



# The Athelstan Trust

## Shared Parental Leave Policy

### Shared parental leave policy

#### Introduction

- 1 **Purpose:** This policy is intended to provide guidance on your statutory entitlements and the Trust's position in respect of shared parental leave and pay.
- 2 **Shared parental leave:** Shared parental leave (**SPL**) is available to working parents following the birth or adoption of a child. It applies in respect of children who are expected to be born, or where an adoption agency is expected to place a child with parents, on or after 5 April 2015.
- 3 **Aims:** The SPL regime is aimed at enabling eligible parents to choose how to care for their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how best to care for their child.
- 4 **Definitions:** This policy will use the following terms, which for the purpose of this policy shall have the following meanings:
  - 4.1 **parent:** one of two people who will share the main responsibility for the child's upbringing (and who may be either the mother, the father, or the mother's partner if not the father);
  - 4.2 **partner:** spouse, civil partner or someone living with another person in an enduring family relationship, but not a sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew;
  - 4.3 **expected week of childbirth (EWC):** the week, beginning on a Sunday, in which the doctor or midwife expects your child to be born.

#### Eligibility for SPL

- 5 **Eligibility general:** Not everyone will meet the criteria to qualify for SPL but even those who are eligible may find that other arrangements are more appropriate to their family plans and circumstances. Parents should give serious consideration to the options available and which will be most beneficial to their situation. If you opt in to the SPL scheme, you will forgo any remaining rights under the Trust's maternity or adoption policy.
- 6 **Eligibility (birth):** You are entitled to SPL in relation to the birth of a child if:
  - 6.1 you are the child's mother, and share the main responsibility for the care of the child with the child's father (or your partner, if the father is not your partner);
  - 6.2 you are the child's father and share the main responsibility for the care of the child with the child's mother; or
  - 6.3 you are the mother's partner and share the main responsibility for the care of the child with the mother (where the child's father does not share the main responsibility with the mother).
- 7 **Eligibility (adoption):** You are entitled to SPL if:
  - 7.1 an adoption agency has placed a child with you and / or your partner for adoption; and
  - 7.2 you intend to share the main responsibility for the care of the child with your partner.



# The Athelstan Trust

## Shared Parental Leave Policy

- 8 **Conditions:** The following conditions must also be fulfilled:
- 8.1 you have been continuously employed by the Trust for 26 weeks at the end of the 15th week before the expected week of childbirth (**EWC**) or the week the adoption agency notifies you that you have been matched with a child for adoption and still be employed by the Trust in the week before the leave is to be taken; and
  - 8.2 the other parent must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the EWC or the week the adoption agency notifies you that you have been matched with a child for adoption and had average weekly earnings of at least £30 during 13 of those weeks; and
  - 8.3 you and the other parent must give the necessary statutory notices and declarations as summarised below, including notice to end any maternity leave, statutory maternity pay (**SMP**), periods of maternity allowance (**MA**) or adoption allowance (**AA**), statutory adoption leave (**SAL**) or statutory adoption pay (**SAP**).
- 9 **Entitlement:** The total amount of SPL available is 52 weeks, less the weeks spent by the child's mother or the primary adopter on maternity or adoption leave (or the weeks in which the mother or primary adopter has been in receipt of SMP, MA, AA or SAP if the mother or your partner is not entitled to maternity or adoption leave).
- 10 **Compulsory maternity or adoption leave:** If you are the mother or primary adopter you cannot start SPL until after the compulsory maternity or adoption leave period, which lasts until two weeks after birth or placement.
- 11 **Paternity leave:** If you are the child's father or the mother's partner, or if your partner is claiming SAP, you may be entitled to paternity leave and pay. For further details please refer to the Trust's paternity leave policy. You should consider using your two weeks' paternity leave before taking SPL. Once you start SPL you will lose any untaken paternity leave entitlement. SPL entitlement is in addition to your paternity leave entitlement.

### Choosing the SPL and pay regime

- 12 **Choosing SPL:** Parents who wish to choose the SPL regime will need to comply with the notification requirements which are set out within this policy. We may also require you to provide further evidence of eligibility. The details are provided below but in overview the steps required are:
- 12.1 step 1: provision of a curtailment notice: bringing maternity or adoption leave (and pay) to an end. See Form 1;
  - 12.2 step 2: provision of an opt-in notice: entitlement and intention to take SPL. See Forms 2a or 2b;
  - 12.3 step 3: provision of the period of leave notice: requesting SPL dates. See Form 3.
- 13 **Consequences of choosing SPL:** Parents should familiarise themselves with the consequences of opting in to SPL before making any decisions. Mothers and primary adopters will reduce their own maternity or adoption leave by choosing SPL and may also forgo any right to enhanced maternity or adoption pay accordingly.



# The Athelstan Trust

## Shared Parental Leave Policy

### Ending maternity or adoption leave

- 14 **Curtailment notice:** If you are the child's mother or the primary adopter and are still on maternity or adoption leave, you must give us at least eight weeks' written notice to end your maternity or adoption leave before you can take SPL. The curtailment notice must state the date your maternity or adoption leave will end. You can give the notice before or after you give birth or adoption leave starts, but you must take your two weeks' compulsory maternity or adoption leave.
- 15 **Opt-in to SPL:** As explained further below, you must also give us, at the same time as the curtailment notice, a notice to opt-in to the SPL scheme or a written declaration that the child's father or your partner has given his or her employer an opt-in notice and that you have given the necessary declarations in that notice.
- 16 **Other employer:** The other parent or your partner may be eligible to take SPL from their employer before your maternity or adoption leave ends, provided you have given the curtailment notice.
- 17 **Revocation:** The curtailment notice is usually binding and cannot be revoked. Please do consider your options very carefully before completing a revocation notice (see Form 5) to end your maternity or adoption leave period and notice to opt-in to SPL. You can only revoke a curtailment notice if maternity or adoption leave has not yet ended and one of the following applies:
  - 17.1 if you realise that neither you nor the other parent are in fact eligible for SPL or statutory shared parental pay (**ShPP**), you can revoke the curtailment notice in writing up to eight weeks after it was given;
  - 17.2 if you gave the curtailment notice before giving birth, you can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or
  - 17.3 if the other parent dies.

### Opting-in to SPL and pay

- 18 **Opting-in:** If you decide to choose the SPL regime, at the same time as providing the curtailment notice you must give the Academy a written opt-in notice, not less than eight weeks before the date you intend your SPL to start, confirming:
  - 18.1 your name and the name of the other parent or your partner's name;
  - 18.2 if you are the child's mother, the start and end dates of your maternity leave or if you are taking adoption leave, the start and end dates of your adoption leave;
  - 18.3 if you are the child's father or the mother's partner, the start and end dates of the mother's maternity leave, or if she is not entitled to maternity leave, the start and end dates of any SMP or period of MA;
  - 18.4 if your partner is taking adoption leave, the start and end dates of your partner's adoption leave, or if your partner is not entitled to adoption leave, the start and end dates of any SAP or period of AA;
  - 18.5 the total SPL available, which is 52 weeks minus the number of weeks' maternity leave, SMP, MA, SAL, SAP or AA period taken or to be taken by you or your partner;



# The Athelstan Trust

## Shared Parental Leave Policy

- 18.6 how much of the available SPL will be allocated to you and how much to the other parent or your partner. (You can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- 18.7 if you are claiming ShPP, the total ShPP available, which is 39 weeks minus the number of weeks of the SMP, MA, SAP or AA period taken (or to be taken);
- 18.8 how much of that will be allocated to you and how much to the other parent or your partner. (You can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- 18.9 declarations by you and the other parent or your partner that you meet the statutory conditions for entitlement to SPL and ShPP;
- 18.10 confirmation by you and the other parent or your partner that you recognise that there is no enhanced ShPP and that any entitlement to enhanced maternity or adoption pay will cease when SPL commences; and
- 18.11 an indication of the pattern of leave you 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 please give as much information as you can about your future intentions. You can talk to us at any time about your proposed plans for SPL prior to issuing us with a formal period of leave notice.

### Evidence of entitlement

- 19 The Academy has the right to ask you to provide evidence of entitlement within 14 days of receiving your notice opting-in to SPL. You must also provide within 14 days of a request:
  - 19.1 a copy of the birth certificate (or if you have not yet obtained a birth certificate, a signed declaration of the child's date and place of birth); or
  - 19.2 one or more documents from the adoption agency showing the agency's name and address, and the expected placement date; and
  - 19.3 the name and address of the other parent's, or your partner's, employer (or a declaration that they have no employer); and
  - 19.4 we may also ask the other parent or your partner to provide their consent for us to contact their employer in order to co-ordinate arrangements.

### Notification of periods of SPL and providing intended dates

- 20 **Dates:** Having opted into the SPL system you will need to give a period of leave notice informing the Academy of the start and end dates of your leave. This can be given at the same time as your opt-in notice, or it can be given later, as long as it is given at least eight weeks before the start of your leave. You must also state in your period of leave notice the dates on which you intend to claim shared parental pay, if applicable.
- 21 **Timing of SPL:** If you are the child's father or the mother's partner, or if your partner is taking adoption leave, you will only be able to take SPL once the mother or primary adopter has either:



# The Athelstan Trust

## Shared Parental Leave Policy

- 21.1 returned to work;
  - 21.2 given her employer a curtailment notice to end maternity or adoption leave;
  - 21.3 given her employer a curtailment notice to end her SMP or SAP (if they are entitled to SMP or SAP but not maternity or adoption leave); or
  - 21.4 given a curtailment notice to the Benefits Office to end her MA or AA (if she is not entitled to maternity or adoption leave, SMP or SAP).
- 22 **Periods of leave:** You may either request a single continuous block of SPL or alternatively, discontinuous periods of leave.
- 23 **Single leave period:** If your period of leave notice gives dates for a single continuous block of SPL you will be entitled to take the leave set out in the notice.
- 24 **Multiple periods of leave:** You are able to give up to three period of leave notices.

### Requesting discontinuous periods of SPL

- 25 **Discontinuous leave:** 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 one week) with periods of work in between. It is best to discuss this with your Head of Department or line manager in advance of submitting any formal period of leave notices. This will give the Academy more time to consider the viability of your proposed pattern of leave.
- 26 **Discussion:** If we are unable to agree to your request straight away, there will be a two week discussion period which will likely include a meeting with you, where we can consider how and whether the request, or a modified version of it, can be agreed. At the end of that period, we will confirm any agreed arrangements in writing.
- 27 **Refusal:** If we have not reached an agreement, you will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in your notice (for example, if you requested three separate periods of four weeks each, you will be entitled to one 12-week period of leave). Alternatively, you may:
- 27.1 choose a new start date (which must be at least eight weeks after your original period of leave notice was given), and tell us within five days of the end of the two week discussion period; or
  - 27.2 withdraw your period of leave notice within two days of the end of the two-week discussion period (in which case it will not be counted).
- 28 **Grounds for refusal of discontinuous leave:** The Academy will consider all requests for discontinuous periods of leave but the Academy is not obliged to agree to these. The Academy will weigh up the potential benefits to the employee and to the Academy and with any adverse impact for the Academy. Each request will be considered on its own facts taking into account factors including the budgetary implications, impact on the continuity of the education of the Academy's pupils, whether the dates coincide with challenging or busy periods in the Academy's calendar or with preparation for exams, or may cause staffing or cover concerns. This list is not exhaustive.



# The Athelstan Trust

## Shared Parental Leave Policy

### Changing the dates or cancelling your SPL

- 29 **Cancellation:** You can cancel a period of leave by notifying us in writing at least eight weeks before the start date communicated in the period of leave notice (see Form 4).
- 30 **Change:** You can change the dates for a period of leave by giving us at least eight weeks' notice in writing (see Form 4) before the original start date and by communicating the new start date.
- 31 **Born early:** You do not need to give eight weeks' notice if you are changing the dates of your SPL because your child has been born earlier than the EWC, where you wanted to start your SPL a certain length of time (but not more than eight weeks) after birth. In such cases please notify us in writing of the change as soon as you can.
- 32 **Notice:** A notice to cancel or change a period of leave will count as one of your three period of leave notices, unless:
- 32.1 the variation is a result of your child being born earlier or later than the EWC or as a result of the child being placed with you earlier or later than the expected placement date;
  - 32.2 the variation is at our request; or
  - 32.3 we agree otherwise.

### Shared parental pay (ShPP)

- 33 **General:** Eligible employees may be entitled to up to 37 weeks of ShPP, whilst taking SPL. This is reduced by any weeks of SMP, SAP, MA or AA claimed by you, the other parent or your partner. The remainder of your SPL will be unpaid. ShPP is paid at the prescribed rate set by the government for the relevant tax year.
- 34 **Eligibility for ShPP:** You will be entitled to ShPP provided you have complied with the notification requirements above, you have been continuously employed by the Trust for 26 weeks at the end of the 15th week before the EWC, and your average earnings are not less than the lower earnings limit set by the government each tax year. ShPP is only payable during a week where you intend to care for the child.
- 35 **Allocation of ShPP:** The opt-in notice should set out how you and your partner or the other parent intend to allocate any entitlement to ShPP between you.
- 36 **Benefits during SPL:** Whilst you are absent on SPL, you will continue to be entitled to receive the non-cash benefits provided under your contract of employment. For the avoidance of doubt, non-cash benefits do not include wages or salary.

### Keeping in touch

- 37 **Informal discussion:** Before your SPL starts we will discuss with you the arrangements for covering your work and the opportunities for you to remain in contact, should you wish to do so, during your leave. If you would like to remain on circulation lists for internal news, job vacancies, training and work-related social events, please advise your Head of Department or line manager.
- 38 **Shared Parental Leave In Touch days (SPLIT days):** You may work (including attending training) for up to 20 SPLIT days during your SPL without bringing your SPL or ShPP to an end. This is in addition



# The Athelstan Trust

## Shared Parental Leave Policy

to any keeping in touch days that you may have taken during maternity or adoption leave. The arrangements, including pay, can be set by agreement between you and the Academy.

- 39 **Before you return:** Shortly before you are due to return to work, the Academy may invite you to have a discussion (whether in person or by telephone) about the arrangements for your return. This may include updating you on any changes that may have occurred, discussing any necessary training and any changes to working arrangements.

### Returning to work

- 40 **Returning early:** If you wish to return to work earlier than the end of the period of leave requested you must notify the Academy in writing of your intention to do so not less than eight weeks before your expected return to work. You will not under any circumstances be allowed to return to work during the two weeks immediately following childbirth or the placement of a child with you. Failure to notify the Academy of your intention to return early may mean that your return to work is postponed.
- 41 **Return from SPL:** You will be employed in the same position upon your return to work from SPL that you occupied before your leave period began. You will be entitled to return on the same terms and conditions as if you had not been absent if your leave period has been 26 weeks or less.
- 42 **Returning late:** If you wish to return later than the end of your full period of leave, you should either submit a new period of leave notice at least eight weeks before the date you were due to return to work, request unpaid parental leave in accordance with the parental leave policy (giving the Academy as much notice as possible), or request paid annual leave (if you are entitled to take leave at such a date). If you are unable to return to work due to sickness or injury, this will be treated as sickness absence. In any other case, late return will be treated as unauthorised absence.]
- 43 **Returning after 26 weeks' leave:** if your SPL and any maternity, adoption or paternity leave you have taken is more than 26 weeks in total (whether or not taken consecutively) or if you took SPL consecutively with more than four weeks' ordinary parental leave (under the Trust's parental leave policy), and it is not reasonably practicable for you to return to the same position upon your return to work, you will be redeployed to a job which is suitable and appropriate for you in the circumstances. You will be entitled to return on terms and conditions no less favourable than you would have been entitled to had you not been absent, and with the seniority, pension rights and similar rights as you would have had if the period of employment prior to your SPL period was continuous with the period of employment following it.

### Deciding not to return

- 44 **Notification:** If you do not intend to return to work, or are unsure whether to return, it is helpful if you raise this with the Academy as early as possible. If you decide not to return you should give notice of resignation in accordance with your employment contract. The amount of SPL left to run must be at least equal to your contractual notice period, otherwise you may be required to work for the remainder of the notice period. Once you have given notice, you cannot change your mind without our agreement.



# The Athelstan Trust

## Shared Parental Leave Policy

### Returning to work part-time

- 45 **Requests:** The Academy will deal with any requests by employees to change their working patterns (such as working part-time) after SPL on a case by case basis. There is no absolute right to insist on working part-time, but we will try to accommodate your wishes unless there is a justifiable reason for refusal, bearing in mind the needs of the Academy. It is helpful if requests are made as early as possible. The procedure for dealing with such requests is set out in our flexible working policy.