



The Holy Family of Nazareth Catholic Academy Trust

Shared Parental Leave (Adoption) Policy

Date of policy: **October 2020**

Date last review adopted by HFNCAT Board: **December 2020**

Frequency of review: **Annual**

Date of next review: **October 2021**

This policy does not form part of any employee's contract of employment and is not intended to have contractual effect. Subject to minimum statutory requirements from time to time in force, the Academy reserves the right to vary and amend this policy and any procedure under it at any time and will notify all employees of the details of the change as soon as is reasonably practicable.

Eligibility for Shared Parental Leave (SPL)

Eligible employees are able to make arrangements for shared parental leave and pay in relation to the adoption of a child. This policy applies to employees. It does not apply to agency workers or self-employed contractors.

Frequently Used Terms

The definitions in this paragraph apply in this policy.

- Partner: spouse, civil partner or someone living with another person in an enduring family relationship at the time the child is placed for adoption, but not a sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.
- Qualifying Week: the week the adoption agency notifies a person that they have been matched with a child for adoption.

What is Shared Parental Leave?

Shared parental leave (SPL) is a form of leave that may be available where an adoption agency places a child on or after 5 April 2015.

It provides a more flexible alternative to the default system whereby one partner may qualify for up to 52 weeks' adoption leave and the other partner may qualify for up to two weeks' ordinary paternity leave.

Under the SPL system, up to 50 weeks of the adoption leave entitlement may be designated as SPL. Assuming both people are eligible, a couple can choose how to split that leave between them. They may be able to take this leave at the same time or at different times. They may also be able to take it in more than one block.

Entitlement to SPL

Employees are entitled to SPL in relation to the adoption of a child if an adoption agency has placed a child with a person and/or their partner for adoption and they intend to share the main responsibility for the care of the child with their partner.

The following conditions must also be fulfilled:

- employees must have at least 26 weeks' continuous employment with the Academy by the end of the Qualifying Week, and still be employed by the Academy in the week before the leave is to be taken;
- the other person must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the Qualifying Week and had average weekly earnings of at least £30 during 13 of those weeks; and
- both the employee and their partner must give the necessary statutory notices and declarations as summarised below, including notice to end adoption leave or statutory adoption pay (SAP).
- Either the employee or their partner must qualify for statutory adoption leave and/or SAP and must take at least two weeks of adoption leave and/or pay.

Minimum Period of Adoption Leave

If one person is taking adoption leave and/or claiming SAP, the other person may be entitled to two weeks' paternity leave and pay. A person should consider using this before taking SPL. Paternity leave is additional to any SPL entitlement and a person will lose any untaken paternity leave entitlement once they start a period of SPL.

Relationship with Paternity Leave

An employee who intends to take paternity leave must take it in the first 8 weeks after the child is placed with them otherwise it will be lost. An employee will also lose any untaken paternity leave entitlement once they start a period of SPL. Therefore, it is usually advisable for an employee who is not taking adoption leave or SAP to use up their paternity leave entitlement first, rather than going straight onto SPL. Unlike adoption leave time spent on paternity leave does not reduce the amount of SPL available.

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

Opting in to Shared Parental Leave and Pay

Not less than eight weeks before the date an employee intends SPL to start, an employee must give the Academy a written opt-in notice giving:

- their name and their partner's name;
- if they are taking adoption leave, their adoption leave start and end dates;
- if they are not taking adoption leave, their partner's adoption leave start and end dates, or, if their partner is not entitled to adoption leave, the start and end dates of their SAP;
- the total SPL available, which is 52 weeks minus the number of weeks' adoption leave or SAP taken or to be taken by themselves or their partner;

- how many weeks of the available SPL will be allocated to them and how many to their partner (they can change the allocation by giving the Academy further written notice, and they do not have to use their full allocation);
- if they are claiming statutory shared parental pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of SAP taken or to be taken);
- how many weeks of the available ShPP will be allocated to them and how many to their partner (they can change the allocation by giving the Academy further written notice, and they do not have to use their full allocation);
- an indication of the pattern of leave they are thinking of taking, including suggested start and end dates for each period of leave. This indication will not be binding at this stage, but should include as much information as possible about future intentions; and
- declarations that they both meet the statutory conditions to enable them to take SPL and ShPP.

Ending Adoption Leave

- If a person is taking or intends to take adoption leave and wants to opt into the SPL scheme, they must give the Academy at least eight weeks' written notice to end their adoption leave (a curtailment notice). The notice must state the date their adoption leave will end. They can give the notice before or after adoption leave starts, but they must take at least two weeks' adoption leave.
- They must also give the Academy, at the same time as the curtailment notice, a notice to opt into the SPL scheme or a written declaration that their partner has given their employer an opt-in notice and that they have given the necessary declarations in that notice.

If a partner is eligible to take SPL from their employer, they cannot start it until the Academy has been given the curtailment notice.

The curtailment notice is binding on the employee and cannot usually be revoked. A curtailment notice can only be revoked if one of the following applies:

- if an employee realises that neither themselves nor their partner are in fact eligible for SPL or ShPP, in which case they can revoke the curtailment notice in writing up to eight weeks after it was given;
- if the partner has died.

Once a curtailment notice has been revoked both parties will be unable to opt back into the SPL scheme.

Ending a Partner's Adoption Leave or Pay

If the other person is taking adoption leave or claiming SAP from their employer, an employee will only be able to take SPL once their partner has either:

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

Notifying the Academy of the SPL Dates

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

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

Employees can give up to three period of leave notices. This may enable employees to take up to three separate blocks of shared parental leave.

Procedure for Requesting Split Periods of SPL

In general, a period of leave notice should set out a single continuous block of leave. The Academy may, in some cases, be willing to consider a period of leave notice where the SPL is split into shorter periods (of at least a week) with periods of work in between. It is best to discuss this with the Principal/Head Teacher in advance of submitting any formal period of leave notices. This will need to be discussed before submitting any formal leave notices to allow the Academy time to consider the request and hopefully agree a pattern of leave with the employee from the start.

Employees must submit a period of leave notice setting out the requested pattern of leave at least eight weeks before the requested start date. If the Academy are unable to agree to the employees request straight away, there will be a two-week discussion period. At the end of that period, the Academy will confirm any agreed arrangements in writing. If the Academy have not reached an agreement, the employee will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in their notice.

Alternatively, employees may:

- choose a new start date (which must be at least eight weeks after their original period of leave notice was given), and tell the Academy within five days of the end of the two-week discussion period; or
- withdraw their period of leave notice within two days of the end of the two-week discussion period (in which case it will not be counted, and the employee may submit a new one if they choose).

Changing the Dates or Cancelling the SPL

An employee can cancel a period of leave by notifying the Academy in writing at least eight weeks before the start date in the period of leave notice.

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

An employee can change the end date for a period of leave by notifying the Academy in writing at least eight weeks before the original end date and the new end date.

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

An employee can request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between.

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

- the variation is a result of the child being placed earlier or later than the expected placement date;
- the variation is at the Academy's request; or
- the Academy agrees otherwise.

Shared Parental Pay (ShPP)

ShPP of up to 39 weeks (less any weeks of statutory maternity pay or adoption pay claimed by the employee or the other parent) may be available provided they have at least 26 weeks' continuous employment with the Academy at the end of the Qualifying Week and their average earnings are not less than the lower earnings limit set by the government each tax year. ShPP is paid at a rate set by the government each year.

Other Terms During Shared Parental Leave

This paragraph replicates an employee's statutory entitlement to the benefit of terms and conditions of employment during shared parental leave.

Annual leave and pensions

An employee's terms and conditions of employment remain in force during SPL, except for the terms relating to pay.

Annual leave entitlement will continue to accrue at the rate provided under the employment contract. If an employee's SPL will continue into the next holiday year, any holiday entitlement that cannot reasonably be taken before starting the leave can be carried over and must be taken immediately before returning to work unless the Principal/Head Teacher agrees otherwise. Holiday plans should be discussed with the Principal/Head Teacher in good time before starting SPL. All holiday dates are subject to approval by the Academy.

If an employee is a member of the pension scheme, the Academy will make employer pension contributions during any period of paid SPL, based on the employee's normal salary, in accordance with the pension scheme rules. Any employee contributions made will be based on the amount of any shared parental pay being received, unless the employee informs the Principal/Head Teacher that they wish to make up any shortfall.

Discussing Return to Work

The SPL Regulations allow the Academy to make "reasonable contact" with the employee from time to time during shared parental leave.

The Academy may make reasonable contact with the employee from time to time during their SPL, although the Academy will keep this to a minimum. This may include contacting the employee to discuss arrangements for their return to work.

The employee may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days (KIT days) during their SPL. This is in addition to any KIT days that they may have taken during maternity leave. KIT days are not compulsory and must be discussed and agreed with Principal/Head Teacher.

The employee will be paid at their normal basic rate of pay for time spent working on a KIT day and this will be inclusive of any shared parental pay entitlement.

Returning to Work

If an employee wants to end a period of SPL early, they must give the Academy eight weeks' written notice of the new return date. If they have already given the Academy three periods of leave notices, they will not be able to end their SPL early without the Academy's agreement.

If an employee wants to extend their SPL, assuming they still have unused SPL entitlement remaining, they must give the Academy written notice at least eight weeks before the date they were due to return to work. If they have already given the Academy three periods of leave notices, they will not be able to extend their SPL without the Academy's agreement. They may instead be able to request annual leave or ordinary parental leave, subject to the needs of the Academy.

Employees are normally entitled to return to work in the position they held before starting SPL, and on the same terms of employment. However, if it is not reasonably practicable for the Academy to allow the employee to return into the same position, the Academy may give the employee another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances:

- if the SPL and any adoption or paternity leave that the employee has taken adds up to more than 26 weeks in total (whether or not taken consecutively); or
- if the SPL was taken consecutively with more than four weeks of ordinary parental leave.

If an employee wanted to change their hours or other working arrangements on return from SPL, they should make a request under the Academy's Flexible Working Policy. It is helpful if such requests are made as early as possible.

If an employee decides that they do not want to return to work, they should give notice of resignation in accordance with their contract.

