
MIDLOTHIAN NEGOTIATING COMMITTEE FOR TEACHERS
Shared Parental Leave

1. SHARED PARENTAL LEAVE

- 1.1 Shared parental leave enables eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption.
- 1.2 A mother must take a minimum of 2 weeks maternity leave following the birth or her child. If an employee is eligible and they or their partner end maternity or adoption leave and pay (or maternity allowance) early, then they can:
- take the remainder of the maternity/adoption leave (up to a maximum of 50 weeks) as shared parental leave
 - take the remainder of the maternity/adoption pay (up to a maximum of 37 weeks) as statutory shared parental pay

Shared parental leave must be taken between the baby's birth and first birthday (or within 1 year of adoption).

2. ELIGIBILITY

- 2.1 For either parent to qualify for shared parental leave, the child's mother (or adoptive parent) must be eligible for either:
- maternity leave or pay;
 - maternity allowance; or
 - adoption leave or pay

Shared parental leave is also available to qualifying teachers entitled to surrogacy leave. However, for ease of reading the following paragraphs will refer to maternity and adoption leave/pay only.

- 2.2 The employee wishing to take shared parental leave must also:
- share responsibility for the care of the child
 - have 26 weeks continuous service by the end of the 15th week before the due date (or placement date for adoption);
 - remain employed while they take shared parental leave
 - comply with notice/evidence requirements
- 2.3 The partner of the employee wishing to take shared parental leave must also:
- have worked for at least 26 weeks in the 66 weeks leading up to the expected week of childbirth; and
 - have earned an average of at least £30 a week in any 13 of those weeks

3. SHARED PARENTAL PAY

Shared Parental Pay - Non-Teaching Employees

3.1 Shared parental pay is equivalent to the lower rate of Statutory Maternity/Adoption Pay where this would normally be payable in accordance with the entitlements detailed in sections 4 and 2 of the Time Off Provisions and subject to the following exceptions:

- the first two weeks of Statutory Maternity/Adoption Pay are not transferrable
- shared parental leave does not attract the higher rate of statutory maternity/adoption pay payable during the first 6 weeks of maternity leave
- there is no occupational element to shared parental pay

Shared Parental Pay - Teachers

3.2 In line with National Terms and Conditions for Teachers, shared parental pay is equivalent to Statutory Maternity/Adoption Pay and Occupational Maternity/Adoption Pay where this would normally be payable in accordance with entitlements detailed in MNCT 12/01 and MNCT 12/09 and subject to following exceptions:

- the first two weeks of Statutory Maternity/Adoption Pay is not transferrable
- the entitlement to 11 weeks OMP and SMP equal to the mother's normal pay is not transferrable to the partner

Qualification for Shared Parental Pay

3.3 To qualify for shared parental pay:

- an employee must have 26 weeks continuous service by the end of the 15th week before the due date (or placement date for adoption);
- an employee must have earned above the lower earnings limit in the eight weeks leading up to and including the 15th week before the expected week of childbirth; and
- the employee's partner must meet the employment and earnings test as detailed at paragraph 39.3 above.

4. PATTERNS OF LEAVE

4.1 Shared parental leave can be taken as one continuous block or a number of discontinuous blocks which must be requested by completing a notice to book leave form. Each parent can submit 3 notice to book leave forms.

4.2 If both parents are taking shared parental leave, they can take their leave at the same time as each other or at different times.

Continuous Leave

4.3 A continuous block of leave is an unbroken period of leave to which an employee has a statutory right. The council cannot refuse a continuous block of leave.

Discontinuous Leave

- 4.4 Discontinuous leave is blocks of leave over a period of time with breaks between the leave when the employee returns to work. Discontinuous leave requested in a single notice can only be taken with the council's agreement. Line managers should meet with the employee to discuss the employees request for leave within 10 working day of receipt of the notice to book leave.
- 4.5 Requests for discontinuous leave made by Teachers must be made in blocks of no less than 4 weeks.
- 4.6 If a request for discontinuous leave is not agreed, the employee has two options:
- take the total amount of leave as one continuous block;
 - withdraw the notice to book leave within 15 days of submission and submit a new request. Where a withdrawal and new notice to book leave are received more than 15 days after the original submission, this will count as an additional submission of notice to book leave (a total of 3 statutory submissions are permitted); or
- 4.7 In line with National Terms & Conditions for Teachers, Teachers will have the opportunity to appeal against a decision not to grant the discontinuous leave by writing to the Head of Service within 15 days of submitting the notice to book leave. An appeal hearing will be arranged within 10 working days of receipt of the appeal and a written decision provided within 10 working days of the hearing. In the case of Teaching staff the appeal will normally be heard by the Head of Education. Where necessary the Head of Education will nominate an appropriate representative to chair the appeal who will not have a direct link to the school at which the Teacher resides. Teachers may be accompanied at the appeal hearing by a Trade Union representative or colleague. Where the appeal is rejected, the teacher may take the total amount of leave as one continuous block or submit a new request.

5. OPTING IN TO SHARED PARENTAL LEAVE

- 5.1 For shared parental leave to start, the mother or adopter must do one of the following:
- end their maternity leave or adoption leave by returning to work;
 - give notice to their employer of the date when they will end their maternity leave or adoption leave (notice is binding so cannot be withdrawn, except in circumstances detailed at section 7 below);
 - end maternity pay or maternity allowance (if they are not entitled to maternity leave, eg they are self-employed)
- 5.2 If an employee is eligible for, and intends to take shared parental leave they must provide the council with a Notice of Entitlement to take Shared Parental Leave. The notice of entitlement must be submitted at least 8 weeks before the employee intends to take a period of leave. A Notice of Entitlement form is available for this purpose.
- 5.3 The Notice of Entitlement requires the employee to give an indication of when they intent to take their leave. The employee does not have to take their leave on the dates they state in the Notice of Entitlement, but it will give the line manager advance notice of what is being considered and the opportunity to discuss arrangements with the employee.

5.4 The Notice of Entitlement will also include a declaration from the employee's partner with regard to their eligibility and consent to the employee taking shared parental leave as specified.

6. NOTICE TO BOOK LEAVE

6.1 Leave can be booked at the same time as, or following, the submission of the Notice of Entitlement.

6.2 An employee is entitled to submit 3 separate notices to book leave during the child's first year following birth or adoption placement.

6.3 A notice to book leave must be submitted at least 8 weeks before any period of leave would begin. A Notice to Book Shared Parental Leave form is available for this purpose.

6.4 If the child has not yet been born then a booking can specify that it will commence after a period of time following the birth.

7. CANCELLING THE DECISION TO END MATERNITY OR ADOPTION LEAVE

7.1 The mother or adopter can change their decision to end maternity or adoption leave early if both:

- the planned end date hasn't passed; and
- they haven't already returned to work

7.2 One of the following must also apply:

- it is discovered during the 8 week notice period that neither partner is eligible for either shared parental leave or pay
- the employee's partner has died
- it is less than 6 weeks after the birth (and the mother gave notice before the birth)

7.3 Where an employee wishes to cancel the decision to end maternity/adoption leave, for one of the reasons above, they must inform the council in writing.

8. VARYING LEAVE

8.1 Where an employee needs to vary or cancel a period of booked leave they must submit a Notice to Vary Booked Leave at least 8 weeks before the dates varied begin.

8.2 A Notice to Vary Booked Leave will count as a further notification. Therefore, if the employee had originally agreed leave as part of their first Notice to Book Leave, cancelling or varying the leave would count as a second notification.

8.3 If the employee has already used all of their notifications, the council is under no obligation to agree to vary/cancel the leave but could still consider the request and decide whether it is reasonably practical to grant it.

8.4 A proposal by the council to vary leave (to which the employee agrees) will not count as a further notification.

9. SHARED PARENTAL LEAVE IN TOUCH (SPLIT) DAYS

- 9.1 During shared parental leave an employee is allowed up to 20 days at work with normal pay – known as “shared parental leave in touch days” – without bringing the leave period to an end. Normal pay for all hours worked will be offset against any shared parental pay payable.
- 9.2 SPLIT days do not need to be consecutive and can be used for training or any other activity that enables the employee to keep in touch with their place of employment.
- 9.3 An employee does not have a right to attend work during shared parental leave and, the council has no right to require an employee to attend work during shared parental leave. Therefore a decision as to whether or not SPLIT days will take place is a matter to be decided between an employee and their line manager.
- 9.4 Attendance at work for any part of a day will count as one SPLIT day.

10. RIGHT TO RETURN TO WORK

- 10.1 An employee has a statutory right to return to the job in which they were employed under their original contract of employment and on terms and conditions no less favourable than those that would have applied if they had not been absent.
- 10.2 However, where exceptional circumstances occur, i.e. where an organisational change necessitates an alteration to the employee’s job and this change would have occurred irrespective of their absence on shared parental leave, suitable alternative employment may be offered.
- 10.3 Alternative employment should be suitable to the employee, appropriate to the circumstances, the capacity, and place of employment that applied prior to their absence on shared parental leave. The terms and conditions of employment should not be less favourable than if the employee had been able to return to the job in which they were employed prior to their absence.
- 10.4 Annual leave will accrue during Shared Parental Leave in the same way it would during Maternity or Adoption Leave.

11. EARLY BIRTH AND OTHER SPECIAL CIRCUMSTANCES

Early Birth

- 11.1 If the child is born early and the employee has booked to take shared parental leave within the first 8 weeks of the due date, they may take the same period of time off after the birth without having to provide 8 weeks’ notice.
- 11.2 In such circumstances, the employee should submit a Notice to Vary Leave as soon as reasonably practical. Unlike most other variation notices, this would not count as one of the employee’s three notifications.
- 11.3 Any leave arranged after the first 8 weeks of the due date is still bound by the 8 week notice required to vary leave.
- 11.4 If the child is born more than 8 weeks before the due date and the Notice of Entitlement and/or a Notice to Book Leave have not yet been submitted, then there is no requirement to give 8 weeks’ notice before the period of leave starts. The notices should be submitted as soon as reasonably practical.

Death of the Child

- 11.5 Should the child die before the parents have submitted a Notice of Entitlement then they cannot opt in to Shared Parental Leave. The mother will remain entitled to maternity leave and the mother's partner could still qualify for statutory paternity leave.
- 11.6 If the parents have opted in to Shared Parental Leave and they have submitted Notice to Book Leave, they will be entitled to take the booked leave. No further notice booking leave can be submitted and only one variation notice can be given to reduce a period of leave or to rearrange a discontinuous leave arrangement into a single block of leave.
- 11.7 An employee who is on Shared Parental Leave may cancel agreed leave and return to work by giving the council 8 weeks' notice.

Partner No Longer Caring for the Child

- 11.8 If an employee who has booked Shared Parental Leave is no longer responsible for caring for the child (unless it is because the child has died), their entitlement to Shared Parental Leave and Pay will immediately cease and they must tell the council.
- 11.9 If the employee has any leave arranged within 8 weeks of their entitlement ceasing, the council can still require them to take it as Shared Parental Leave. Any weeks of Shared Parental Leave arranged after 8 weeks of their entitlement ceasing must be cancelled.
- 11.10 If the remaining parent will be continuing to care for the child then they will still be eligible to take their Shared Parental Leave entitlement. If the other parent, who is no longer caring for the child had any leave entitlement outstanding, the remaining parent will only be able to transfer it into their own entitlement if they can get the signed agreement of the other parent to a notice confirming a variation of leave entitlement.

Death of a Parent During the Child's First Year

- 11.11 If either parent dies and the other parent is taking, or is entitled to Shared Parental Leave then they will continue to be eligible. Any leave that was due to be taken by the deceased parent may be transferred to the other parent if the other parent is eligible for Shared Parental Leave.
- 11.12 Should it be necessary for the other parent to take a further period of Shared Parental Leave or to vary pre-agreed leave then notice may be given as soon as is reasonably practical if 8 weeks' notice cannot be given. If they have already given 3 notice to take leave they must be allowed to submit one further notice to book/amend Shared Parental Leave.

Multiple Births/Adoptions

- 11.13 An employee is not entitled to more Shared Parental Leave or Pay if they are expecting more than one child. The entitlements are the same as if the employee was expecting one child. This also applies to multiple adoptions that occur in a single placement.