

People Framework

Shared Parental Leave Procedure



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Tracking

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Document Approvals

Each revision requires the following approvals:

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1. Introduction

Shared Parental Leave (SPL) enables eligible parents to choose how to share the care of their child during the first year after birth or placement for adoption.

All eligible employees have a statutory right to take Shared Parental Leave.

Mothers/adopters who are eligible for statutory maternity/adoption leave and pay can choose to bring both to an early end and share the remaining leave with their partner as statutory SPL and pay.

In contrast to maternity, adoption and paternity leave, the employee may be able to stop and restart their SPL and return to work between periods if they wish.

The employee and their partner may also be able to take SPL and pay at the same time.

Where the employee and their partner are both employed and meet the qualifying requirements for SPL and pay, they will need to decide how they wish to share the entitlement between them, as leave and pay taken by one parent will reduce the amount of leave and pay that is available to the other.

SPL should not be confused with Ordinary Parental Leave (the entitlement to up to 18 weeks' unpaid leave for each child up to the age of 18 years). Please see the Council's Ordinary Parental Leave Procedure.

2. Eligibility for Shared Parental Leave

Provided that the employee and their partner comply with the eligibility and notice requirements detailed in this policy, they may take SPL if they are:

- The child's mother/adopter
- The biological father of the child
- The spouse, civil partner or partner of the child's mother/adopter

Continuity of Employment Test

This is applied to the mother/adopter. To be eligible for SPL, the mother/adopter of the child must:

- Be/have been entitled to maternity/adoption leave and/or statutory maternity/adoption pay or maternity allowance and have either returned to work or given notice to end these entitlements.
- Have at least 26 weeks' continuous employment with the Council by the end of the 15th week before the EWC (or at the week in which the adopter was notified of having been matched with a child for adoption).
- Still be employed by the Council in the week before any period of SPL is to be taken.

Employment and Earnings Test

This is applied to the other parent. To be eligible for SPL the employee's partner must:

- Have worked (in either an employed or self-employed capacity) for at least 26 of the 66 weeks leading up to the child's due date or placement date.
- Have had average weekly earnings above the Maternity Allowance threshold ([LINK](#)) during 13 of the 66 weeks.

In addition, the employee must have correctly notified the Council of their entitlement to SPL and provided evidence as detailed in Section xx).

Subject to meeting these eligibility criteria, parents are entitled to:

- Convert up to 50 weeks of untaken statutory maternity/adoption leave to statutory SPL.

- Convert up to 37 weeks of untaken statutory maternity/adoption pay to statutory Shared Parental Pay (ShPP).
- The right to return to their post, or a suitable alternative post, on terms and conditions no less favourable, at the end of a period(s) of SPL. A partner who takes SPL has the same enhanced protection against detriment and dismissal that a mother/adopter has during their protected period.

3. **Shared Parental Leave**

The first two weeks following birth or placement for adoption are the compulsory maternity/adoption period and are reserved for the mother/adopter. Therefore, the earliest that the mother/adopter's SPL can start is 2 weeks after the date on which the child is born or 2 weeks after the date of the placement of the child for adoption. For this reason, the maximum amount of SPL available to be shared by both parents is 50 weeks.

The mother/adopter's partner can begin a period of SPL at any time from the date of the child's birth or placement for adoption, however, SPL only becomes available once the mother/adopter has given notice to end their entitlement to maternity/adoption leave early. As long as this notice has been given, SPL may overlap maternity/adoption leave, allowing both parents take leave at the same time.

The partner of the mother/adopter is entitled to take up to two weeks' paternity leave following the birth or placement of the child. This entitlement will be lost if SPL is taken first.

SPL cannot begin before the child is born or placed for adoption and must end no later than 52 weeks after this (i.e. the day before the child's first birthday or the first anniversary of the placement of an adopted child).

The employee can choose to opt in to SPL at any time, as long as there is sufficient untaken Maternity/Adoption leave available to share.

SPL must be taken in blocks of at least a week but can begin on any day of the week.

SPL cannot be converted back to maternity leave or adoption leave. Once the mother/adopter has curtailed their maternity/adoption leave and pay, this decision cannot be reversed and all rights relating to maternity or adoption leave cease altogether.

4. **Shared Parental Pay**

Shared Parental Pay (ShPP) may be available for eligible parents to share between them whilst on SPL, provided that they meet the criteria set out in Section 2.0, in addition to the criteria listed below:

- The mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have curtailed their maternity/adoption or maternity allowance pay period.
- The employee must intend to care for the child during the week(s) in which ShPP is payable.
- The employee must have average weekly earnings not less than the lower earnings limit for national insurance contributions for a period of eight weeks leading up to and including the 15th week before the child's expected due date/matching date.
- The employee must remain in the employment of the Council until the first week of ShPP has begun.

- The employee must, at least eight weeks before ShPP is due, have given their line manager written notice of their entitlement.
ShPP is payable for a maximum of 37 weeks.
ShPP is paid at the statutory rate (or at a rate equivalent to 90% of your weekly earnings if this figure is lower). Where applicable, the remaining weeks (Week 38 to Week 50) of SPL are unpaid.
Unlike statutory maternity pay, there is no provision for the first six weeks of ShPP to be paid at 90% of the parent's actual weekly earnings. This is the case even if the mother/adopter returns to work during the period in which the higher level of maternity pay would have been available to them.
If the employee opts to take discontinuous periods of Shared Parental Leave, they will receive their contractual rate of pay for the weeks during which they are at work. ShPP will start on the employee's first day of SPL.

During SPL, payments will be made through payroll on the usual pay date (20th of the month.) ShPP is treated as earnings and is subject to tax, NI deductions and pension contributions.

5. Notification Requirements

Employees are advised to discuss their intention to take SPL with their line manager at an early stage so that all parties are able to plan ahead effectively.

The employee must give their line manager written notice of their entitlement and intention to take SPL at least eight weeks before the leave is due to start by completing a Notice of Entitlement and Intention to take SPL form.

The employee may submit up to three notifications specifying the periods of SPL they are intending to take. A notification can be for either:

- A period of continuous leave, i.e. a number of weeks taken in a single unbroken period.
- Two or more periods of discontinuous leave, where there are breaks between the leave during which the employee returns to work. For example, an employee may take an initial six weeks of shared parental leave and then work every other week for a period of three months.

The employee has the right to take a continuous block of leave requested in a single notification as long as it does not exceed the total number of weeks SPL available to them **and** they have complied with the notification requirements outlined above.

The Council will consider requests for discontinuous periods of leave but these may be refused where there is concern over accommodating the leave pattern requested. If this happens, a meeting will be arranged with the employee to discuss how their leave might be accommodated.

If the proposed periods of discontinuous leave are refused, the employee may either:

- Accept an alternative pattern of discontinuous SPL
- Withdraw their request within 15 days of giving it
- Opt to take their SPL in one continuous period

The Council will respond to the employee's notification of SPL in writing within 14 days of the request being made, confirming the relevant start and end dates of leave and, if applicable, the rate of pay the employee will receive.

HR will write to confirm the final decision to the employee (approved or rejected) once notified by the Line Manager.

There is no right of appeal against a refusal of discontinuous SPL. Where an employee feels aggrieved by the decision, the provisions of the Council's Grievance Procedure will apply.

6. Providing the information required for SPL

There are a number of forms the employee must complete if they wish to take SPL. Completed forms must be given to the Line Manager at least eight weeks prior to the date on which the employee wishes to commence their leave.

FORM SPL1 - Maternity/Adoption Leave Curtailment Notice

The mother/adoption must provide a Maternity/Adoption Leave Curtailment Notice to bring maternity/adoption leave to an end for the purposes of taking SPL.

FORM SPL2 - Notice of Entitlement and Intention to take SPL (Mother/Adopter)

The mother/adoption must provide a Notice of Entitlement and Intention to take SPL form (only applicable where the mother/adoption wishes to take SPL).

FORM SPL3 - Notice of Entitlement and Intention to take SPL (Partner)

The partner must provide a Notice of Entitlement and Intention to take SPL form (only applicable where the partner wishes to take SPL).

FORM SPL4 - Period of Leave Notice – Request to Book (or Vary) SPL

The mother/adoption and partner must each provide a Period of Leave Notice to their employer(s) to confirm the dates on which they intend to take SPL.

7. Curtailment of Maternity/Adoption Leave

Curtailment of maternity/adoption leave and pay is legally binding and can only be revised by the mother/adoption. Variation is only possible if:

- The curtailment notice was given in advance of the birth; *and*
- The curtailment is being amended within 6 weeks of the birth; *and*
- The curtailment is being amended before the date of curtailment itself.

Requests to vary the curtailment of Maternity/Adoption Leave and Pay should be submitted to the Line Manager using **FORM SPL5 - Revised Curtailment of Maternity/Adoption Leave Details form.**

8. Variation of SPL

The mother/adoption or partner may vary or cancel any authorised period of Shared Parental Leave provided that the request is submitted to the Line Manager using **FORM SPL4 - Period of Leave Notice - Request to Book (or Vary) SPL.**

The employee must provide at least eight weeks' notice of the variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

The Request to Vary a Period of Leave Notice can:

- Vary the start or end date of any period of SPL
- Request that a continuous period of SPL becomes discontinuous
- Request that a discontinuous period of SPL becomes continuous
- Cancel a request for SPL

Any request to vary or cancel SPL submitted, including notice of the intention to return to work early, will count as one of the three permitted notifications. However, where the change is as a result of the child being born early, or as a result of the Council requesting a variation which the employee agrees to, it will not be counted.

9. Terms and conditions of employment during SPL

During SPL, all terms and conditions of the employee's contract except salary will continue. Salary payments will be replaced by ShPP where the employee is eligible for this. If there are any changes to an employee's terms and conditions of employment whilst they are on SPL, for example changes to the pay scales, policies and procedures, etc., these will also be applied.

10. Annual leave

Annual leave will continue to accrue during both paid and unpaid periods of SPL. In addition, employees have a contractual right to time off for public holidays and are therefore entitled to the appropriate number of days off in lieu of any public holiday which occurs during their SPL.

The normal rule of carrying over a maximum of 5 days' annual leave continues to apply. Therefore if the end of the annual leave year (31 March) falls within the employee's SPL period, the full year's annual leave entitlement should be taken before SPL commences.

Where SPL crosses two annual leave years, the employee should discuss and plan when to take their annual leave with their manager as soon as possible. Where annual leave is transferred to the next leave year, this must be taken in a block immediately before the employee returns to work so that they do not lose their entitlement.

As with any annual leave requests, the employee must agree their annual leave dates with their manager in advance. Where the employee is not intending to return to work following SPL, they should take any accrued annual leave before their SPL commences. Where this is not possible, payment will be made for any outstanding annual leave on termination of employment. Equally, where an employee has taken more annual leave than they have accrued, they will be required to repay the overtaken annual leave.

11. Loans

The employee will be required to continue to make repayments in respect of loans throughout their period of SPL, even though they may be on reduced earnings. If at any stage an employee is on unpaid SPL, it will be their responsibility to make necessary arrangements for the ongoing repayments during the unpaid period. Advice can be sought from HR

12. Pension

The Council will continue to make pension contributions based on the employee's normal pay during periods of SPL. However, employer pension contributions will cease during any periods of unpaid SPL. Where the employee is a member of the Local Government Pension Scheme (LGPS) and takes unpaid SPL, they can choose whether or not to pay pension contributions for their period of unpaid leave.

If the employee elects to pay pension contributions to cover lost pension, they can do this by paying an age related Additional Pension Contribution (APC) within 30 days of returning to work or, if they do not return to work, within 30 days of ceasing to be employed by the Council.

If the employee purchases an APC within the 30 day period, the Council will share the cost. It will be assumed that the employee does not wish to pay contributions unless they elect to do so within the 30 day timescale. Pension contributions for the period of unpaid SPL are based on the actual pay that the employee received immediately before the period of unpaid leave started.

If the employee chooses not to pay pension contributions for the period of unpaid SPL, this period will not count as service for pension purposes.

13. Contact during SPL

The Council reserves the right to maintain reasonable contact with employees during SPL. This may be to discuss the employee's plans for returning to work or to discuss and update them on developments at work during their absence, including internal vacancies and training opportunities.

Shared Parental Leave In Touch (SPLIT) days

An employee may work (or attend training) for up to 20 Shared Parental Leave in Touch (SPLIT) days during their SPL without bringing it to an end. Managers cannot insist that employees attend or carry out any work and employees cannot insist that their manager gives them work during their SPL.

A SPLIT day is defined as anything from attending a 1 hour meeting to working the full contractual hours for the day. Employees will receive their normal rate of pay for the hours they attend or carry out work. However, where an employee is in receipt of ShPP, this will be offset from the payment. SPLIT days cannot be used to accrue overtime or TOIL.

If an employee works during their SPL, they must ensure that **FORM SPL6 - Shared Parental Leave In Touch payments form** is completed, signed by their Line Manager and submitted to HR so that payment can be made. The employee's period of SPL will not be extended because they have carried out some work during their leave.

14. Returning to Work

Subject to legislative requirements and the notification requirements set out in this procedure, the employee may return to work at any time during SPL. Alternatively, they may take their full period of SPL entitlement and return to work at the end of this period. If the employee wishes to return to work before their full period of SPL leave has elapsed, they must give at least eight weeks' notice in writing to the organisation using form SPL5. This will count as a new notification and will therefore reduce the employee's right to book or vary SPL.

The employee is required to return to work on the date stated in the letter from HR.

If the employee is returning to work after either a continuous period or discontinuous periods of SPL plus any maternity, adoption or paternity leave totalling less than 26 weeks, they will return to the same job on the same terms and conditions of employment as if they had not been absent.

If the employee is returning to work after SPL plus any maternity, adoption or paternity leave which totals 26 weeks or more (whether or not taken consecutively), they will return to the same job, unless this is not reasonably practicable and then a similar job on terms and conditions no less favourable than their original job will be offered.

15. Reducing Hours of Work

There is no automatic right to return to work on different terms than before, e.g. part-time hours. Employees who wish to change their working arrangements must contact to their manager as soon as possible in advance of their return. Requests should be made in line with the Council's Flexible Working Procedure. Managers will consider requests for flexible working and will seek to agree the changes wherever possible, however, requests may be rejected if there are genuine business reasons to do so.

16. Resignation during or following SPL leave

If the employee decides during SPL that they do not wish to return to work, they must give written notice of resignation to the Council as soon as possible and in accordance with the terms of their contract of employment.

17. Failure to return to work

Failure to return to work at the end of SPL will be treated as unauthorised absence unless the employee is sick and produces a Fit Note before the end of the SPL period.

18. Fixed term and temporary contracts

Prior to commencing SPL, the employee will need to discuss with their Line Manager the way in which their contract will be reviewed. Where possible, a decision should be made prior to the commencement of SPL.

19. Reorganisations/Restructuring

Where a restructure occurs whilst the employee is absent on SPL they will be consulted on any proposals for change in line with the Management of Workforce Change Procedure.

20. Data Protection

When managing an employee's SPL and pay, the Council processes personal data collected in accordance with its Data Protection Policy. Data collected from the point at which an employee informs the Council that they wish to take SPL is held securely, accessed by and disclosed to individuals only for the purposes of managing SPL and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Council's Data Protection Policy. Where appropriate, action may be taken in line with the Council's Disciplinary Procedure.