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**1 Purpose**

1.1 The Council aims to be an employer of choice and to create a flexible responsive organisation committed to providing a working environment in which staff can contribute to the success of the Council.

1.2 The Shared Parental Leave Regulations provide an opportunity for parents to take advantage of additional flexibility in the way they choose to care for a new arrival to the family. To this end the Council has adopted a policy on Shared Parental Leave which provides employees with more flexibility in considering how to best care for, and bond with, their child.

1.3 This guidance is intended to provide further clarity in relation to Shared

 Parental Leave and sits alongside a range of flexible working

 practices already operating within the Council. The guidance is also consistent with the Council’s REAL leadership values.

1.4 Further queries concerning the process for requesting and granting SPL

 should be directed to HR Consultancy. Queries concerning SPP

 should be made to HR Business Services .Decisions regarding the

 interpretation of this Policy will rest with the Director Human Resources

**2 Scope**

2.1 All eligible employees have a statutory right to take Shared Parental Leave and Shared Parental Pay. This guidance therefore applies to all employees of the Council and sets out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).

**3. Eligibility for Shared Parental Leave**

3.1 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.

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

3.2 Additionally an employee 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 entitled to statutory maternity/adoption leave 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 Council at the start of each period of SPL;
* The employee must have a minimum of 26 weeks' continuous 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 the 66 weeks;
* The employee must correctly notify the Council of their entitlement and provide evidence as required.

**4. The Shared Parental Leave entitlement**

4.1 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 (see also 4.4 below).

4.2 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.

4.3 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 SPL. This is

 calculated by deducting from 52 the number of weeks of SMP, SAP or MA

 taken by the mother/adopter.

4.4 SPL can commence 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
* The father/partner/spouse 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).

4.5 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.

4.6 SPL will generally commence on the employee's chosen start date specified in

 their leave booking notice, or in any subsequent variation notice (see "Booking

 shared Parental Leave” and “Variations to arranged Shared Parental Leave”

 below).

4.7 If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be

 paid for some, or all, of the SPL period (see “Shared Parental Pay” below).

4.8 SPL must end no later than one year after the birth/placement of the child.

 Any SPL not taken by the first birthday or first anniversary of placement for

 adoption is lost.

**5. Notifying the Council of an entitlement to Shared Parental Leave**

5.1 An employee entitled and intending to take SPL must notify their line manager

 of their entitlement and intention to take to SPL, at least eight weeks before

 they can take any period of SPL. Employees should use the relevant Shared

 parental leave: notice of entitlement and intention form to ensure they provide

 the Council with all the necessary information required by law.

5.2 Notification must be in writing and requires each of the following:

* The name of the employee
* The name of the other parent
* The start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available
* The date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption
* The amount of SPL the employee and their partner each intend to take
* A non-binding indication of when the employee expects to take the leave

5.3 The employee must provide the Council with a signed declaration stating:

* That they meet, or will meet, the eligibility conditions and are entitled to take SPL;
* That the information they have given is accurate;
* If they are not the mother/adopter they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter;
* That should they cease to be eligible they will immediately inform the Council.

5.4 The employee must provide the Council with a signed declaration from their partner confirming:

* Their name, address and national insurance number (or a declaration that they do not have a national insurance number);
* That they are the mother/adopter of the child or they are the father of the child or are the spouse, civil partner or partner of the mother/adopter;
* That they satisfy the ‘employment and earnings test’ (see Section 3 above), and had at the date of the child’s birth or placement for adoption the main responsibility for the child, along with the employee;
* That they consent to the amount of SPL that the employee intends to take;
* That they consent to the Council processing the information contained in the declaration form; and
* In the case whether the partner is the mother/adopter, that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

**6. Requesting further evidence of eligibility**

6.1 The Council may, within 14 days of the SPL entitlement notification being

 given, request:

* The name and business address of the partner’s employer (where the employee’s partner is no longer employed or is self-employed their contact details must be given instead)
* In the case of biological parents, a copy of the child’s birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth).
* In the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were was notified of having been matched with the child and the date on which the agency expects to place the child for adoption

6.2 In order to be entitled to SPL, the employee must produce this information

 within 14 days of the Council’s request.

**7. Fraudulent claims**

7.1 Where the Council has been informed by the HMRC that a fraudulent claim

 was made, or has other reasonable grounds for a suspicion that fraudulent

 information may have been provided, it may investigate the matter further in

 accordance with the Council’s Disciplinary Procedure.

**8. Discussions regarding Shared Parental Leave**

8.1 An employee considering/taking SPL is encouraged to speak to their manager about this at the earliest opportunity.

8.2 A manager receiving a notification of entitlement to take SPL should have an informal discussion with the employee to talk about their intentions and how

 they currently expect to use their SPL entitlement and to ensure that

 appropriate advice is given.

8.3 The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. In particular, the

 manager will need to consider the impact and any issues arising from the

 period of leave requested. If the employee is requesting discontinuous leave

 the discussion may also focus on how the leave proposal could be agreed,

 whether a modified arrangement would be agreeable to the employee and the

 Council, and what the outcome may be if no agreement is reached. Any

 agreement to discontinuous leave must be subject to the business needs of

 the Council.

**9. Booking Shared Parental Leave**

9.1 In addition to notifying the employer of entitlement to SPL (and where appropriate, Shared parental pay), an employee must also give notice to take

 the leave. In many cases, notice to take leave will be given at the same time

 as the notice of entitlement to SPL.

9.2 The employee has the **statutory right** to submit three notifications specifying

 leave periods they are intending to take. Each notification may contain either:

* A single period of weeks of leave **or**
* Two or more weeks of discontinuous leave (where the employee intends to return to work between periods of leave).

9.3 SPL can only be taken in complete weeks but may begin on any day of the

 week. For example if a week of SPL began on a Tuesday it would finish on a

 Monday. Where an employee returns to work between periods of SPL, the

 next period of SPL can start on any day of the week.

9.4 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 ShPP.

**Continuous leave notifications**

9.5 An employee has the **statutory right** to take a **continuous** block of unbroken

 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 they have given their manager at least the statutory

 minimum of eight weeks’ notice.

9.6 An employee may submit up to three separate notifications for continuous

 periods of leave.

9.7 All requests for continuous leave (provided they are given with the statutory

 eight weeks notice) **must** be granted.

**Discontinuous leave notifications**

9.8 A single notification may also contain a request for two or more periods of **discontinuous leave**, (i.e. a set number of weeks of leave over a period of

 time, with breaks between the leave where the employee returns to work).

9.9 If the employee’s manager has concerns about how this can be

 accommodated they should discuss this with the employee with the aim of

 finding a mutually agreed arrangement. The manager should consider a

discontinuous leave notification but has the right to refuse it. Before any notification request is refused the Line Manager should seek advice from Human Resources. If the leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

**10. Responding to a Shared Parental Leave notification**

10.1 The manager should respond to notification of a leave request as soon as possible and no later than the 14th day after the leave request was made.

10.2 All notices for continuous leave will be confirmed in writing.

10.3 All requests for discontinuous leave will be carefully considered, weighing up

 the potential benefits to the employee against any adverse impact to the

 Council and its service provision.

10.4 Each request for discontinuous leave will be considered on a case-by-case

 basis. Agreeing to one request will not set a precedent or create the right for

 another employee to be granted a similar pattern of SPL.

10.5 The employee will be informed in writing of the decision as soon as is

 reasonably practicable, but no later than the 14th day after the leave

 notification was made. The request may be granted in full or in part: for

 example, the manager may propose a modified version of the request.

10.6 If a discontinuous leave pattern is refused then the employee may withdraw

 the request without detriment on or before the 15th day after the notification

 was given; or may take the total number of weeks in the notice in a single

 continuous block.

10.7 If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was

 given to choose when they want the leave period to begin.

10.8 The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then

 the leave will begin on the first leave date requested in the original notification.

**11. Variations to arranged Shared Parental Leave**

11.1 The employee is permitted to vary or cancel an agreed and booked period of

 SPL, provided that they advise their manager in writing at least eight weeks

 before the date of any variation. Any new start date cannot be sooner than

 eight weeks from the date of the variation request.

11.2 Any variation or cancellation notification made by the employee, including

 notice to return to work early, will usually count as a new notification reducing

 the employee’s right to book/vary leave by one. However, a change as a result

 of a child being born early, or as a result of the manager requesting it be

 changed, and the employee being agreeable to the change, will not count as

 further notification. Any variation will be confirmed in writing by the employee’s

 manager.

**12. Statutory Shared Parental Pay (ShPP)**

12.1 Eligible employees may be entitled to take up to 37 weeks 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.

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

12.3 In addition to meeting the eligibility requirements for SPL, an employee

 seeking to claim ShPP must further satisfy each of the following criteria:

* The mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
* The employee must intend to care for the child during the week in which ShPP is payable;
* The employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child’s expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;
* The employee must remain in continuous employment until the first week of ShPP has begun;
* The employee must give proper notification in accordance with the rules set out below.

12.4 Where an employee is entitled to receive ShPP they must, at least eight

 weeks before receiving any ShPP, give their line manager written notice

 advising of their entitlement to ShPP. To avoid duplication, if possible, this

 should be included as part of the notice of entitlement to take SPL.

12.5 In addition to what must be included in the notice of entitlement to take SPL,

 any notice that advises of an entitlement for ShPP must include:

* The start and end dates of any maternity/adoption pay or maternity allowance;
* The total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
* A signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the Council should they cease to be eligible.

12.6 It must be accompanied by a signed declaration from the employee’s partner confirming:

* Their agreement to the employee claiming ShPP and for the Council to process any ShPP payments to the employee;
* In the case whether the partner is the mother/ adopter, that they have reduced their maternity/adoption pay or maternity allowance;
* In the case whether the partner is the mother/ adopter, that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

12.7 Any ShPP due will be paid at a rate set by the Government for the relevant tax

 year.

**13. Terms and conditions during Shared Parental Leave**

13.1 During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for

 salary. Contractual annual leave entitlement will continue to accrue.

13.2 Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL.

 Employee contributions will be based on actual pay, while the Council’s

 contributions will be based on the salary that the employee would have

 received had they not been taking SPL.

**14. Annual Leave**

14.1 SPL 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. Any request to carry over leave will be considered in

 exceptional circumstances only and in agreement with the Line Manager.

**15. Contact during Shared Parental Leave**

15.1 Before an employee's SPL begins, the manager should discuss the

 arrangements for them to keep in touch during their leave.

Reasonable contact will be maintained with the employee from time to time during their SPL (this may be by telephone, e-mail or written correspondence as appropriate). This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

**16. Shared Parental Leave in Touch days**

16.1 An employee can agree to work for the Council (or attend training) for up to 20 days during SPL without bringing their period of SPL 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 day or part of a

 day shall constitute a day's work for these purposes.

16.2 The Council has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee’s

 SPL. Any work undertaken is a matter for agreement between the Council and

 the employee.

16.3 The Council already offers employees Keeping In Touch (KIT) Days under the

 maternity leave provisions and therefore an employee can elect to choose

 whether to take KIT days or SPLIT days under the Shared parental Leave

 Regulations. They will not however be permitted to have both.

16.4 An employee taking a SPLIT day will receive full pay for any day worked. If a

 SPLIT day occurs during a week when the employee is receiving ShPP, this

 will be effectively ‘topped up’ so that the individual receives full pay for the day

 in question. Any SPLIT days worked do not extend the period of SPL.

16.5 An employee, with the agreement of the Council, may use SPLIT days to work

 part of a week during SPL. The Council and the employee may use SPLIT

 days to effect a gradual return to work by the employee towards the end of a

 long period of SPL or to trial a possible flexible working pattern. Any requests

 will be considered by the employee’s Line Manager with the aim of

 mutually agreeing the dates of any such days and the work to be undertaken

 subject to the needs of the service.

**17. Returning to work after Shared Parental Leave**

17.1 HR will inform the employee of the end date of any period of SPL. The

 employee is expected to return on the next working day after this date, unless

 they notify the Council otherwise. If they are unable to attend work due to

 sickness or injury, the Council's normal arrangements for sickness

 absence will apply. In any other case, late return without prior authorisation

 will be treated as unauthorised absence.

17.2 If the employee wishes to return to work earlier than the expected return date,

 they may provide a written notice to vary the leave and must give their

 manager at least eight weeks’ notice of their date of early return. This will

 count as one of the employee’s notifications. If they have already used their

 three notifications to book and/or vary leave then the manager does not have

 to accept the notice to return early but may do if it is considered to be

 reasonably practicable to do so.

17.3 On returning to work after SPL, the employee is entitled to return to the same

 job if the employee’s aggregate total statutory maternity/paternity/adoption

 leave and SPL amounts to 26 weeks or less, he or she will return to the same

 job. The same job is the one they occupied immediately before commencing

 maternity/paternity/adoption leave and the most recent period of SPL, on the

 same terms and conditions of employment as if they had not been absent.

**Note:** in the case where their post has been deleted, in addition to being

 consulted with, special provisions apply to staff who are returning from SPL with regards to the availability of suitable alternative employment. This may include preferential consideration for vacant posts consistent with the Council’s Managing Change Procedure. Advice should be sought from Human Resources at the earliest opportunity.

17.4 If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or

 more in aggregate, the employee is entitled to return to the same job they held

 before commencing the last period of leave or, if this is not reasonably

 practicable, to another job which is both suitable and appropriate and on terms

 and conditions no less favourable.

17.5 If the employee also takes a period of unpaid parental leave of 4 weeks or less

 this will have no effect on the employee’s right to return and the employee will

 still be entitled to return to the same job as they occupied before taking the

 last period of leave if the aggregate weeks of maternity/paternity/adoption and

 SPL do not exceed 26 weeks.

17.6 If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no

 less favourable.

 **18. Monitoring and review**

 18.1 The Director of Human Resources will monitor the implementation of the SPL policy and this accompanying guidance to ensure that it continues to meet business needs, and does not impact adversely and unlawfully on any part of the Council’s workforce. The Policy and guidance will also be reviewed regularly to ensure that it remains appropriate and reflects up to date statutory guidance.