

# Family Friendly Policies - Shared Parental Leave

HR Service Effective from April 2015

## 1. Introduction

**Note:** The Shared Parental Leave and Pay provisions are statutory provisions and there are no enhanced contractual provisions.

Shared Parental Leave provides an opportunity for parents to take advantage of additional flexibility in the way they choose to care for a new arrival to the family. It can be used alongside, or instead of, traditional maternity or adoption leave. All eligible employees have a statutory right to take Shared Parental Leave and there may also be an entitlement to Shared Parental Pay. This guidance sets out the out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).

Shared Parental Leave provides for eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption. This could mean that the mother or adopter shares some of the leave with her partner, perhaps returning to work for part of the time and then resuming leave at a later date.

The following guidance is for employees under 'Green Book' terms and conditions. For other employees, please speak to your HR contact to check where your terms and conditions may vary.

Please note that this guide is intended to help you to understand your entitlements to leave and pay but the rights and requirements regarding Shared Parental Leave and Pay may change. Where this is the case we will abide by the prevailing statutory obligations.

Eligibility for Shared Parental Leave and Shared Parental Pay

## 2. Eligibility for Shared Parental Leave and Shared Parental Pay

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)
  - the spouse, civil partner or partner of the child's mother/adopter

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

There are a number of qualifying conditions to SPL and ShPP. The right of one parent to take leave is not only dependant on them satisfying their own eligibility criteria, it is also dependent on their partner also satisfying certain conditions.

A table detailing the eligibility criteria for both leave and pay, depending upon whether you are the mother/adopter or Father/Partner is attached as Appendix 1.

Where both parents satisfy the continuity of employment test requirement they will both be able to make use of the pot of Shared Parental Leave. The regulations do mean though that a family can still use Shared Parental Leave even when only one parent actually meets the eligibility criteria. For example, a self-employed parent will not be entitled to take Shared Parental Leave, but they could still pass the employment and earnings test allowing the other parent in the family to qualify.

### 3. Shared Parental Leave Entitlements

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

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 a specified future date.

The amount of Shared Parental Leave available is generally 52 weeks less the amount of statutory maternity leave that the mother has or intends to take. If a mother is not entitled to maternity leave (because she is not an employee), it is 52 weeks less the number of weeks of Statutory Maternity Pay or Maternity Allowance she has had or intends to have (i.e. up to 39 weeks).

The number of weeks of this leave that will be subject to Shared Parental Pay is 39 weeks less the number of weeks' maternity allowance or SMP that the mother has or will have taken. As the mother must take two weeks' compulsory maternity leave there is a maximum of 37 weeks Shared Parental Pay.

#### Example:

- a mother is entitled to 52 weeks leave and 39 weeks' pay and states that she wishes to curtail her entitlement to 30 weeks. She and her partner can then share the remaining pot of 22 weeks leave and 9 weeks' pay
- her partner could take all 22 weeks leave (9 weeks paid and 13 weeks unpaid) at the same time that the mother is on maternity leave
- the partner could take 6 weeks leave (all paid) at the same time that the mother is on maternity leave leaving 16 weeks to be taken by either partner at any time leading up to the child's first birthday (3 paid, 13 unpaid)

In summary, Shared Parental Leave works as follows:

- the mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
- the adopter can take SPL after taking at least two weeks of adoption leave
- where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements
- the father/partner can take SPL 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 any SPL or ShPP)
- the mother/adopter may wish to remain on maternity/adoption leave for the duration of their contractual maternity/adoption pay period (i.e. 18 weeks), where eligible, as otherwise this will stop – i.e. if the employee returns to work before the contractual pay is exhausted or they have reverted to SPL

- leave must be taken in complete weeks, with a minimum of one week
- leave can be taken in one continuous period or in a number of discontinuous blocks. It is possible to take up to three continuous blocks of leave without your manager's agreement (provided the correct notices have been received) but discontinuous periods of leave can be refused
- if a request for discontinuous leave is refused then the total amount of leave requested in the notice will automatically become a continuous block unless it is withdrawn
- leave can be taken from the day the child is born to the day before the child's first birthday or placement for adoption. Any SPL not taken by then is lost

It is essential that you provide the correct notifications to us in order to meet the statutory criteria for leave and pay and to ensure that you are able to take the leave (and pay, where applicable) that you are planning. See below.

## **4. Notifications required for Leave and Pay**

You must give at least 8 weeks' notice of your entitlement and intention to take leave before you can take any period of SPL. Different notifications are required from you if you are the mother of the child/adopter or the partner of the mother/adopter.

You must provide the correct notifications at the correct time. Where possible, the notifications required have been combined into a single MyView form.

## **5. Shared Parental Pay**

Shared Parental Pay is paid at either the fixed statutory rate or 90% of normal average weekly earnings if this is less.

## **6. Fraudulent Claims**

The Council will, 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, investigate the matter under the Council's Disciplinary Procedures.

## **7. Meeting to Discuss the Request**

It is advisable to discuss your plans with your manager before making a formal request for Shared Parental Leave. This will help your manager to understand your plans and enable you to discuss practicalities and any support needed.

Your manager will arrange to meet with you formally, following your request to take Shared Parental Leave, if he/she is unable to agree with your request. This meeting must take place within 14 calendar days. This will give you the opportunity to discuss any alternative options and the implications should the request be refused i.e. if your manager is unable to agree to a period of discontinuous leave, the total amount of leave requested will automatically become a continuous block unless you choose to withdraw the request.

You have five calendar days from the end of this 14 -day period to specify the date from which you will take the continuous period of leave.

You have 15 calendar days from submitting a request for a discontinuous period of leave to withdraw it.

A formal meeting will not be necessary where the request is for a continuous period of leave (where approval is not necessary) or where a request for discontinuous leave can be granted without the need for further discussion.

Standard invite/outcome letters for managers are attached as Appendix 2.

## **8. Changing your mind**

You may vary or cancel an agreed and booked period of SPL (and pay if relevant), provided you give 8 weeks' notice before the date varied and any new date. You can vary the start or end date of any period of leave, request that a single period of leave becomes discontinuous or vice versa and try to vary or cancel the amount of leave requested. You can vary the start or end date of any period of leave, request that a single period of leave becomes discontinuous or vice versa and try to vary or cancel the amount of leave requested.

You can vary the start or end date of any period of leave, request that a single period of leave becomes discontinuous or vice versa and try to vary or cancel the amount of leave requested.

The same 14 -day discussion period and other provisions set out above apply to variation requests.

The mother of the child/adopter may decide that they do not wish to curtail their maternity/adoption leave and therefore revoke their curtailment notice. This is permissible where:

- it is discovered in the 8 weeks following the notice that neither party is entitled to shared parental leave or statutory shared parental pay
- for birth only, the mother of child/adopter gave her leave curtailment notice before the birth of the child
- the mother of the child/adopter's partner dies

The mother of the child/adopter has 6 weeks from the date of the child's birth to change her mind and revoke the ending of her maternity leave.

It is not possible for the mother of the child/adopter to give another leave curtailment notice unless they gave the original leave curtailment notice before the birth of the child.

A Variation of Period of Leave Notice form and a Revocation notice is available on MyView.

## **9. Limitation on the number of leave notices and variations**

You may only give a combined total of up to three Period of Leave or Variation of Period of Leave Notices. The following do not count towards this limit:

- a notice withdrawn within 15 calendar days of providing it
- a notice to vary leave due to a child being born earlier or later than the expected due date

- a notice to vary that has been submitted following a request from the employer to vary the period of leave

## **10. If your child is born early (birth only)**

The requirement to give 8 weeks' notice to vary a period of leave or pay does not apply if you wish to take leave within 8 weeks of the birth of your child and your child is born before the expected week. In these circumstances, if you wish to amend the start date of your leave so that the leave will start the same length of time following the birth as it would have done if your child was born when expected, you must give notice to vary your leave as soon as it is reasonably practicable to do so after the child's birth.

## **11. Changes in circumstances**

If, less than 8 weeks before (or during) a period of Shared Parental Leave, a change in circumstances means that you no longer meet the criteria for the Leave (e.g. you are no longer caring for the child or the mother of child/adopter has revoked the curtailment to her maternity/adoption leave), we can still require you to take or continue on your leave. Your leave will then end on whichever is the earlier of:

- as soon as we can accommodate your return to work
- when the period of leave was due to end
- 8 weeks after we were informed of the change

## **12. Shared Parental Leave in Touch Days - SPLIT days**

If you and your manager agree, you can work (or attend training) for up to 20 SPLIT days during your Shared Parental Leave without bringing your leave to an end or impacting on your right to claim Shared Parental Pay for that week. These SPLIT days are in addition to the Mother/Adopter's Keeping in Touch (KIT) days that are available during maternity/adoption leave.

We cannot insist that you take SPLIT days and we are not obliged to offer you work during your Leave. If you take a SPLIT day you will receive full pay for any day worked.

Contact made to discuss your return to work and any other reasonable contact during your Leave does not constitute work for these purposes. Your manager will maintain reasonable contact with you during your Leave, for example, to discuss your plans for returning to work, to consider training or other support to ease your return to work, or to update you on work developments.

## **13. Salary Sacrifice Contracts**

If you have sacrificed salary in return for benefits or vouchers you may wish to review this arrangement in advance of your Shared Paternity Leave. Please contact your HR Adviser at the earliest opportunity for advice.

## 14. Lease Cars

You may continue to use your lease car during the whole period of your Shared Paternity Leave although you will need to continue to make your contribution to the car. Contributions will be deducted from your pay as usual during the paid period of leave and thereafter you will need to make arrangements with the HR Business Centre to continue payments. This is usually managed through payment of a monthly cheque.

Please note that it is your responsibility to ensure that your contributions are paid.

## 15. Annual leave and Bank Holidays

Your annual leave continues to accrue for the whole period of your Leave and your full entitlement should be taken during the leave year to which it relates. Therefore, if your return date is likely to be after the end of the current annual leave year, you should try to take your full leave entitlement before starting your Shared Paternity Leave.

Any annual leave taken in excess of your entitlement will be reclaimed through your salary.

You are entitled to an additional day leave for each bank holiday that falls during your Shared Paternity Leave. These additional days should also be taken during the leave year to which they relate.

## 16. Pension

You continue to build up pension in the Local Government Pension Scheme (LGPS) as if you were working normally for any part of your leave where you are receiving pay. Your pension contributions will be based on the actual pay you receive during this period whether this is contractual, statutory or a combination of both.

For any unpaid leave you will not accrue pension. If you return to work, however, you can choose to pay back pension contributions to cover the unpaid period and make it count. You will be sent details of the amount required to make up this service by the HR Business Centre and you must make your election within 30 days of returning to work for the cost to be split between you and your employer.

If you have entered into a contract to buy additional LGPS membership, you must honour this by paying pension contributions based on your normal full pay while on Shared Paternity Leave.

If you are paying AVCs for additional life cover, you should arrange to continue with these payments throughout your leave or cover may cease.

If you need further details please contact the:

London Pensions Fund Authority  
169 Union Street

London  
SE1 0LL

General Enquiries: 020 7369 6247, Fax: 020 7369 6238

Email: [bexley@lpfa.org.uk](mailto:bexley@lpfa.org.uk), Website: [www.lpfa.org.uk](http://www.lpfa.org.uk)

## **17. Access to E-mail Account**

Your manager will inform IT when you are going on leave and when you are due to return, and you will need to return your ICT equipment before you start your leave. You will also need to complete a Bexnet pro-forma to nominate another member of staff to be given access to your e-mail account for the duration of your leave. If you wish to you may retain access to your e-mail account - subject to the approval of your manager – you can request this at the same time. Access to your e-mails will be via Outlook Web Access.

Please be aware that if you choose not to retain access to your account (or your manager refuses access) it will not be possible to give you access to your account on Keeping in Touch days. Access will only be returned to you at the end of your leave period.

DS/HR SERVICE/PROJECTS/SHARED PARENTAL LEAVE/POLICY PROCEDURES/FEBRUARY 2015



## Appendix 1 - Eligibility criteria for Shared Parental Leave and Pay

Criteria for Shared Parental Leave where you are the Mother/Adopter. Both must share the main responsibility for the care of the child at the time of birth/placement.

### Mother/Adopter

### The Father/Your Partner

Must have 26 weeks' continuous service by the end of the 15<sup>th</sup> week before the child's expected due date/matching date (relevant week) and have remained in continuous employment up to the week before any shared parental leave is taken.

Must satisfy the continuity of employment test i.e. have been employed or self-employed for any part of at least 26 of the last 66 weeks immediately before the child's due date/matching date and have average weekly earnings in any 13 of those 66 weeks of at least £30\*.

Must be entitled to statutory maternity/adoption leave or statutory maternity/adoption pay or maternity allowance.

Must have ended or given notice to reduce their entitlement to statutory maternity leave by giving notice of curtailing their leave or returning to work.

Must provide a 'Notice of Entitlement and Intention to take SPL' (and pay if applicable) 8 weeks before the first period of leave to be taken by you.

Must provide evidence of the birth/match

Must provide the Father/Partners employer's details.

Must have given a Period of Leave Notice.

Criteria for Shared Parental Leave where you are the Father/Partner. Both must share the main responsibility for the care of the child at the time of birth/placement.

### Father/Partner

### The Mother/Adopter

Must have 26 weeks' continuous service by the end of the 15<sup>th</sup> week before the child's expected due date/matching date (relevant week) and have remained in continuous employment up to the week

Must be entitled to statutory maternity/adoption leave or statutory maternity/adoption pay or maternity allowance

before any shared parental leave is taken.

Must provide a 'Notice of Entitlement and Intention to take SPL' (and pay if applicable) 8 weeks before the first period of leave to be taken by you.	Must have ended or given notice to reduce their entitlement to statutory maternity leave by giving notice of curtailing their leave or returning to work.
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Must provide evidence of the birth/match.	Must satisfy the continuity of employment test i.e. have been employed or self-employed for any part of at least 26 of the last 66 weeks immediately before the child's due date/matching date and have average weekly earnings in any 13 of those 66 weeks of at least £30*.
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Must provide the Mother/Adopters employer's details.

Must have given a Period of Leave Notice.

\* Subject to change. Check your eligibility at [www.gov.uk/pay-leave-for-parents](http://www.gov.uk/pay-leave-for-parents).

**Criteria for Shared Parental Pay where you are the Mother/Adopter (in addition to the above Shared Parental Leave criteria).**

**Mother/Adopter**

**The Father/Your Partner**

Must be entitled to SMP and have reduced their maternity pay period.

Must intend to care for the child during each week in which Shared Parental Pay is paid to them.

Must be absent from work on Shared Parental Leave during each week in which Shared Parental Pay is paid to them (apart from in those situations where it is permissible for them to work e.g. SPLIT days or working for a different employer who already employed them in the relevant week).

Must provide a 'Notice of Entitlement and Intention to take SPL and pay 8 weeks before the first period of leave to be taken by them (i.e. Mother/Adopter).

**Criteria for Shared Parental Pay where you are the Father/Partner (in addition to the above Shared Parental Leave criteria).**

**Father/Partner**

**The Mother/Adopter**

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Must have average weekly earnings in the 8 weeks ending with the relevant week of not less than the lower earnings threshold applicable in that week.

Must have reduced their maternity pay or maternity allowance.

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Must intend to care for the child during each week in which Shared Paternity Pay is paid to them.

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Must be absent from work on Shared Parental Leave during each week in which Shared Parental Pay is paid to them (apart from in those situations where it is permissible for them to work e.g. SPLIT days or working for a different employer who already employed them in the relevant week).

## Appendix 2 – Standard Letters

### Standard Letter 1- Invite to meeting to discuss discontinuous request that cannot be agreed

A meeting is not necessary if the request is for a continuous period of leave (which cannot be refused) or for a discontinuous period of leave that can be agreed. This discussion can take place over the telephone if a meeting is not practical (e.g. due to absence). The meeting must take place **and** the decision notified within 14 calendar days of the formal request for leave.

#### PERSONAL

[Name]

Dear [name]

#### MEETING TO DISCUSS YOUR REQUEST FOR SHARED PARENTAL LEAVE

Thank you for your request to take shared parental leave. As your request is for a discontinuous period of leave I would like to discuss this with you in more detail as after initial consideration I am unable to agree to the request as it currently stands.

Please meet with me on [insert date, time and location]. At this meeting we can discuss your request in more detail and consider any alternative options.

You will be aware that if I am unable to agree to the discontinuous period of leave that you have requested, the total amount of leave you have requested will automatically become a continuous block unless you choose to withdraw your request.

Yours sincerely

## **Standard Letter 2 – Conclusion of meeting – Request Agreed Outcome must be notified within 14 days of the request for leave**

PERSONAL

[Name]

Dear [name]

### **OUTCOME OF MEETING TO DISCUSS REQUEST FOR SHARED PARENTAL LEAVE**

Further to our meeting of [date] I am writing to confirm that I am pleased to be able to agree to the alternative shared parental leave arrangements that we discussed as follows:

[insert details of the agreed arrangements]

[Manager to insert any words regarding best wishes for new arrival, etc...]

Yours sincerely

## Standard Letter 3 – Conclusion of meeting – Request Refused

Outcome must be notified within 14 days of the request for leave

### PERSONAL

[Name]

Dear [name]

### OUTCOME OF MEETING TO DISCUSS REQUEST FOR SHARED PARENTAL LEAVE

Further to our meeting of [date] I am writing to confirm that I regret that I am unable to agree to your request for a discontinuous period of shared parental leave and that we were unable to reach agreement on a suitable alternative arrangement.

As discussed with you, this is because [insert reasons – e.g. I will not be able to arrange suitable cover for your duties under this arrangement]

You will be aware that, under the statutory provisions, the total amount of leave you have requested will automatically become a continuous block of [insert number] of weeks unless you choose to withdraw your request. Unless you let me know otherwise this leave will begin on [insert date], which is the date you originally requested your leave period to start.

If you would like the period to begin on a different date please confirm this via MyView before [insert date – 19 calendar days from the date of the request]. Please remember that the start date cannot be sooner than eight weeks from the date your original notice was given.

Alternatively, you may withdraw your notification on or before [insert date 15 calendar days from date of request] and this will then not count as one of your notifications.

[Manager to insert any words regarding best wishes for new arrival, etc...]

Yours sincerely