

Shared Parental Leave (Excluding Teachers)

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1. Introduction

Shared Parental Leave enables eligible parents to choose how to share time off work to care for their child during the first year of birth or adoption.

The following definitions are used in this policy:

"Mother" means the mother or expectant mother of the child.

"Adopter" legal parent – has equivalent rights as Mother.

"Partner" means the father of the child, or the person who, at the date of the child's birth, is married to, the civil partner of, or the partner of the mother. This includes someone, of either sex, who lives with the mother and the child in an enduring family relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

"Expected week of childbirth" means the week, starting on a Sunday, during which the mother's doctor or midwife expects her to give birth.

This flexible system allows mothers to take shared parental leave at any point after the first two weeks' of giving birth. Mothers and Partners will then be able to share the remaining 50 weeks between them by taking the leave in turns, in different blocks, or at the same time.

Example:

A mother could end her maternity leave after 12 weeks, leaving 40 weeks (of the total 52 week entitlement) available for SPL. If both the mother and her partner are eligible, they can share the 40 weeks. They can take the leave at the same time or separately.

Shared parental leave should not be confused with ordinary parental leave, which is unaffected by shared parental leave. Ordinary parental leave is the entitlement to up to 18 weeks' unpaid leave. (The Council provides a separate guidance on ordinary parental leave.)

2. Scope

This policy applies to all employees of the Council (with the exception of Teachers, who should refer to the national conditions of service http://www.snct.org.uk/wiki/index.php?title=Part_2_Section_7) whether they are the mother/adopter or the partner. If it is the mother/adopter who is employed by the Council, their partner must (where relevant) submit any notifications to take shared parental leave set out in this policy to his/her own employer, which may have its own shared parental leave policy in place, if he/she wants to take a period of shared parental leave.

Similarly, if it is the partner who is employed by the Council, the mother must (where relevant) submit any notifications to take shared parental leave to her own employer.

The mother/adopter and the partner should ensure that they are each liaising with their own employer to ensure that requests for shared parental leave are handled as smoothly as possible.

3. Eligibility

a) SPL can only be used by two people:

- 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.

b) Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.

c) Employees may be entitled to Shared Parental Leave (SPL) and Shared Parental Pay (SPP) if:

- their baby is due on or after 5 April 2015
- they adopt a child on or after 5 April 2015

(Up until 4 April 2015 fathers may get Additional Paternity Leave and Pay instead)

Employees' seeking to take SPL must satisfy each of the following criteria:

- the mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or, if not, they must be/have been entitled to statutory maternity/adoption pay or maternity allowance. Notice must have been given to reduce or end any maternity/adoption entitlements;
- the employee must still be working for the Council at the start of each period of SPL;
- 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 comply with notice requirements including, where necessary, a declaration that their partner meets the employment and income requirement which allow them to get shared parental leave.

Where only one parent is eligible for shared parental leave, the leave cannot be shared with their partner. Shared parental leave could still be used however by the eligible parent to book their leave in separate blocks.

4. How and When can this Leave be Taken?

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 rest of the 52 weeks of leave (up to a maximum of 50 weeks) as shared parental leave
- take the rest of the 39 weeks of pay (up to a maximum of 37 weeks) as statutory shared parental pay.

Partners should bear in mind that he/she is entitled to take up to two weeks' ordinary paternity leave following the birth of his/her child, which he/she will lose if shared parental leave is taken first).

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

An employee taking shared parental leave can split their leave into up to 3 separate blocks instead of taking it all in one go, even if they aren't sharing the leave with their partner.

SPL can only be taken in complete weeks but may begin on any day of the week. The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive SPP.

[Template letter - appendix 6](#)

If both parents are taking shared parental leave, they can take their leave at the same time as each other or at different times. Please note that if taken at the same time the leave will reduce accordingly.

Example:

If both parents take 6 weeks SPL at the same time the total amount of SPL available will reduce by 12 weeks.

Continuous leave notifications

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 SPL available to them (specified in the notice of entitlement) and the Council has been given at least eight weeks' notice. An employee may submit up to three separate notifications for continuous periods of leave.

[Template letter - appendix 6](#)

Discontinuous leave notifications

A single notification may also contain a request for two or more periods of discontinuous leave, which 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 SPL and work every other week for a period of three months).

The Council will consider a discontinuous leave notification but has the right to refuse it. If the leave pattern is not agreed, the employee can either

a) withdraw it within 15 days of giving it, (requests that have been withdrawn in these circumstances do not count towards the limit on the number of requests for leave that an employee can make).

or

b) take the leave in a single continuous block. (This would count as one request).

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 'binding notice' to their employer of the date when they will end their maternity leave or adoption leave;
- end maternity pay or maternity allowance.

[Template letter - appendix 1](#)

Example:

A mother and her partner are both eligible for SPL.

The mother goes on maternity leave 10 weeks before her baby is born. She decides that she'll take 16 weeks of maternity leave and gives appropriate notice.

Since the mother has given binding notice, her partner can start SPL as soon as the baby has been born (as long as they've given at least 8 weeks' notice).

5. Shared Parental Leave Pay (SSPP and ShPP)

Eligible employees may be entitled to take up to 37 weeks Shared Parental Leave Pay (ShPP) while taking SPL. The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

ShPP may be payable during some or all of SPL, depending on the length and timing of the leave. The employee:

- Must be eligible for SPL (26 weeks service by the end of 15th week before the expected date of childbirth and have an economically active partner)

- Must have earned at least £111 per week in the 8 weeks before the qualifying week (end of the 15th week before EWC or placement) – which is the same test as SMP

If an employee has 26 weeks or more continuous service by their qualifying week, they will be entitled to 39 weeks paid leave, as follows:

- First 6 weeks at 9/10ths pay (including SSPP).
- Following 12 weeks at half pay (plus SSPP).
- Following 21 weeks at SSPP, with any further SPL at
- No Pay (up to a maximum of 13 weeks).

If an employee intends to claim SPP, they must give notice which must include:

- how much SPP both parents are entitled to take
- how much SPP each parent intends to take
- when they expect to take SPP
- a declaration from the employee's partner confirming their agreement to the employee claiming their amount of SPP.

Template letter - appendices 2, 3, 4, 5

Example:

If the mother takes maternity leave for 30 weeks, then the father takes a period of shared parental leave of 12 weeks, then the mother takes a period of shared parental leave of 10 weeks; the mother would be paid statutory maternity pay for 30 weeks and the father would be paid statutory shared parental pay for the first nine weeks of his leave period (provided that they meet all the relevant eligibility requirements).

Pension Benefit

Any unpaid period during an employee's Shared Parental leave will not count in the calculation of her future pension benefits unless they agree to pay the appropriate contributions. On the employee's return to work, the Pension Section of the Finance Department will contact the employee.

6. Shared Parental Leave in Touch (SPLIT) Days

The council reserves the right to maintain reasonable contact with employees during shared parental leave. This may be to discuss employees' plans for their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

Shared Parental Leave In Touch Days (SPLIT)

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 will be inclusive of any shared parental pay payable to the employee.

These 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.

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.

7. Annual Leave

Shared Parental Leave is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's holiday year.

8. How to Apply

If an employee wishes to take Shared Parental Leave they must provide to their line manager; written notice of their entitlement to SPL and ShPP, including:

- their partner's name
- maternity leave start and end dates
- the total amount of SPL and ShPP available
- how much they and their partner intend to take
- that they're sharing childcare responsibility with their partner

Template letter - appendices 2 or 4

It must also include a signed declaration from the partner stating:

- their name, address and National Insurance number
- that they satisfy the qualifying requirements to take SPL and SPP
- that they agree to sharing SPL and SPP

Template letter - appendices 3 or 5

Any notice to book Shared Parental Leave must be given at least eight weeks before the leave is due to start.

Template letter - appendix 6

9. Changing Shared Parental Leave Arrangements

An employee is entitled to cancel or request a variation of leave that has already been requested. At least 8 weeks' notice is required prior to the change.

Template letter - appendix 7.

Revocation of maternity leave curtailment notice

The mother can withdraw her notice curtailing her maternity leave in limited circumstances. The withdrawal of a maternity leave curtailment notice must be in writing and can be given only if the mother has not returned to work. The mother can withdraw her maternity leave curtailment notice if:

- it is discovered that neither the mother nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother withdraws her maternity leave curtailment notice within eight weeks of the date on which the notice was given;
- the maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth; or
- the partner has died.

10. Rights During Shared Parental Leave

During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be amended in line with Shared Parental Pay if the employee is eligible for it.

This means that, while sums payable by way of salary will change, all other benefits will remain in place. For example, holiday entitlement will continue to accrue. Pension contributions will continue to be paid.