



*Thinking Schools Academy Trust*  
**“Transforming Life Chances”**

**Shared Parental Leave  
Policy and Procedure**

This policy was adopted on	September 2016
The policy is to be reviewed on	Summer 2020

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### ***Abbreviations***

SPL	Shared Parental Leave
ShPP	Shared Parental Pay
EWC	Expected week of Childbirth
SML	Statutory Maternity Leave
SMP	Statutory Maternity Pay
SAL	Statutory Adoption Leave
SAP	Statutory Adoption Pay
AML	Additional Maternity Leave
MA	Maternity Allowance
SPLIT	Days Shared Parental Leave Keeping in Touch Days

# **Part A - Policy**

## **1 Policy Statement**

The Thinking Schools Academy Trust recognises its legal obligations with regards to Shared Parental Leave and is committed to supporting best practice in relation to provision for new parents in the workforce.

Shared Parental Leave (SPL) provisions enable eligible Employees to choose how to share the care of their child during the first year of birth or following adoption.

Mothers / adopters are able to end their maternity / adoption leave and associated contractual and statutory pay early. The untaken balance of their leave entitlement may then be shared with their partner in the form of Shared Parental Leave.

A maximum of 50 weeks of Shared Parental Leave may be shared between both partners either in continuous or discontinuous periods of not less than 1 week.

In addition up to 37 week's statutory Shared Parental Pay (ShPP) may be paid to eligible Employees.

The Trust recognises that Employees have protection against detriment, disadvantage, unfair treatment or dismissal from exercising their right to take Shared Parental Leave.

This policy and procedure explains:

- The Shared Parental Leave entitlements and benefits available to Employees
- The requirements and procedures Employees will need to comply with in order to obtain Shared Parental Leave benefits

Employees are advised to read this document carefully as failure to comply with certain requirements and procedures could impact on their entitlement.

Employees are advised to discuss with HR the full options of Shared Parental leave, pay and entitlement.

## **2 Scope**

This Policy and Procedure applies to all Employees of The Thinking Schools Academy Trust.

Certain entitlements may be dependent on length of service with a Trust School.

It should be noted that the provisions relating to Shared Parental Leave are different to those for paternity leave and parental leave for which separate guidance is available.

Please note where an Employee's partner works for another Employer – the Shared Parental Leave and Pay entitlements and eligibility criteria may vary and the organisations own Shared Parental Leave Policy should be consulted.

## **3 Adoption Arrangements and Date**

This procedure was adopted by the Board of Directors of The Thinking Schools Academy Trust on 1st September 2016.

This policy will be reviewed by the Board of Directors every 4 years or earlier if there is a need. This will involve consultation with the recognised unions.

#### **4 Responsibilities of the Trust**

- To comply with the statutory provisions relating to Shared Parental Leave and Pay
- Not to disadvantage an Employee for exercising their right to Shared Parental Leave

#### **5 Responsibilities of the Employee**

- To comply with the notification arrangements and timescales set out within this document
- To make truthful and accurate declarations in relation to their own and their partner's circumstances in relation to Shared Parental Leave
- To maintain reasonable contact with the Headteacher/Principal / line manager and advise the school as soon as is practicable should their intentions regarding leave change.

### **Part B: Procedure**

#### **6 Eligibility Criteria**

Shared Parental Leave may be taken by:

- The mother / adopter **and**
- One of the following;
  - the father of the child (in the case of birth) **or**
  - the spouse, civil partner or partner\* of the child's mother/adopter

To be eligible to take leave – both partners must share the main responsibility for the care of the child at the time of birth or at the date the adoption placement takes place

In addition an Employee seeking Shared Parental Leave must satisfy the following criteria:

- The Employee must be eligible to take statutory maternity / adoption leave, or be entitled to statutory maternity pay (SMP), statutory adoption pay (SAP) or maternity allowance (MA)
- The Employee must have ended or given notice to reduce any maternity/adoption entitlements
- The Employee must still be working for the Academy at the start of each period of leave.
- The Employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date
- The Employee's partner must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned an average of at least £30 (this is correct as of 2015 but may change annually) a week in any 13 of those weeks;

- The Employee must correctly notify the Academy of their entitlement and provide evidence as required.

*\*Partner means – a person of either sex who lives with the mother / adopter and the child in an enduring family relationship at the date of the child's birth or placement. This may not be the mother / adopter's child, parent, grandchild, grandparent, sibling, aunt / uncle, niece / nephew.*

## 7 Shared Parental Leave Entitlement

Eligible Employees may be entitled to take up to 50 weeks Shared Parental Leave (SPL). Shared Parental Leave must be taken in complete weeks. The minimum amount of leave that can be taken is 1 week.

The amount of Shared Parental Leave to which an individual is entitled will depend on when the mother/ adopter brings the maternity/adoption leave period to an end and the amount of leave that the other parent takes in respect of the child.

Shared Parental Leave may start as follows:

- After the mother has taken 2 weeks of compulsory maternity immediately following the birth of the child
- After the adopter had taken at least two weeks of adoption leave
- The father/partner/spouse can take Shared Parental Leave immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements. It should be noted that once Shared Parental Leave / pay has been taken an Employee cannot take paternity leave.

Where the mother / adopter has given notice that they intend to give up some of their total maternity/adoption leave entitlement - Shared Parental Leave may be taken by the partner concurrently with the maternity / adoption leave taken by the mother / adopter.

Shared Parental Leave must end no later than one year after the birth/placement of the child. Any Shared Parental Leave not taken by the first birthday or first anniversary of placement for adoption will be lost.

## 8 Notification

An Employee must give the Headteacher/Principal / line manager notification of their entitlement and intention to take to Shared Parental Leave at least eight weeks before the period of leave commences.

Notification must be in writing and should include:

Where the Employee requesting Shared Parental Leave is the **mother / adopter**:

- The name of the Employee
- The name of the other parent / partner
- The child's expected week of birth (or the actual date of birth if the baby has already been born) or the date of placement
- The start and end dates of any maternity/adoption leave or pay
- The total amount of Shared Parental Leave that the Employee and their partner is eligible to take
- The total amount of Shared Parental Leave the Employee and their partner intend to take
- An indication of when the Employee intends to take Shared Parental Leave

Where the Employee requesting Shared Parental Leave is the **mother / adopter** they must provide a signed declaration that:

- They have been working for the trust for 26 weeks by the end of the 15<sup>th</sup> week before the baby's due date/adoption date
- They will have the main caring responsibility for the baby
- That they are entitled to statutory maternity leave
- They will return from maternity leave early in order to access Shared Parental Leave provisions
- The information they have provided regarding their and their partner's entitlement is accurate
- They will inform you should their circumstances change and cease to be entitled to Shared Parental Leave and will inform the school should circumstances change

Where the Employee requesting Shared Parental Leave is the **mother / adopter** they must provide a signed declaration from their partner which states:

- Their name, address and national insurance number
- Provides confirmation that they are the father or the child or partner of the mother / adopter
- That they meet the criteria for the employment earnings test
- That at the time of the birth or placement for adoption – they share the responsibility for the birth of the child
- They consent to the Employee taking the intended Shared Parental Leave
- They consent to the Academy processing the information contained within their declaration

Where the Employee requesting Shared Parental Leave is the **partner** of the mother / adopter the following information must be provided with the notification:

- The name of the Employee
- The name of the other parent / partner
- The start and end dates of any maternity/adoption leave or pay taken by the mother / adopted
- The child's expected week of birth (or the actual date of birth if the baby has already been born) or the date of placement
- the total amount of Shared Parental Leave that the Employee and her partner is eligible to take
- the total amount of Shared Parental Leave the Employee and her partner intend to take
- An indication of when the Employee intends to take Shared Parental Leave

Where the Employee requesting Shared Parental Leave is the **partner** of the mother / adopter they must also provide a signed declaration that:

- They have been working for the Trust for 26 weeks by the end of the 15<sup>th</sup> week before the baby's due date/ adoption date
- They will have the main caring responsibility for the baby (along with the mother / adopter)
- They are the father of the child or spouse, civil partner or partner of the mother
- They will inform the Academy should the mother withdraw her notice to end her maternity / adoption leave and cancel Shared Parental Leave arrangements.
- The information they have provided regarding their and their partner's entitlement is accurate.
- They will inform you should their circumstances change and cease to be entitled to Shared Parental Leave

The Employee should also provide a signed declaration from the mother / adopter which states:

- Their name, address and national insurance number
- That they meet the criteria for the employment earnings test
- That they are entitled to statutory maternity / adoption leave, SMP / SAT or maternity allowance
- They will have the main caring responsibility for the child
- They have or will end her statutory maternity / adoption leave and SMP / SAP by returning to work or by giving notice of ending her leave
- They will inform her partner immediately if she chooses to withdraw her notice to end her maternity / adoption leave and pay
- They consent to sharing parental leave with her partner
- They consent to the Academy processing the information contained within their declaration

Any notification of Shared Parental Leave is in addition to the requirement to notify the Academy separately of the intention to take maternity / adoption leave and pay. Please refer to the Trust's maternity and adoption procedures for further information.

## **9 Evidence of Eligibility**

Within 14 days of the Academy being notified that the Employee intends to take Shared Parental Leave, the Headteacher/Principal / line manager may request the following evidence of the Employee's eligibility:

- The name and business 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 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

The Employee must produce this information within 14 days of the Trust's request.

## **10 Requesting Shared Parental Leave**

Where an Employee is considering taking Shared Parental Leave they are encouraged to discuss this with their Headteacher/Principal / line manager at the earliest opportunity.

An Employee must give a minimum of 8 weeks formal written notice of their wish to take the specific period(s) of leave required. This notice to may be provided at the same time as the notice of entitlement to Shared Parental Leave.

The Employee has the right to submit three notifications specifying leave periods they are intending to take.

Leave may be requested on with a continuous or discontinuous basis.

### **Continuous leave notifications**

An Employee may request a period of continuous leave. This means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).

An Employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of Shared Parental Leave available to them and the Academy has been given at least eight weeks' notice.

Providing all notification and entitlement criteria have been met- a request for continuous leave cannot be refused.

An Employee may submit up to three separate notifications for continuous periods of leave.

### **Discontinuous leave notifications**

An Employee may request 2 or more periods of discontinuous leave. This 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 Shared Parental Leave and work every other week for a period of three months).

The Academy will carefully consider discontinuous leave notifications but has the right to decline requests where this may have an undue adverse impact on the operation of the school or on colleagues.

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

Where it is not possible to accommodate a request for discontinuous leave in full – the school may partially grant the request or propose a modified pattern of work for the Employee to consider.

Where the requested leave pattern is refused, the Employee can either withdraw the request within 15 days of giving it, or can determine that they will take the leave in a single continuous block.

## **11 Responding to a Shared Parental Leave Notification**

The Headteacher/Principal / line manager will respond the Employees request for Shared Parental Leave in writing within 14 days.

## **12 Meeting to discuss a Shared Parental Leave request**

In reaching a decision, it may be of benefit for the Headteacher/Principal and Employee to meet to discuss the request in further detail. This meeting may include a discussion of the impact of the proposed leave, how these may be mitigated and any alternative arrangements that could be considered.

Where the Headteacher/Principal is in agreement to the request – a meeting is not necessary.

An Employee may be accompanied by a workplace colleague or trade union representative during discussions with the Head teacher about their request.

### **13 Variations to Shared Parental Leave Arrangements**

The Employee may vary or cancel an agreed period of Shared Parental Leave, provided that they advise the Academy in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Any variation or cancellation notification made 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 Academy 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 by the Academy.

### **14 Statutory Shared Parental Pay (ShPP).**

Eligible Employees may be entitled to receive up to 37 weeks statutory Shared Parental Pay (ShPP). This payment will be shared with their partner.

This is paid at the same rate as statutory maternity / adoption or 90% of average weekly earnings whichever is the lowest.

The number of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period.

Shared Parental Pay may be payable during some or all of Shared Parental Leave, depending on the length and timing of the leave.

In addition to meeting the eligibility requirements for Shared Parental Leave, an Employee seeking to claim ShPP must further satisfy each of the following criteria:

- The mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period.
- The Employee must intend to care for the child during the week(s) in which ShPP is payable.
- The Employee must pass the 'employment and earnings' test - having an average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child's expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions.
- The Employee must pass the 'continuity test' – having a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date.

Please note entitlement to enhanced contractual maternity pay and contractual adoption pay will cease at the date Shared Parental Leave commences. Employees are therefore advised to consider the financial implications of this in relation to their own circumstances.

### **15 Deductions from Shared Parental Pay**

Shared Parental Leave is subject to PAYE tax, National Insurance and Pensions contributions.

Where an Employee has a period of unpaid leave it is possible that they may be eligible for a tax refund at the end of the tax year, or may pay lower PAYE for the initial period after return to work.

Any other voluntary deductions will be taken from pay as usual.

## **16 Annual Leave**

Annual Leave and Bank Holiday leave entitlement continues to accrue during any period of Shared Parental Leave. This is accrued on a pro rata basis for part time and term time only Employees.

Annual leave and bank holiday entitlement should, wherever possible, be used in the leave in which it is due. Any leave should be taken with the agreement of the Headteacher/Principal / line manager. It is often most convenient for the Employee and the school for leave to be taken immediately before or at the end of maternity leave. However where this is not practicable – leave may be carried forward to the following leave year.

Where an Employee does not return after maternity leave – annual leave is accrued up to the final date of employment.

### **Term Time Only Employees**

In instances where an Employee is contracted term time only, leave is expected to be taken during the school closure periods when the Employee does not work. A pro rata payment in respect of annual leave and bank holidays is included within the salary. The entitlement to annual leave will usually be off-set against any non-working periods falling before or after the Employee's period of shared parental leave. However if due to the timing of leave the entitlement to annual leave is not fully met – an Employee may be to take this leave during term time following their return to work with the agreement of the Headteacher/Principal / line manager.

### **Teachers**

Teachers are entitled to 28 days (pro rata) statutory annual leave. This is usually taken during the period outside of term time when a teacher is not expected to attend work.

This entitlement will be off set against any non-working periods falling before or after the Employee's period of shared parental leave. However if due to the timing of leave the entitlement to annual leave is not fully met – an Employee may be to take this leave during term time following their return to work with the agreement of the Head teacher / line manager.

## **17 Pension Contributions**

Pension contributions will continue to be made during any period when the Employee is receiving ShPP but not during any period of unpaid Shared Parental Leave.

## **18 Contact during Shared Parental Leave.**

During Shared Parental Leave it is often helpful for the Employee and Academy to maintain contact. Before starting leave it is advisable for the Employee and Head teacher / line manager to discuss and agree preferred means of contact.

The Academy may make reasonable contact with an Employee during Shared Parental Leave. This may be to update the Employee on significant changes in the workplace, make them aware of job / promotion opportunities or to discuss plans regarding a return to work.

No contact may be made during the 2 week period immediately following the birth of the baby.

## **19 Shared Parental Leave in Touch Days**

An Employee may work up to 20 'Shared Parental Leave in Touch Days' (SPLIT Days) during their leave. These are intended to help the Employee keep up to date with the work environment, attend training and development activities or to help prepare for return from leave.

The Employee and Headteacher/Principal / line manager should discuss and mutually agree appropriate SPLIT days. There is no expectation for the Headteacher/Principal / line manager to offer work during leave or for the Employee to accept any request to work.

SPLIT days may be paid without affecting statutory Shared Parental Leave and Pay. However, where a SPLIT day is worked during the paid part of shared parental leave, the SPLIT hours/days will be offset against any pay. This means that unless the pay for the hours worked in that week exceeds the pay the Employee is currently receiving, there will be no payment made for the hours worked.

If an Employee works a SPLIT day in the unpaid part of leave they will receive payment for the hours worked.

Taking SPLIT days does not extend the duration of the period of Shared Parental Leave. Any SPLIT days are in addition to an Employee's entitlement to KIT days granted under the Maternity and Adoption provisions.

Working for any part of a day will count as one SPLIT day.

## **20 Returning to Work**

Prior to commencing Shared Parental Leave the date it is agreed that the Employee will return to work will be confirmed in writing by the Academy.

The Employee is expected to return on this date, unless they notify the Academy otherwise.

If they are unable to attend work due to sickness or injury, the Academy's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

## **21 The Right to Return**

On returning to work after Shared Parental Leave, the Employee is entitled to return to the same job if the Employee's aggregate total statutory maternity/paternity/adoption leave and Shared Parental Leave 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 Shared Parental Leave, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity/adoption leave and Shared Parental Leave 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.

## **22 Returning to Work Early**

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 the Academy 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 Academy does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

Should an Employee fail to give the required notice the Headteacher/Principal / line manager may postpone the date of return until the required notice has been served. .

An Employee may return to work during a school closure period – subject to giving the required notice.

## **23 Requests to change working hours**

An Employee may make a flexible working request to alter their pattern / hours of work at the point of return from Shared Parental Leave.

The Headteacher/Principal / line manager will give careful consideration to any request. Should the request not be accommodated, the business reasons for this will be explained to the Employee.

Please refer to the Trust's Flexible Working Policy and Procedure for further details.

## **24 Leaving Employment**

Should an Employee determine after careful consideration that they no longer wish to return to work following the end of a period of Shared Parental Leave, they should formally resign in writing giving the required contractual notice.

Should an Employee return to work and then decide to resign, they must give the appropriate contractual notice.

## **25 Suspected Fraudulent Claims**

Where it is suspected that fraudulent information may have been provided or where the Academy is informed by the HMRC that a fraudulent claim has been made, this may be addressed through the Academy's Disciplinary Procedure

## **26 Changing Employers Prior to Shared Parental Leave**

Changing Employers prior to taking shared parental leave may affect the Employee's entitlement to shared parental leave benefits. Employees are advised to discuss their individual entitlements with their new employer.