SHARED PARENTAL LEAVE POLICY & PROCEDURE

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| --- | --- |
| Person(s) responsible for updating the policy: | Jenna Gipson |
| Dates consulted on with recognised unions: | From: 17/07/2023 To: 18/08/2023 |
| Date approved by Trustees: | 29/08/2023 |
| Date of next review: | September 2026 |

**Mission, Vision and Values**

Shape, circle

Description automatically generated

**WeST Core Values**

WeST holds four core values which underpin the engagement, motivation and retention of employees, no matter what their role in the organisation.

* **Collaboration**

Creating a shared vision and working effectively across boundaries in an equitable and inclusive way to skilfully influence and engage others. Building and securing value from relationships, developing self and others to achieve positive outcomes.

* **Aspiration**

Having high expectations, modelling the delivery of high quality outcomes. Showing passion, persistence and resilience in seeking creative solutions to strive for continuous improvement and excellence.

* **Integrity**

Acting always with the interests of children and young people at our heart, and with a consistent and uncompromising adherence to strong moral and ethical principles.  Communicating with transparency and respect, creating a working environment based on trust and honesty.

* **Compassion**

Recognising need in others and acting with positive intention to promote well-being and improve outcomes.

**Providing Accessible Formats**

If you are unable to use this document and require it in a different format please contact Human Resources.

**WeST Policy Suite**

All Trust HR Policies are accessible via the WeST Staff Portal. Please contact your local administrative office or Human Resources for log-in details.

HR Helpline: 01752 891754 ext. 1765

HR Email: [HR@westst.org.uk](mailto:HR@westst.org.uk)

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# Procedure Flow Chart

Employee notifies Responsible Officer (RO) and HR of their intention to take Shared Parental Leave (SPL)

The RO meets with the employee to discuss their individual leave plans as soon as possible.

Employee completes the three notices required:

1. Entitlement and intention to take SPL
2. Period of Leave notice
3. Curtailment notice

The employee must submit these notices at least **8 weeks** before the date on which they intend to start SPL

There is a 14-day discussion period from receipt of the period of leave notice where the RO and the employee may discuss the leave notification.

Employee requests **discontinuous leave**

Employee requests **continuous leave**

Where a request is refused, within 14 days of the notification being given the RO will confirm in writing:

1. Proposed alternative dates.
2. A confirmation of the refusal.
3. The right to withdraw the request or to take it as continuous.

RO refuses this request.

The employee can withdraw the request or the employee can choose to take the leave as continuous.

RO forwards notices to HR, who will notify payroll.

RO agrees this request and signs off the three required notices.

RO forwards all three notices to HR, who will notify payroll.

RO agrees this request and signs off the three required notices.

RO forwards all three notices to HR, who will notify payroll.

Upon receipt of the three notices, Payroll will write to the employee to confirm their entitlement and confirm when SPL will begin.

Within 14 days of receiving the entitlement and intention notice Payroll may ask for additional information:

1. Name and address of partner’s employee.
2. (ii) Birth certificate or adoption documents

Employee starts Shared Parental Leave

# Introduction, Purpose and Principles

This policy applies to all employees within the Trust, regardless of terms and conditions of employment (e.g. both Teacher and Support Staff). It does not apply to agency workers, contractors or volunteers.

The Trust is committed to equality in its Shared Parental Leave Policy and Procedure. The conditions for qualification for leave and pay under this policy will not disadvantage any employee on the grounds of age, race or ethnicity, disability, gender and marital status, gender identity or sexual orientation.

The intention is that this policy does not erode contractual terms protected under TUPE.

This policy does not apply to those employed by other organisations [e.g. partner of the WeST employee], whose terms and conditions of employment will include a contractual Shared Parental Leave Policy.

This policy applies in relation to employees, whether they are the primary parent/adopter/intended parents or parent with legal responsibility for a child (if the baby is born through surrogacy), or the partner. If the Trust’s employee is the primary parent/adopter, their partner must submit any notifications to take SPL to their own employer. Similarly, if the Trust employee is the partner then the primary parent/adopter must submit any notifications to take SPL to their own employer. In the case of surrogacy, intended parent(s) or following a parental order, parent(s) with legal responsibility for the child must submit notifications separately to their employers.

The entitlement to Shared Parental Leave (SPL) came into effect from December 2014 and replaces *additional* paternity leave and pay which will be abolished under the new regulations.

This policy sets out the rights of employees to SPL and Shared Parental Pay (ShPP) which enables eligible parents to share a primary birth parents’ remaining maternity or in the case of adoption and surrogacy adoption leave and pay.

Employees can start SPL if they’re eligible and they or their partner end their maternity or adoption leave or pay early. The remaining leave will be available as SPL. The remaining pay may be available as ShPP.

Unlike maternity/adoption leave, eligible employees can stop and start their SPL and return to work between periods of leave with each eligible parent able to submit three notices booking periods of leave.

Where both parents meet the eligibility criteria SPL can be taken by both parties at the same time or at separate times or a mixture of both.

A primary birth parent/adopter/intended parent/legal parent (in the case of surrogacy) can share their SPL with only one other person.

All leave must be taken in the first 52 weeks after birth/adoption, otherwise it will be lost.

Requests for SPL should be submitted during term time.

Shared Parental leave should not be confused with ordinary parental leave which is unaffected. Ordinary parental leave is the entitlement to 18 weeks unpaid leave and the Trust’s Staff leave and Absence Policy details this. It should also not be confused with Ordinary Statutory Paternity Leave, please see Paternity Policy for further details.

# Eligibility

If one party does not meet the eligibility criteria to receive SPL, or does not wish to take SPL, but the other does, then they can take SPL on their own, providing that they are eligible to do so. To qualify for one party to take SPL, both parties must meet some eligibility criteria.

|  |  |
| --- | --- |
| **The primary birth parent is seeking to take SPL by themselves (In the case of both parents being biological birth parents)** | **In addition, the second birth parent / partner must:** |
| * They must have been employed continuously by the same employer for at least 26 weeks, by the end of the 15th week before the due date * stay with the same employer until they start their SPL * To be eligible for SPL, the primary parent must be an ‘employee’ (not a ‘worker’). If the they are a ‘worker’, they might be able to get ShPP but not SPL. * Be entitled to Statutory Maternity Leave or pay or Maternity Allowance. * To create an entitlement to shared parental leave (ShPP if applicable), the Primary parent must give their employer a 'notice of entitlement' of their statutory maternity leave or pay. * Must share responsibility for the care of the child | * have been working for at least 26 weeks out of the 66 weeks before the week the baby’s due (the 26 weeks do not need to be in a row) * have earned at least £390 in total in 13 of the 66 weeks (add up the highest paying weeks - they do not need to be in a row) * Must share responsibility for the care of the child |
| **The secondary birth parent is seeking to take SPL by themselves (In the case of both parents being biological birth parents).** | **In addition, the primary birth parent must:** |
| * They must also have been employed continuously by the same employer for at least 26 weeks, by the end of the 15th week before the due date * stay with the same employer until they start their SPL * To be eligible for SPL, the Secondary birth parent must be an ‘employee’ (not a ‘worker’). If they are a ‘worker’, they might be able to get ShPP but not SPL. * Must share responsibility for the care of the child | * have been working for at least 26 weeks out of the 66 weeks before the week the baby’s due (the 26 weeks do not need to be in a row) * have earned at least £390 in total across any 13 of the 66 weeks (add up the highest paying weeks - they do not need to be in a row) * Be entitled to Statutory Maternity or pay or Maternity Allowance. * To create an entitlement to shared parental leave (ShPP if applicable), the primary parent must give their employer a 'notice of entitlement' of their statutory maternity leave or pay. * Must share responsibility for the care of the child |
| **The primary intended parent/legal parent, or main adopter is seeking to take SPL by themselves (In the case of surrogacy and adoption)** | **In addition, the second intended parent/legal parent, or adopter must:** |
| * They must also have been employed continuously by the same employer for at least 26 weeks, by either: * the end of the 15th week before the surrogate’s due date; or * the end of the week you or your partner are matched with a child if you’re adopting * stay with the same employer until they start their SPL * To be eligible for SPL, the primary intended parent/adopter must be an ‘employee’. If they are a ‘worker’, they might be able to get ShPP but not SPL. * Be entitled to Statutory Adoption Leave or pay * To create an entitlement to shared parental leave (ShPP if applicable), the Primary parent/adopter must give their employer a 'notice of entitlement' of their statutory adoption leave or pay. * Must share responsibility for the care of the child | * have been working for at least 26 weeks out of the 66 weeks before the week the baby’s due (the 26 weeks do not need to be in a row) * have earned at least £390 in total in 13 of the 66 weeks (add up the highest paying weeks - they do not need to be in a row) * Must share responsibility for the care of the child |
| **The second intended parent / legal parent, or second adopter is seeking to take SPL by themselves (In the case of surrogacy and adoption)** | **In addition, the primary intended parent / legal parent, or adopter must:** |
| * They must also have been employed continuously by the same employer for at least 26 weeks, by either: * the end of the 15th week before the surrogate’s due date; or * the end of the week you or your partner are matched with a child if you’re adopting * stay with the same employer until they start their SPL * To be eligible for SPL, the Second intended parent/adopter must be an ‘employee’ (not a ‘worker’). If they are a ‘worker’, they might be able to get ShPP but not SPL. * Must share responsibility for the care of the child | * have been working for at least 26 weeks out of the 66 weeks before the week the baby’s due (the 26 weeks do not need to be in a row) * have earned at least £390 in total across any 13 of the 66 weeks (add up the highest paying weeks - they do not need to be in a row) * Be entitled to Statutory Adoption Leave or pay * To create an entitlement to shared parental leave (ShPP if applicable), the Primary parent/adopter must give their employer a 'notice of entitlement' of their statutory adoption leave or pay. * Must share responsibility for the care of the child |

Where both parties propose to share SPL/ShPP there is a two-stage test for eligibility: an employee must be eligible in their own right and the employee’s partner/the other parent, intended parent or adopter must also meet certain eligibility requirements.

|  |  |
| --- | --- |
| **An employee who is the primary birth parent must meet the following criteria to be eligible for joint SPL** | **In addition, the second birth parent / partner must:** |
| * They must also have been employed continuously by the same employer for at least 26 weeks, by the end of the 15th week before the due date; * stay with the same employer until they start their SPL * To be eligible for SPL, the primary parent must be an ‘employee’ (not a ‘worker’). If they are a ‘worker’, they might be able to get ShPP but not SPL. * Must share responsibility for the care of the child * Be entitled to Statutory Maternity Leave or pay or Maternity Allowance. * To create an entitlement to shared parental leave (ShPP if applicable), the Primary parent must give their employer a 'notice of entitlement' of their statutory maternity leave or pay. | * They must also have been employed continuously by the same employer for at least 26 weeks, by the end of the 15th week before the due date * To be eligible for SPL, the second birth parent must be an ‘employee’ (not a ‘worker’). If they are a ‘worker’, they might be able to get ShPP but not SPL. * Share responsibility for the care of the child. |
| **Primary intended parent / legal parent, or main adopter must meet the following criteria to be eligible for joint SPL (in surrogacy arrangements and adoption)** | **In addition, the second intended parent/legal parent, or adopter must:** |
| * They must also have been employed continuously by the same employer for at least 26 weeks, by either: * the end of the 15th week before the surrogate’s due date; or * the end of the week you or your partner are matched with a child if you’re adopting * stay with the same employer until they start their SPL * To be eligible for SPL, the primary parent/adopter must be an ‘employee’ (not a ‘worker’). If they are a ‘worker’, they might be able to get ShPP but not SPL. * Must share responsibility for the care of the child * Be entitled to Adoption Leave or pay * To create an entitlement to shared parental leave (ShPP if applicable), the Primary parent/adopter must give their employer a 'notice of entitlement' of their statutory adoption leave or pay. | * They must also have been employed continuously by the same employer for at least 26 weeks, by either: * the end of the 15th week before the due date; or * the end of the week you or your partner are matched with a child if you’re adopting * To be eligible for SPL, the Second intended parent/adopter must be an ‘employee’ (not a ‘worker’). If they are a ‘worker’, they might be able to get ShPP but not SPL. * Share responsibility for the care of the child. |

**For ShPP purposes,** in addition to the above**, both parties must also satisfy the following criteria:**

* Have average weekly earnings at or above than the lower earnings limit for National Insurance during the 8-week period up to and including the end of the 15th week before the child’s due date (applicable to birth parents or intended/legal parent through surrogacy)/or the matching date for adoption
* Intend to care for the child during each week in which ShPP is paid.

If an employee is not eligible then their request will be refused.

# Entitlement

If an employee is eligible and they or their partner end maternity or adoption leave and pay (or Maternity Allowance) early, then they can:

* Share up to a maximum of 50 weeks as SPL.
* Share up to a maximum of 37 weeks as ShPP.

The first two weeks following birth or adoption are reserved for the child’s primary parent/intended parent/adopter as compulsory leave.

SPL must be taken in blocks of at least one week. The pattern of leave must be requested and agreed with the Responsible Officer, giving 8 weeks’ notice.

Requests to take SPL in one continuous block will be approved unless alternative dates are agreed, as long as the employee does not exceed the number of weeks available to them through SPL and they meet the eligibility and notice requirements.

Requests to take SPL as a number of discontinuous blocks of leave is subject to agreement and may be either approved, refused or different dates suggested.

A maximum of three requests for leave per pregnancy/adoption/surrogacy arrangement can be submitted provided that they are submitted 8 weeks before the date that the leave is due to start.

Statutory Shared Parental Pay (ShPP) will be paid to employees who have chosen to move onto shared parental leave. This will be at the standard rate or at 90% of the employee’s average weekly earnings, whichever is the lower. The current rate of ShPP can be found at <https://www.gov.uk/shared-parental-leave-and-pay>

Details of entitlement can be obtained by using the following calculator: [www.gov.uk/pay-leave-for-parents](http://www.gov.uk/pay-leave-for-parents)

# Starting Shared Parental Leave

For SPL to start, **the primary parent/intended parent/adopter must do one of the following**:

* End their maternity or adoption leave by returning to work;
* Submit a maternity/adoption ‘curtailment notice’ to bring forward the date their ordinary or additional maternity/adoption leave will end at a future point.

The primary parent/intended parent/adopter must give their employer at least 8 weeks’ notice to end their maternity/adoption pay or 8 weeks’ notice to Jobcentre Plus to end their Maternity Allowance in order to take SPL.

SPL can start for the partner while the primary parent/intended parent/adopter is still on maternity or adoption leave if they have given notice to end their leave.

Even though the partner can take SPL immediately following the birth/placement of the child, they may choose first to exhaust any Paternity Leave entitlements.

The secondary birth parent/partner, second intended parents/legal parents cannot, or second adopter cannot take Paternity Leave or pay once they have taken SPL or ShPP.

# Notification requirements to take SPL & ShPP

**There are three types of notices required**:

|  |  |  |
| --- | --- | --- |
| **Notice of Entitlement and Intention** | **Curtailment Notice** | **Period of Leave Notice** |
| Given by primary parent/intended parent/adopter and partner | Given by primary parent/intended parent/adopter | Given by primary parent/intended parent/adopter and/or partner |
| **↓** | **↓** | **↓** |
| Confirms eligibility | End SML/SMP and SAL/SAP | States when they would like to take leave |

To move from maternity/adoption leave to SPL the employee must give **‘notice of entitlement and intention’** to take SPL and ShPP. There are two different forms available, depending upon whether the employee is the primary parent/adopter or the partner/second intended parent/legal parent, or second adopter.This notice may be submitted at the same time as the maternity/adoption curtailment notice or at a later date. The employee must complete the notice form, giving at least 8 weeks’ notice.

Payroll, within 14 days of the SPL entitlement and intention notification being received, may request the following additional information:

* the name and address of the partner’s employer (where the employee’s partner 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 case of surrogacy, where one parent is biologically related to the child and the surrogate’s marital status is single, a copy of the birth certificate confirming them to be the legal parent (or, where one has not been issued, a declaration as to the time and place of the birth)
* in the case of surrogacy, where one parent of the intended parents is biologically related to the child, evidence of a ‘parental statutory declaration’ which is a declaration that you have applied or intend to apply for a parental order with your partner within six months of the birth and you expect to be granted it by the court.
* 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

In order to be entitled to SPL, the employee must produce this information within 14 days of the request with the exception of the birth certificate if they are notifying their intention to use SPL prior to their baby being born.

The employee must give written notice of the leave they intend to take by way of a **‘Period of Leave Notice’**.

If the employee has already decided the pattern of SPL they wish to request then they can provide their **‘curtailment notice’,** and relevant **‘notice of entitlement and intention’** to take SPL and ShPP and **‘period of leave notice’** at the same time.

# Cancelling the decision to end maternity or adoption leave

The primary parent, intended parent, or adopter may be able to change their decision to end maternity or adoption leave early if both the planned end date hasn’t passed and /or they haven’t already returned to work.

One of the following must also apply:

(i) It’s discovered during the 8 weeks’ notice period that neither partner is eligible for either SPL or ShPP

(ii) The employee’s partner has died

(iii) It’s less than 6 weeks after the birth and the primary parent or intended parent gave notice before the birth.

An employee who revokes their maternity/adoption leave curtailment notice within 6 weeks of the birth will be able to opt into SPL at a later date with the same partner, either by returning to work and then giving notice of entitlement to SPL or by giving another notice to curtail the maternity/adoption leave.

If a primary parent/intended parent/adopter revokes their notice as in circumstances above, (i) and (ii) there is no further opportunity to opt into SPL at a later date for the same child.

# Requesting Shared Parental Leave

An employee considering taking SPL is encouraged to discuss their entitlement with the HR Department and Line Manager as early as possible to talk about their plans and how they currently expect to use their SPL entitlement. It could be that these discussions take place before any formal notices are given.

An employee must give notice to take the leave by way of a **‘Period of Leave Notice’** and submit a **‘notice of entitlement and intention’,** in writing, at least 8weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

The employee has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either:

(a) A single period of weeks of leave; or

(b) Two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

SPL can only be taken in complete weeks but may begin on any day of the week. For example, if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

For both continuous and discontinuous leave requests it is important to consider how reliant a parent, intended parent, or adopter is on the proposed pattern the other parent/intended parent, adopter, or partner is seeking to agree. Where both parents, intended parents, adopters are taking continuous leave, this consideration is minimal because the request must be accepted. However, where the care of the child is dependent on one or both parents/intended parents, adopter or partners agreeing discontinued leave arrangements and one is refused, one or both parents/intended parents, adopters or partners may need to withdraw their notification and make new amended ones.

**Continuous leave notifications**

A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).

If notice is given for a continuous period of SPL, the employee is entitled to take it. The request cannot be refused.

**Discontinuous leave notifications**

A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

All requests for discontinuous leave will be considered, however they may not be agreed.

Where there is concern over accommodating the notification, the Responsible Officer will meet with the employee to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the Trust.

The Responsible Officer will consider a discontinuous leave notification 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.

**Upon receiving a request for discontinuous leave the following might be consider by the Responsible Officer when making their decision:**

* What impact will the leave arrangements have on the school/Trust and could this be mitigated?
* Are there important events/days planned which must be covered during the leave period?
* Are there busy/challenging periods during the leave requested?
* Would any modification to the leave reduce the impact on the school/Trust and might the employee be agreeable to this?
* How will the role be covered while the employee is absent?
* Will there be significant staffing issues during the leave period requested?
* What will be the impact on the students during this period of leave? Can this be managed?

# Responding to a Shared Parental Leave Notification

There is a 14-day discussion period from receipt of the **‘period of leave notice’** where the Responsible Officer and employee may discuss the leave notification and consider alternative arrangements if appropriate. Following which the Responsible Officer will provide written confirmation.

The request may be granted in full or in part: for example, the Responsible Officer may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee does withdraw the request, it will not count as one of the three notices to book leave. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than 8weeks from the date the original notification was submitted. If the employee does not choose a start date, then the leave will begin on the first leave date requested in the original notification.

Where a request is refused, the Responsible Officer should within 14 days of the notification being given, confirm the following in writing:

* Proposed alternative dates for the employee to consider;
* A confirmation of the refusal;
* Clear information on what options are now available to the employee

# Variations to arranged Shared Parental Leave

The employee is permitted to vary or cancel an agreed period of SPL, provided that they advise their Responsible Officer in writing at least 8 weeks before the date of any variation. Any new start date cannot be sooner than from the date of the variation request.

Any variation or cancellation notificationmade by the employee, including notice to return to work early, will usually count as a new notification reducing the employee’s right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the Responsible Officer requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing.

If an employee has already used up their three notifications then the Responsible Officer is under no obligation to agree to vary/cancel the leave but they will consider the request and decide whether it is reasonably practicable to grant it.

# Terms and conditions during Shared Parental Leave

During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary.

# Pension

Teachers:

* During the period of paid maternity leave, pension contributions will be paid and deducted from the teachers pay in the usual manner.
* Any unpaid period will not be pensionable / reckonable.
* Contact Teachers Pensions and ask for the Fact sheet on Maternity/Paternity which is also available online at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk).

All Other Employees:

* During any period of paid or unpaid SPL, employees who are members of the Local Government Pension Scheme (LGPS) will pay basic pension contributions on the pay actually received but the Employer will pay pension contributions on the pay the employee would have received had they been at work (Assumed Pensionable Pay (APP)). The service will count as normal for pension purposes, i.e. as if the employee had been at work.
* During any period of unpaid SPL, pension will not accrue, unless the employee elects to pay Additional Pension Contributions (APC) by buying the ‘lost’ pension.
* If an employee elects to buy the ‘lost’ pension by paying an APC within 30 days of returning to work, the employer must pay 2/3rds of the total cost with the remaining 1/3rd being paid by the employee. If the election is not made within the 30-day period then the employee with pay the full cost, unless the employer chooses to contribute towards the cost.
* If the employee wishes to buy the ‘lost’ pension they need to read the employee factsheet (https://www.lgpsmember.org/more/apc/taclost.pdf) which can be found on the Peninsula Pensions website, which explains how to calculate the cost and then what the process is. See [www.peninsulapensions.org.uk](http://www.peninsulapensions.org.uk).
* Where an employee works on a Shared Parental Leave In Touch (SPLIT) Day, both the employee and the employer will pay contributions based on the pay the employee receives for that day and it will count in full for pension purposes.

# Annual Leave

SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not left untaken at the end of the employee’s holiday year.

# Contact during Shared Parental Leave

Before an employee's SPL begins, the Responsible Officer will discuss the arrangements for them to keep in touch during the leave. In any event reasonable contact will be maintained with the employee from time to time during their SPL. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

# Shared Parental Leave in Touch days (SPLIT Days)

An employee can agree to work or attend training for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. 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.

During the employee’s SPL, the Trust has no right to require the employee to carry out any work and is under no obligation to offer any work. Any work undertaken is a matter for agreement between the Responsible Officer and the employee. An employee taking a SPLIT day will receive their normal rate of pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively ‘topped up’ so that the individual receives normal pay for the day. Any SPLIT days worked do not extend the period of SPL.

An employee, with the agreement of the Responsible Officer or delegate, may use SPLIT days to work part of a week during SPL. The Responsible Officer or delegate and the employee may use SPLIT days to affect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

Where an employee works on a SPLIT Day, both the employee and the employer will pay contributions based on the pay the employee receives for that day and it will count in full for pension purposes.

SPLIT days are in addition to the 10 ‘keeping in touch’ (KIT) days already available to those on maternity and adoption leave.

# Returning to work after Shared Parental Leave

Payrollwill write to the employee to advise themof the end date of any period of SPL. The employee is expected to return on the next working day after this date, unless they notify otherwise. If they are unable to attend work due to sickness or injury, this must be reported in line with the Managing Sickness Absence Policy & Procedure. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give at least eight weeks’ notice of their date of early return. This will count as one of the employee’s notifications. If they have already used their three notifications to book and/or vary leave then the notice to return early does not have to be accepted but it may be accepted if it is considered to be reasonably practicable to do so.

On returning to work after SPL, the employee is entitled to return to the same job if the employee’s aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, he or she will return to the same job. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, 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 no less favourable.

**Protection from Redundancy**

In accordance with the Protection from Redundancy (Pregnancy and Family Leave) Act 2023, qualifying employees at risk of redundancy are entitled to be offered a suitable alternative vacancy, if one is available, giving them priority protection against dismissal.

Under the Shared Parental Leave policy, this applies in the following circumstances;

* Employees who have taken more than 6 consecutive weeks of SPL are protected from the start of the SPL until 18 months from date of childbirth or date of the adoption placement.
* For employees that take less than 6 weeks of continuous leave – the protected period ends on the last day of the block of leave

The duties in that post should be suitable for the employee and appropriate to the circumstances. Also, the capacity and place in which they are to be employed and their terms and conditions of employment should not be substantially less favourable to them, than if they had been able to return to the job in which they were originally employed.

Suitable alternative employment as described above may also be offered if exceptional circumstances other than redundancy (e.g. a general reorganisation), which would have occurred if the employee had not been absent, necessitate a change in the job in which they were employed prior to their absence.

# Return to Local Government service following a resignation and break for SPL reasons

(Not applicable to teachers)

Where an employee returns to local government service following a break for maternity or other reasons concerned with caring for children or other dependants, they will be entitled to have previous service taken into account in respect of the following provisions provided that the break in service does not exceed eight years and that no permanent paid full-time employment has intervened:

* Sickness provisions
* Maternity provisions
* Adoption provisions
* Shared Parental Leave Provisions
* Period of notice to terminate employment

For the purpose of the calculation of entitlement to annual leave, the 8 years’ time limit does not apply, provided that no permanent full-time employment has intervened.

The calculation of continuous service for rights against unfair dismissal or redundancy payments is not included within this contractual provision.

If an employee chooses to return to local government with WeST, they will be asked to complete and sign a form confirming their service and that no paid employment has intervened.

# Fraudulent claims

Where there is a suspicion that fraudulent information may have been provided or where the Trust has been informed by HMRC that a fraudulent claim was made, this will be investigated in accordance with Westcountry Schools Trust Disciplinary Policy, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

# Further Guidance

Further guidance can be found on the Government website Gov.uk.

ACAS have produced a good practice guide for employers and employees. This can be found at [www.acas.org.uk](http://www.acas.org.uk)

# APPENDIX 1 - TERMS AND DEFINITIONS

|  |  |
| --- | --- |
| Primary birth parent | The person who has given birth to the child |
| Secondary birth parent | Not the person who has given birth to the child, but is a biological birth parent |
| Primary intended parent / legal parent or main adopter | This is the person who is eligible for adoption leave and/or pay.  Adopter is where a child is matched through an adoption agency  Legal Parent is someone who has obtained legal responsibility for a child following surrogacy, through a parental order, or has the legal status due to being biologically related to the child, in cases where the surrogate status is single. Whether the surrogacy agreement is for an individual or a couple, there must be a biological link to the child from at least one party.  Intended parent is someone who is having a child through a surrogacy arrangement. At least one of the intended parents (if in a couple) must be genetically related to the child. No legal parental order has yet been granted. |
| Second intended parent / second legal parent or second adopter | This is the person not entitled to adoption leave and/or pay.  Adopter is where a child is matched through an adoption agency  Legal Parent is someone who has obtained legal responsibility for a child following surrogacy, through a parental order, or has the legal status due to being biologically related to the child, in cases where the surrogate status is single. Whether the surrogacy agreement is for an individual or a couple, there must be a biological link to the child from at least one party.  Intended parent is someone who is having a child through a surrogacy arrangement. At least one of the intended parents (if in a couple) must be genetically related to the child. No legal parental order has yet been granted. |
| Partner | The secondary care giver or the person who, at the date of the child’s birth, or adoption is married to, or the partner of the primary parent/adopter. This includes someone who lives with them and the child in an enduring family relationship but is not related to the birth parent by way of their; parent, grandparent, sibling, cousin or a sibling of their parents. A partner includes civil and married partners. |
| SPL | Shared Parental Leave |
| ShPP | Statutory Shared Parental Pay |
| Match | When an adopter is approved to adopt a named child or children |
| Expected week of childbirth | The week, starting on a Sunday, during which the pregnant parents’ doctor or midwife expects them to give birth. |
| 14-day discussion period | This is 14 consecutive days from receipt of the period of leave notice form. |
| Curtailment Notice | Curtailment is notice to end maternity/adoption leave with the intention to use any remaining leave and pay through shared parental leave. |
| Notice of entitlement & Intention | Notice given to the employer of the intention to take SPL containing declarations from both parents about the amount of leave they are entitled to and the consent of the other parent to take the leave. |
| Period of Leave Notice | Notice given to employer setting out the start and end dates of each period of SPL |
| Continuous leave | A period of leave that is taken in one block, e.g. four week’s leave |
| Discontinuous leave | A period of leave that is arranged around weeks where the employee will return to work, e.g. an arrangement where an employee will work every other week for a period of three months. |
| SPLIT day | Shared Parental Leave in Touch Day |

# POLICY HISTORY

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Policy Date** | **Summary of change** | **Contact** | **Version / Implementation Date** | **Review Date** |
| 5.4.2015 | Policy implemented following the new legal entitlement to Shared Parental Leave | HR ONE | 5.4.2015 |  |
| July 2017 | Policy amended with new MAT name. | WeST HR | TBC |  |
| September 2017 | Publication date | WeST HR | September 2017 | Annually |
| July 2019 | Full policy review and consultation  JCNC and staff consultation.  Trust Board agreement 11 July 2019 | WeST HR | July 2019 | Biannually or at change in Statutory guidance. |
| June 2023 | Update to adopt gender neutral terminology and include further guidance of arrangements following surrogacy | WeST HR | September 2023 | September 2025 |
| April 2024 | Update to reflect change in Legislation in-line with the Protection from Redundancy (Pregnancy and Family Leave) Act 2023 | WeST HR | TBC | September 2026 |