

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 at the request of the College;
- The College agrees otherwise.

Return to work

If you want to end a period of SPL early, you must give the College at least eight weeks' notice.

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 (assuming that you still have SPL entitlement remaining and you have not already submitted three period



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of leave notices). If you are unable to request more SPL, you may be able to request annual leave or ordinary unpaid parental leave⁴.

You are normally entitled to return to work following SPL to the same position you held before commencing leave. Your terms of employment will be the same as they would have been had you not been absent.

However, where your SPL together with any adoption, paternity or adoption leave adds up to more than 26 weeks in total (whether or not taken consecutively) or where you have taken a period of Ordinary Parental Leave⁵ of longer than four weeks, you are entitled to return to the job you were employed in before your absence, or, if it is not reasonably practicable for us to allow you to return into the same position, to another job which is both suitable for you and appropriate for you to do in the circumstances, on terms and conditions that are no less favourable than before taking SPL.

Non-return to work

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

Human Resources August 2015

⁴ Please refer to the College's Ordinary Parental Leave Policy

⁵ Please refer to the College's Ordinary Parental Leave Policy