

**Shared Parental Leave Policy**

**Introduction**

The Shared Parental Leave Regulations 2014 enable working parents expecting a baby, or, to adopt a child, to share time off following the birth/adoption of their child/ren.

The right to share parental leave (SPL) will be dependent upon employees satisfying the qualifying criteria.

RBKC is committed to ensuring that shared parental leave benefits are applied fairly and consistently

**What is Shared Parental Leave?**

You and your partner may be able to get Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) if you’re having a baby or adopting a child. You can share up to 50 weeks of leave and up to 37 weeks of pay between you. You need to share the pay and leave in the first year after your child is born or placed with your family.

You can use SPL to take leave in blocks separated by periods of work, or, take it all in one go. You can also choose to be off work together or to stagger the leave and pay.

Shared parental leave enables mothers to commit to ending their maternity leave and pay, and to share the untaken balance of leave and pay as shared parental leave with their partner, or to return to work early from maternity leave and opt in to shared parental leave at a later date. The regulations aim to give parents more flexibility over how they share childcare between them during the first year of their child’s life.

A maximum of fifty (50) weeks SPL can be shared. This is fifty two (52) weeks leave less two weeks **compulsory maternity leave reserved solely for the mother.** The partner can begin their SPL any time from the date of the childs birth/placement; meaning that the mother and partner can be off concurrently.

Shared Parental Leave is paid at a statutory rate, set by the Government.

**Statutory Shared Parental Pay**

Shared Parental Pay (ShPP) is paid at either the fixed statutory rate;

ShPP <https://www.gov.uk/shared-parental-leave-and-pay/what-youll-get>

 a week, or, 90% of your average weekly earnings, whichever is lower.

There is no occupational SPL pay.

**How does SPL work?**

A working mother who satisfies the maternity criteria (see the Maternity and Adoption Policy) will continue to be entitled to 52 weeks of maternity leave and 37 weeks of statutory maternity pay or allowance.

Eligible mothers can choose to end their maternity/adoption leave early and, with their partner, opt to take SPL **instead of** maternity leave. Mothers must formally **end their entitlement** to maternity leave in order to begin their entitlement to SPL. The mother cannot go back on this decision and is unable to alternate between maternity leave and SPL unless;

1. Death of child during birth, or, within the first year

Where this occurs before the submission of notice of entitlement to take SPL then the employee cannot opt into SPL given that they do not meet the qualifying criteria of caring for a child.

An employee who is on SPL may cancel the agreed SPL and return to work by giving eight weeks notice.

If the parent had opted into SPL and booked the associated leave, they will still be entitled to take the leave. No further notice can be submitted and only one variation notice can be given to to reduce a period of leave or to rearrange a discontinuous leave arrangement into a single block of leave.

1. No longer caring for the child/ren

If the employee is the parent left caring for the child, then their partner’s outstanding SPL may be transferred into the employee’s entitlement. To do this the employee would need to obtain the signed agreement of the partner confirming a variation of leave entitlement.

If the employee has no caring responsibilities and has booked SPL they are no longer entitled to SPL and they must immediately inform the Council.

If any SPL has been arranged and agreed within eight week of the entitlement ending, the employee no longer caring for the child can be required to take SPL if it is not reasonable practical for them to return to work. Any weeks of SPL arranged after eight weeks of the entitlement ceasing must be cancelled.

1. Death of a parent during the child’s first year

If the employee’s partner dies and the employee is taking, or, is entitled to take SPL they will continue to be eligible. Any SPL that was due to be taken by the deceased partner may transfer to the employee if they remain eligible.

If it is necessary for the employee to take a further period of SPL or to vary leave then notice should be provided as soon as practically possible if the required eight weeks notice cannot be given.

Provided both partners meet the qualifying criteria the decision on how to divide the leave will be theirs. A mother can only share the leave with one partner. Each parent ought to claim SPL from their own employer. The mother and partner satisfy a joint eligibility test, as well as the individual eligibility test.

Partners if eligible, can take paid paternity leave within the first eight weeks following the child’s birth.

**Continuous ‘v’ Non-continuous SPL**

A period of continuous SPL will always be granted where the employee and other parent meets the eligibility criteria.

A period of non-continuous SPL needs to be agreed, even where the employee and other parent meets the eligibility criteria. This is because it can be typically more difficult to accommodate because it is broken or lengthed by paternity, parental leave or annual leave. RBKC is committed to agreeing wherever practically possible all requests.

**Reasonable Contact**

Employees and managers should agree what constitutes reasonable contact prior to SPL being taken. This could include minutes from team meetings, invites to team away days, conferences etc.,

Employees on SPL can share up to a maximum of twenty ‘Keeping in Touch Days’ (SPLIT) days in agreement with their manager, for which normal payment will be made. They are not compulsory, but can form part of any ‘reasonable contact’ that is mutually agreed.

**Eligibility Criteria**

Employees must satisfy a two stage assessment to be eligible to take SPL;

1. employment/earnings
2. Continuity of employment

The right to take SPL is subject to both the employee and their partner satisfying a set of eligibility criteria as

Employment and Earnings and Continuity Assessments

Does the employee’s partner meet ‘employment and earnings’ criteria

No – employee not eligible

Yes – employee may be eligible for shared parental leave if the continuity of employment test is met

Employment;

26 weeks employment/self employment in 66 weeks prior to expected week of confinement (EWC)/matching

Continuity of Employment

26 weeks’ employment with RBKC at 15th week before EWC and remains for duration of SPL

Earnings;

Average earnings of £118 over 13 weeks in 66 weeks prior to expected week of confinement (EWC)/matching

**Requesting SPL**

Parents can choose to opt into SPL at any time, provided there is some untaken maternity leave to share. At that point the mother or primary adopter would decide to end their maternity/adoption leave and opt to take SPL.

Parents who qualify for the right to take SPL will need to consider if it is the best choice for them. Consideration of the following will help inform the decision;

**Process**

**\***names of mother and partners, start and end date of SMP/Adoption Leave, total amount of SPL available to be taken, child’s EWC, actual birth/date of placement, how much SPL the mother and partner each intend to take, an indication of when the intend to take SPL (this can be altered), signed declaration saying that they will be sharing responsibility for the care of the child, the mother has given her notice to end her maternity entitlement, they continuity of employment assessment has been met, the information provided is accurate, should they cease to be eligible they will immediately inform their manager

+ their name, address and NI number, they are the father, mother of the child or partner of the mother of the child, they meet the criteria for the employment and earnings assessment, (if the mother) they are entitled to statutory maternity leave and associated pay and have given notice to cease that leave/pay, at the time of time birth/placement they (will) share responsibility for the care of the child and the employee seeks SPL, they consent to the arrangements, they consent to the employer receiving the declaration, retaining and processing any relevant information contained within, (in the case of the mother) that the mother will immediately inform their partner should the mother cease to satisfy the eligibility conditions

**Impact on Terms and Conditions**

**Pensions**

Employees who contribute to the LGPS pension scheme can expect the Council to to continue to make make employers pension contributions during any period of **paid** SPL, based on the employees normal salary, in line with the pension scheme rules. Any employee contributions will be based on the amount of SPL received.

**Statutory shared Parental Pay**

Shared Parental Pay (ShPP) is paid at either the fixed rate; ShPP of £<https://www.gov.uk/shared-parental-leave-and-pay/what-youll-get>

 a week or 90% of your average weekly earnings, whichever is lower.

There is no entitlement to ShPP during any time an employee is entitled to statutory sick pay.

**Annual Leave**

Employees will accrue rights to annual leave during periods of SPL and be able to take the time off in lieu (pro rata for part timers) for any banks holidays that occur during the period. Employees should endeavour to take annual leave within the relevant leave year wherever possible.

**Redundancy during SPL**

Employees on SPL receive the same protection as other forms of family leave EG maternity/adoption

If an employee on SPL is to made redundancy they are entitled to be offered any suitable alternative vacancy that the Council may have; it must be stuiable and appropriate and the terms and conditions must not be substantially less favourable.

**Right to Return**

If an employee takes more than the statutory 26 weeks leave, any additional maternity leave or parental leave of more than four weeks, they will be entitled to return to their previous job, or, where not reasonably practical, to another role which is both suitable and apt on terms and conditions which are no less favourable.

Employees are entitled to return to the same job they prior to taking SPL where their total statutory leave taken with regard to that child is 26 weeks of less. The 26 weeks can comprise of maternity/paternity/adoption and SPL leave.

This policy should be read in conjunction with the Shared Parental Leave guidance, flexible working, maternity and adoption leave policy.