

Shared Parental Leave

Adopted (7th November 2019) – Personnel Sub Committee – Minute 468 Employee Handbook

What this policy covers

This policy outlines the statutory right to take Shared Parental Leave (SPL) to care for a child following its birth or placement for adoption. It also outlines notification requirements before a period of SPL and 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' leave should they wish to do so. 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 'period of leave' notices and are entitled to take SPL on those dates if a continuous period of leave is requested.

Your entitlements

Qualifying for Shared Parental Leave

To be entitled to SPL you must:

- be the mother, father, or main adopter of the child, or the partner of the mother or main adopter (each will be referred to in this policy as a parent)
- 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.

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

If the other parent meets those conditions, but does not qualify for SPL, you may be entitled to the whole SPL period.

You must also follow the statutory notification and information requirements detailed in this policy.

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' SPL will be reduced by the number of weeks' maternity or adoption leave that has already been taken by the mother or main adopter (or the number of weeks' 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' maternity leave (four weeks for new mothers who work in a factory), so 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' paternity leave for fathers and partners. If you wish to take paternity leave you must do so before you take any SPL.

Benefits during Shared Parental Leave

During SPL, you are entitled to receive all your normal contractual benefits, including annual holiday entitlement, with the exception of your normal pay.

Shared Parental Pay

In addition to the requirements regarding entitlement to leave outlined above, if you wish to claim Shared Parental Pay (ShPP) you must have average weekly earnings 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' Statutory Maternity/Adoption Pay or maternity allowance already taken by the mother or main adopter. ShPP is a standard weekly rate (or 90% of your normal weekly earnings if this is lower) which is set by government each tax year.

You must follow the statutory notification and information requirements detailed below.

Holiday entitlement and Shared Parental Leave

Annual holiday entitlement will continue to accrue during the whole of your SPL. You must discuss and agree with the Council, in advance, when your accrued holiday entitlement can be taken.

Holiday entitlement cannot be taken simultaneously with SPL. Accrued holiday can only be taken either before the beginning of the leave, after the end of the leave or in between blocks of leave. Authorisation must be obtained from the Council in the normal way prior to your accrued holiday being taken.

Contact during Shared Parental Leave

The Council may make reasonable contact with you during your SPL. In addition, you 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 your SPL period. These days are referred to as Shared Parental Leave In Touch (SPLIT) days. If you do work, you will be paid your normal rate of pay inclusive of any ShPP entitlement. You 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.

Procedure

Employees and managers should where possible have an informal discussion prior to employees giving formal notification of intention to take SPL 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.

Notice of entitlement and intention to take SPL and ShPP

You 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:

- your 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 (this 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 that you intend to take. This indication is not binding and can be amended at a later date
- a signed declaration that you meet the conditions for entitlement to SPL, that the information provided is accurate and that you will notify the Council immediately if you cease to meet the conditions for entitlement
- 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, 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 you if they cease to satisfy the employment and earnings conditions

Notice of curtailment of 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 leave and pay curtailment notice giving 8 weeks' notice of the date on which Maternity/Adoption Leave and Pay is to end (or the date on which Maternity/Adoption Pay is to end if they are not entitled to Maternity/Adoption 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 of curtailment 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 curtailment notice was given before the birth and is revoked up to six weeks following the birth (in this case another curtailment notice can be submitted); or
- if the other parent dies.

Notice to take a specific period of SPL and ShPP

The first period of SPL may be identified in the initial notice of entitlement and intention to take SPL. You are entitled to submit a maximum of three formal periods of leave notices.

Each period of leave notice 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 period of leave notice 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'.

Confirmation of SPL & ShPP

If a continuous period of leave is requested in each period of leave notice, you 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 period of leave notice, the Council will seek to accommodate the request but this cannot be guaranteed. Your manager will discuss the request with you to determine if it can be accommodated. If it 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 period of leave notice being submitted you 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 your three 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 you notify the Council of the new date within 19 calendar days.

Varying a period of leave

If you wish to vary your period of SPL, you are entitled to submit a request to:

- vary the start date as long as the variation is requested at least eight weeks before the original start date and the new start date; or
- vary or cancel the amount of leave requested at least eight weeks before the original start date; or
- request that a single period of leave becomes a discontinuous period of leave, or vice versa

A variation will count as one of your three periods of leave notices unless:

- it is made as a result of the child being born earlier or later than the expected week of childbirth
- the Council has requested the variation
- the Council has agreed to accept more than three period of leave notices

The usual eight week notice requirement may be modified if your child is born early and the new start date for the period of leave is the same length of time following the birth as in the original notice. In this case notice to vary the start date should be given as soon as reasonably practicable after the birth of the child.

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

Any such request will be made by the Council within 14 days of receiving your notice of entitlement and intention to take SPL and ShPP. You must respond to the request for evidence within 14 days (or within 14 days of the birth of the child if our request was made before the child was born).

If a birth certificate has not yet been issued, you 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.

Returning from Shared Parental Leave

If you wish to return early from SPL, or extend the period of your SPL, you must notify the Council at least 8 weeks before both the original end date and the new end date.

If you return to work immediately after a period of SPL which (together with any Statutory Maternity/Adoption Leave you may have taken to care for the same child) was 26 weeks or less, you will return to work in the same job that you left.

If you return to work from a period of SPL which (together with any Maternity/ Adoption Leave you may have taken to care for the same child) was more than 26 weeks you will normally be entitled to return to the job in which you were employed before your absence. If that is not reasonably practicable, you will be offered a similar role on no less favourable terms and conditions.

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

In the event that you are 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.