

## FAMILY LEAVE: SHARED PARENTAL LEAVE AND PAY POLICY AND PROCEDURE



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## SHARED PARENTAL LEAVE AND SHARED PARENTAL PAY POLICY

### 1. Introduction

- 1.1 This policy outlines the arrangements for shared parental leave (ShPL) and shared parental pay (ShPP) in relation to the birth or adoption of a child.
- 1.2 This policy and procedure applies to all employees of the council. The entitlement to shared parental pay and leave will depend upon the employee's continuous service.
- 1.3 This policy and procedure does not apply to agency workers or volunteers working in the council.
- 1.4 ShPL is a form of leave available to parents following the birth or adoption of a child. It enables eligible parents to choose how to share the care of their child during the first year following birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child.

### 2. Shared Parental Leave (ShPL) - Eligibility

- 2.1 ShPL 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/mother/adopter.
- 2.2 Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.
- 2.3 An employee seeking to take ShPL must satisfy the following criteria:
  - The mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or if not entitled then they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements
  - The employee must still be working for the organisation at the start of each period of ShPL

- The employee must have a minimum of 26 weeks service at the end of the 15<sup>th</sup> week of before the child's expected due date/matching date
- The employee's partner must meet the employment and earnings test i.e. must earn enough on average to be required to pay NI contributions
- Provide the required evidence of their entitlement i.e. an original MATB1 form

2.4 The council may within 14 days of the ShPL entitlement notification being given, request further evidence of eligibility. Where there is a suspicion that fraudulent information may have been provided or where the council has been informed by the HMRC that a fraudulent claim was made, the matter will be investigated under the Council's Conduct and Disciplinary Procedure.

### **3. Shared Parental Leave - Entitlement**

3.1 Eligible employees may be entitled to take up to 50 weeks ShPL during the child's first year in their family. The number of weeks available is calculated using the mothers/adopters entitlement to maternity/adoption leave, which allows them to take up to 52 weeks leave. If they reduce (curtail) their maternity/adoption leave entitlement then they and/or their partner may opt-in to the ShPL system and take any remaining weeks as ShPL.

3.2 A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at specified future date.

3.3 If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 weeks. If they do this their partner may be entitled to up to 50 weeks of ShPL. This is done by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

3.4 ShPL can commence as follows:

- The mother can take ShPL after she has taken the legally required 2 weeks of maternity leave immediately following the birth of the child
- The adopter can take ShPL after taking at least 2 weeks of adoption leave
- The father/partner/spouse can take ShPL immediately following the birth/placement of the child but may first choose to exhaust any paternity leave

entitlements (as the father/partner cannot take paternity leave or pay once they have taken ShPL or ShPP).

- 3.5 Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopters partner can take leave while the mother/adopter is still using their maternity/adoption entitlements. Therefore both parents can be off work at the same time.
- 3.6 ShPL will generally commence on the employee's chosen start date specified in **Form A: Employee Notification of intention to apply for shared parental leave** [\(insert link\)](#) or in any subsequent variations.
- 3.7 If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some or all of the ShPL period. See Shared Parental Pay below.
- 3.8 ShPL must end no later than one year after the birth/placement of the child. Any ShPL not taken by the first birthday or first anniversary of placement for adoption is lost.

#### 4. Notification

- 4.1 An employee entitled and intending to take ShPL must give their line Manager notification of their entitlement and intention to take ShPL **at least 8 weeks** before they can take any period of ShPL. The employee must complete **Form A: Notice of intention to apply to take shared parental leave** [\(insert link\)](#) and provide the following;
  - The name and NI number of both the employee and the other parent
  - Details of how much maternity/adoption leave and pay or maternity allowance that has already taken and the total amount of ShPL available
  - An indication of the expected pattern of leave (this is not binding)
  - The date on which the child is expected to be born and the actual date of birth or in the case of adoption, the date on which the employee was notified of having been matched with the child and the date of placement for adoption
- 4.2 The employee has the right to submit a combined total of up to 3 notifications specifying leave periods they are intending to take. A single block of leave is a minimum of 1 week. Each notification may contain either;

- a. A single period of weeks of leave; or
  - b. Two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave
- 4.3 ShPL can only be taken in complete weeks but may begin on any day of the week.
- 4.4 Each request for discontinuous leave will be considered on a case-by case basis. Where the line manager may have concerns over accommodating the notification, a meeting to discuss the notification should be arranged with a view to agreeing an arrangement that meets the needs of the Council and the employee.
- 4.5 The number of times an employee can notify an employer of changes to a period of leave will be limited to 3 – the original notification and 2 further notifications of changes.
- 4.6 If the mother/adoption has given notice to curtail their leave entitlement they may withdraw the notice only if they have not returned to work, the curtailment date has not passed and one of the following circumstances applies:
- Where it is discovered in the 8 weeks following the notice that neither the mother/adoption nor their partner has entitlement to ShPL
  - In the event of the death of the partner
  - (for mothers only). If the notice was given before the birth/placement for adoption of the child and notice for entitlement to maternity/adoption leave to be curtailed has been provided in the 6 weeks following the birth/placement for adoption
- 4.7 There are a number of possible options for how parents could share their parental leave. One example is;
- The mother could take the first 8 months with the other parent taking the remaining 4 months
  - The mother could return to work for a period in the middle of the year with the other parent looking after the child for that time
  - The mother and other parent could both stay at home together with the child for up to 6 months

### 5. Shared Parental Pay (ShPP)

5.1 ShPP is payable for up to a combined period of 39 weeks after a woman ceases to work after pregnancy/placement of a child for adoption and is available for eligible parents to share between them while on shared parental leave.

5.2 There are two types of ShPP.

- Statutory Pay (SShPP)
- Council's Occupational Shared Parental Pay (OShPP)

#### **Statutory Shared Parental Pay**

5.3 The number of weeks' statutory shared parental pay available to parents will depend on how much statutory maternity/adoption pay or maternity allowance the mother has been paid when her maternity/adoption leave or pay ends.

5.4 Eligible employees may be entitled to take up to 37 weeks statutory shared parental pay (remaining weeks from 39 weeks entitlement after 2 weeks compulsory maternity/adoption leave) SShPP while taking ShPL. The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity/adoption allowance period. This period may also reduce if the mother/adopter commences maternity/adoption leave prior to the birth/placement of child.

5.6 Any statutory shared parental pay due during the shared parental leave will be paid at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

5.7 SShPP may be payable during some or all of the ShPL depending on the length and timing of the leave.

5.8 It is up to the parents as to who is paid the statutory shared parental pay and how it is apportioned between them as they share the entitlement.

### **Occupational Shared Parental Pay**

- 5.9 Occupational shared parental pay is more generous than SShPP. An employee is entitled to OShPP if they have at least 12 months continuous Local Government service and return to work after Shared Parental Leave.
- 5.10 Weeks 1-6 are paid at 90% of weekly pay (any entitlement to ShPP or maternity allowance is included in this pay).
- 5.11 Weeks 7 -18 at 50% of weekly pay plus any entitlement to ShPP or maternity allowance, up to a maximum of full pay.
- 5.12 Weeks 19 - 39 SMP at standard ShPP rate.
- 5.13 If the employee claims OShPP but does not return to work for a minimum of 3 months, they will be required to repay the OShPP (net of any entitlement to SShPP). This period will be extended proportionately if you gain agreement to return to work on a reduced hour's basis.
- 5.14 If both parents entitled to OShPP are employed by SBC it is up to the parents how the entitlement inclusive of maternity, paternity and adoption leave per couple is apportioned between them.

### **6 Annual leave and bank holidays**

- 6.1 The employee will be advised before starting shared parental leave whether they have any outstanding leave entitlement. The employee should, whenever possible, take any outstanding leave before commencing shared parental leave. Annual leave and bank holidays that will accrue during the shared parental leave period may be anticipated and with the manager's agreement, taken prior to the start of the shared parental leave period.
- 6.2 It is not normally possible to receive pay in lieu of any untaken annual leave or bank holidays. If there have been exceptional circumstances that have prevented annual leave being taken the manager may approve payment for any outstanding leave providing as much of the outstanding leave has been taken as possible.
- 6.3 Where annual leave is taken at the end of the shared parental leave period, any unused annual leave or bank holidays may be carried over to next year.
- 6.4 If the employee decides not to return to work following parental leave, they will be paid for any outstanding holiday entitlement accrued. Equally, should they decide not to return to work and has taken more holiday than they have accrued, they will be required to repay

the equivalent of the excess holiday taken.

- 6.5 If an employee takes annual leave immediately before or after their shared parental leave, this will be recorded as annual leave in the usual way. Whilst shared parental pay leave is paid as a percentage of salary, and not full pay, time taken as annual leave will be paid at the full rate of pay.
- 6.6 Term time only (TTO) employees receive pay that includes a payment for annual leave and bank holidays in addition to salary. For instance a TTO employee working 38 weeks per year with a holiday entitlement pro rata to 25 days leave and 8 bank holidays (also pro rata) per year will actually receive payment equivalent to 43.3 weeks per year. This number of week's pay is paid in 12 equal instalments (i.e. payment is made every month) during the year. Shared parental pay will not include full pay for pro-rata holidays and bank holidays accrued during maternity leave. The difference will be calculated by payroll and paid as a lump sum on return from shared parental leave.

## **7 Pensions**

- 7.1 Employees will continue to pay their usual percentage pension contributions during their paid leave. On their return from shared parental leave they have the option to make up pension contributions for any period of unpaid leave. However, their request to repay these contributions to avoid a break in pensionable service must be within 30 days of returning to work. Payroll will provide the employee with a Pension Buy Back Form upon their return, which must be completed and returned to payroll within the stipulated 30 days.

## **8 Contact during shared parental leave**

- 8.1 Shortly before an employee's shared parental leave starts, the manager will discuss arrangements with the employee for keeping in contact during their leave. Whilst contact should be minimal and respect privacy during shared parental leave, it may be necessary to contact the employee from time to time during their leave. This may be to discuss changes within the organisation/service area, the employee's plans for return to work, to discuss any opportunities to support their return to work or simply to update them on important developments at work during their absence.

## **9 Shared Parental Leave In Touch Days (SPLiT)**

- 9.1 An employee can agree to work for up to 20 days during their ShPL without bringing their period of ShPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave in Touch" or "SPLiT" days. Any work carried out on a keeping in touch day shall constitute a day's work for

these purposes. Payment is for hours attended only and will be paid at their current salary rate.

- 9.2 Any keeping in touch days worked will not extend the total period of shared parental leave.
- 9.3 Keeping in touch days are optional and there is no requirement for an employee on shared parental leave to carry out any work during her maternity leave. Equally, there are no obligations on the council to offer keeping in touch days during the period of shared parental leave.
- 9.4 If an employee undertakes work for the council and all keeping in touch days have been exhausted, they will lose a week's ShPP for any week in which they agree to work.
- 9.5 The employee's manager must notify Payroll of any keeping in touch days worked (insert link) and the employee will receive payment on the next available monthly pay date.

## 10 Returning to work

### 10.1 Right to return to same position

On returning to work after shared parental leave, the employee is entitled to return to the same position as they occupied before starting the shared parental leave, on the same terms and conditions of employment as if they had not been absent.

- 10.2 It is also anticipated that in the vast majority of case, employees returning from shared parental leave will also return to the same position as they occupied before starting the shared parental leave. However, in exceptional cases it may not be reasonably practicable for the employee to return to the same position in which case the council will offer a suitable alternative position on similar terms and conditions.

### Working patterns/part-time

- 10.3 An employee who worked full time prior to shared parental leave has no automatic right to return to work on a part time basis or to other changes to their working patterns. However, the council endeavors to support flexible on working patterns subject to service requirements. If an employee would like to explore flexible working options, they should submit a flexible working request as soon as possible in advance of their return in accordance with the Flexible Working Policy available at <http://insite/people/employment-terms-and-conditions/flexible-working/>

## 11 Resignation

- 11.1 If the employee decides not to return to work after shared parental leave, they must give notice of resignation as soon as possible and provide notice in accordance with the

terms of her contract of employment. If the notice period would expire after shared parental leave has ended, the council may require the employee to return to work for the remainder of the notice period. Employees who have claimed OShPP but who do not return to work for a minimum period of 3 months will be required to repay the OShPP.

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