

Shared Parental Leave Policy and Procedure

1.0 Scope

This policy outlines the statutory right to take Shared Parental Leave (SPL) to care for a child due to be born or placed for adoption on or after 5th April 2015. It also outlines notification requirements before a period of SPL and the entitlement to pay during SPL.

SPL gives employees with caring responsibilities for babies or newly adopted children the opportunity to share up to 52 weeks of leave with their partner should they wish to do so by committing to end maternity or adoption leave and pay early. The untaken balance of leave and pay can then be taken as SPL. Parents taking SPL can take leave in separate blocks, returning to work in between blocks, and both parents can be on leave at the same time. Eligible employees are entitled to submit up to three notices to take a 'Period of Leave'.

SPL will replace the existing entitlements of additional paternity leave and pay. For parents with a baby due on or before 4 April 2015, the entitlement to additional paternity leave and additional statutory paternity pay will remain in place.

These rights also apply to partnerships of the same sex and intended parents in a surrogacy arrangement.

2.0 Entitlements

2.1 Qualifying for Shared Parental Leave

To be entitled to SPL, employees must:

- be the mother, father, or main adopter of the child, or the partner of the mother or main adopter;
- have, or share with the other parent, the main responsibility for the care of the child;
- have at least 26 weeks' continuous service at the 15th week before the expected week of birth or at the week in which the main adopter was notified of having been matched for adoption with the child, known as the 'relevant week';
- still be in continuous employment until the week before any SPL is taken;
- comply with the relevant notice and evidence requirements.

In addition, the other parent must:

- have at least 26 weeks' employment (employed or self-employed) out of the 66 weeks prior to the relevant week;
- have average weekly earnings of at least £30 during at least 13 of the 66 weeks prior to the relevant week.

For the mother or main adopter to be entitled to SPL, they must be entitled to statutory maternity or adoption leave. For the partner to be entitled to SPL, the mother or main

adopter must be entitled to statutory maternity or adoption leave, or entitled to statutory maternity/adoption pay or maternity allowance. Employees must also follow the statutory notification and information requirements detailed in this policy.

2.2 Amount and Timing of Shared Parental Leave

SPL must be taken in weekly blocks and within a one year period beginning with the date of the baby's birth or the child's placement for adoption.

The maximum of 52 weeks of SPL will be reduced by the number of weeks of maternity or adoption leave that have already been taken by the mother or main adopter, or the number of weeks of statutory maternity/adoption pay or maternity allowance already taken if the mother or main adopter is not entitled to statutory maternity/adoption leave.

After the birth of a child it is compulsory for the mother to take two weeks of maternity leave, therefore in the majority of cases working parents will have the opportunity to split 50 weeks of SPL.

SPL is in addition to the statutory right to two weeks of paternity leave for fathers and partners. Paternity leave must be taken in advance of any SPL. Further information can be found in the Council's Paternity/Partner Leave Policy and Procedure.

2.3 Rights During Shared Parental Leave

Salary will be replaced by Statutory Shared Parental Pay if the employee is eligible for it.

Employees are entitled to receive all the other normal terms and conditions of the contract of employment, including annual holiday entitlement.

2.3.1 Holiday Entitlement

Annual leave continues to accrue as normal throughout any periods of SPL.

Employees should aim to use their annual leave within the leave year it has been accrued, however, in agreement with their Chief Officer, they may carry forward a maximum of five days' annual leave into the next leave year.

Annual leave cannot be taken simultaneously with SPL. Annual leave should be taken before any periods of SPL commence, or at the end of all SPL periods taken. Normal approval procedures apply.

Bank holidays that fall during any period of SPL absence will not be re-credited to the employee to be taken at a later date. The only exception to this will be when the employee's paid leave in any annual leave year, within the SPL period(s) falls below the statutory minimum of 5.6 weeks per year as outlined in the Working Time Regulations.

2.3.2 Pension

Pension contributions will continue to be made by the Council during the period when the employee is in receipt of pay, including statutory maternity pay, maternity allowance or shared parental pay, but not during any period of unpaid maternity leave.

2.3.3 Flexible Working Requests

Full consideration will be given to requests from employees who, upon their return from SPL, wish to change their working pattern. Employees should submit their requests as far in advance of their return date as practicable, to allow adequate time for the request to be fully considered and, where appropriate, the necessary arrangements put in place.

Further information about flexible working can be found in the Council's Family Leave Scheme.

2.3.4 Childcare Vouchers

Employees returning from SPL may wish to consider joining the Council's Childcare Voucher Scheme, which provides a tax efficient way of assisting with childcare costs. Further details about the scheme can be found on the HR intranet or by contacting the HR Team.

2.3.5 Salary Sacrifice Schemes

Employees taking part in any scheme that works on a salary sacrifice basis should consider how being in receipt of Shared Parental Pay, or nil pay, may affect their participation in the scheme. Employees should contact the HR Team if more information is required.

2.4 Shared Parental Pay

In addition to the requirements regarding entitlement to leave outlined above, if an employee wishes to claim Shared Parental Pay (ShPP), average weekly earnings must be equal to or above the Lower Earnings Limit over the eight week period ending with the relevant week.

A maximum of 39 weeks' ShPP is payable, and this will be reduced by the number of weeks of statutory maternity/adoption pay or maternity allowance that have already been taken by the mother or main adopter. ShPP is a standard weekly rate set by the government each tax year, or 90% of normal weekly earnings if this is lower.

Employees must follow the statutory notification and information requirements detailed below in Section 3.

2.5 Contact During Shared Parental Leave

The Council is entitled to make reasonable contact with employees during SPL. This may be to discuss the employee's plans to return to work, or perhaps any changes in the workplace. The employee is also entitled to make reasonable contact with the Council, for example, to discuss any arrangements for the return to work.

Employees may work for up to 20 days without bringing the SPL to an end, but work during SPL will not have the effect of extending the SPL period. These days are referred to as 'Shared Parental Leave In Touch' (SPLIT) days. If an employee undertakes any work whilst on a SPLIT day, payment will be received at the normal rate of pay for the actual hours worked. Employees are under no obligation to work during SPL, and the Council is under no obligation to offer work.

The 20 SPLIT days available during SPL are in addition to the 10 'Keeping in Touch' days available during Maternity and Adoption Leave.

2.6 Fraudulent Claims

If the Council suspects that fraudulent information may have been provided or where the Council has been informed by the HMRC that a fraudulent claim has been made, the Council may use the Disciplinary Policy and Procedure to investigate the matter further, which could lead to action up to and including dismissal.

2.7 Change in Employee Circumstances

It is possible that a parent's circumstances may change after periods of SPL have been agreed. This could prove difficult for the Council if the change is advised at short notice and arrangements to cover the post are already in place. In such circumstances, the Council may decide to hold the employee to the agreed arrangements.

3 Procedure

Employees and managers should, where possible, have an informal discussion as soon as possible prior to employees giving formal notification of their intention to take SPL, for example, when the employee knows maternity/adoption leave is going to be taken, so that statutory entitlements to other types of leave and pay can be discussed, and to ensure that plans for any discontinuous periods of leave can be considered as early as possible.

As the SPL provisions are complex, if an employee wishes to take SPL, the relevant procedures can be clarified with the HR Team to ensure that they are followed correctly. If the employee wishes to have an informal discussion to understand this Policy and Procedure in more detail, they should contact their Service HR Partner to arrange this.

3.1 Notice of Entitlement and Intention to take SPL and ShPP

The Notice of Entitlement and Intention is a notice to the Council advising that the employee is entitled to take SPL and when they intend to take it. The employee should aim to submit this as early as possible to their Service Manager to enable potential planning and cover arrangements in the Service area.

Employees must notify the Council in writing at least eight weeks before the start date of the first period of SPL. The written notice must contain the following information:

- employee's name and the other parent's name;
- the start and end dates of the mother's or main adopter's maternity/adoption leave, or the start and end dates of the statutory maternity/adoption pay or maternity allowance period if the mother/main adopter is not entitled to statutory leave;
- the expected date of birth/placement and the actual date of birth/placement if the written notice is given after the birth/placement;
- the amount of SPL and ShPP available and an indication of how much each parent intends to take, which may be varied by a subsequent written notice signed by both parents;
- an indication of the start and end dates of the periods of SPL and ShPP intended to be taken. This indication is not binding and can be amended at a later date;
- a signed declaration that the employee meets the conditions for entitlement to SPL, that the information provided is accurate and that he/she will notify the Council immediately if he/she ceases to meet the conditions for entitlement, such as no longer caring for the child.

There must also be a signed declaration from the other parent containing:

- their name, address and National Insurance number;
- confirmation that they meet the employment and earnings conditions;
- confirmation that they are the father/mother or partner of the father/mother of the child or civil partner or spouse of the employee;
- confirmation that, at the time of the birth, they will share the main responsibility for the care of the child;
- their consent to the amount of leave the employee intends to take;
- confirmation that they will immediately inform the Council if they cease to satisfy the employment and earnings conditions;
- consent for the employer to process the information in the partner's declaration.

3.2 Notice to End Statutory Maternity/Adoption Leave and Payments

At the same time that a 'Notice of Entitlement and Intention' to take SPL is submitted, the mother/main adopter must give the Council a notice to end maternity/adoption leave and pay, giving at least eight weeks' notice of the date on which the leave and pay is to end, or the date on which pay is to end if they are not entitled to leave. If the mother is only entitled to maternity allowance (and not maternity leave) her notice of curtailment must be submitted to Jobcentre Plus. Her maternity allowance cannot be reinstated, so she is in effect giving consent for her partner to take the whole of any ShPP entitlement.

A notice to end maternity/adoption leave and pay is usually binding, but may be revoked in the following circumstances:

- if it becomes apparent that neither parent is entitled to SPL or ShPP; or
- if the notice to end leave/pay was given before the birth/placement and is revoked up to six weeks following the birth; or
- if the other parent dies.

3.3 Formal Notice Requesting a 'Period of Leave'

The Formal Notice is where the employee submits the actual details of the period of leave he/she intends to take.

The first period of SPL may be identified and formally requested in the initial notice of entitlement and intention to take SPL. Employees are entitled to submit a maximum of three formal notices to take a 'Period of Leave'.

Each notice requesting a 'Period of Leave' must be given at least eight weeks before the start of a 'Period of Leave', stating the dates of the leave and the dates on which ShPP will be claimed, if applicable.

If the first notice requesting a 'Period of Leave' is given prior to the birth of a child, the notice may express the start date in relation to the date of birth, for example "starting two weeks after the baby is born for a period of four weeks".

3.4 Confirmation of SPL and ShPP

If a continuous period of leave is requested in a notice for a 'Period of Leave', employees will be entitled to take that 'Period of Leave' and this will be confirmed in writing.

If more than one 'Period of Leave' is requested in a notice, i.e., discontinuous periods of leave, the Council will seek to accommodate the request but this cannot be guaranteed. The Service Chief Officer will discuss the request with the employee to determine if it can be accommodated. The Service Chief Officer will have to consider operational factors in making a decision on such a request, for example, if the post has already been temporarily filled as a result of the period of maternity/adoption leave. The Service Chief Officer is advised to contact the relevant HR Partner for further guidance.

If the discontinuous leave request cannot be accommodated, there may be an alternative pattern of leave which can be agreed, or the request may be refused. The Council's decision will be confirmed in writing.

If no agreement is reached within 14 calendar days of the notice requesting the 'Periods of Leave' being submitted the employee can:

- take the discontinuous periods of leave requested in one continuous block, beginning on the original start date; or
- withdraw the request within 15 calendar days of the request being submitted. If the request is withdrawn in these circumstances it will not count as one of the three formal requests; or
- take the continuous block starting on a new date, as long as the new date is later than the original start date, and the Council is notified of the new date within 19 calendar days.

3.5 Varying a Booked 'Period of Leave'

If an employee wishes to vary or cancel a booked period of SPL, he/she is entitled to submit a request providing he/she provides written notice of at least eight weeks before any period of leave is due to commence. An employee may:

- vary the start and/or end date, or cancel the leave; or
- vary or cancel the amount of leave requested; or
- request that a single period of leave becomes a discontinuous period of leave, or vice versa.

A variation will count as one of the three formal notices requesting a 'Period of Leave', apart from circumstances such as the baby being born early or the Council requesting the dates to be amended.

3.6 Evidence Requirements

The Council may request a copy of the child's birth certificate and the name and address of the other parent's employer.

In the case of adoption, the Council may request the name and address of the other parent's employer, along with evidence confirming the following:

- the name and address of the adoption agency;
- the date that the main adopter was notified of having been matched for adoption with the child;
- the date on which the adoption agency expects to place the child with the family.

Any such request will be made by the Council within 14 days of receiving the 'Notice of Entitlement and Intention' to take SPL and ShPP. Employees must respond to the request for evidence within 14 days, or within 14 days of the birth of the child if the request was made before the child was born.

If a birth certificate has not yet been issued, employees must sign a declaration stating that fact along with the date and location of the child's birth. If the other parent has no employer, this must also be declared.

In some circumstances, the Council may choose to write to the employer of the other parent for clarification on information provided.

3.7 Returning from Shared Parental Leave

If an employee wishes to return early from SPL, or extend the period of the SPL, the Council must be notified at least 8 weeks before both the original end date and the new end date.

If an employee returns to work immediately after a period of SPL, which together with any statutory maternity/adoption leave taken to care for the same child, was 26 weeks or less, the employee will return to work in the same job.

If an employee returns to work from a period of SPL, which together with any maternity/adoption leave taken to care for the same child, was more than 26 weeks, the employee will normally be entitled to return to the job in which he/she was employed before the absence. If that is not reasonably practicable, a similar role will be offered on no less favourable terms and conditions.

Employees will not lose the right to return to work if they do not follow the correct notification procedures, however, the Council may take appropriate disciplinary action if they fail to return to work at the end of the SPL period.

In the event that an employee is unable to return to work at the end of the SPL due to ill health, the Council's normal sickness absence rules, procedures and payments will apply. For further information, employees should refer to the Sickness Absence Policy and Procedure.

4 Further Information

Any questions relating to this Policy or Procedure, or further guidance on issues connected with SPL can be obtained from the Service HR Partner.

5 Review

This policy will be reviewed two years following implementation, or earlier in the event of further changes in legislation.