



SHARED PARENTAL LEAVE POLICY 2015

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1. INTRODUCTION

This policy outlines the statutory right to take Shared Parental Leave (SPL) to care for a child due to be born or placed for adoption on or after 5th April 2015. It also outlines the arrangements and notification requirements and the entitlement to pay during SPL.

Shared parental leave is designed to enable working parents to share leave and to take time off in a more flexible way. It will allow both parents to be at home together if this is what they choose.

SPL gives employees with caring responsibilities for babies or newly adopted children the opportunity to share up to 50 weeks' leave. Shared parental leave may be taken in a single continuous block, or may be taken in smaller blocks of leave (a minimum of a week at a time), interspersed with time at work (in contrast to maternity leave which has to be taken in a single continuous block).

Employees and managers should, where possible, have an informal discussion prior to employees giving formal 'Notice of Entitlement and Intention to take SPL', so that statutory entitlements (and contractual, if applicable) 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.

Requests for SPL which are not made in accordance with the statutory notification requirements will be given reasonable consideration, but may not be granted.

2. SHARED PARENTAL LEAVE AND OTHER POLICIES

Parental Leave

Shared parental leave should not be confused with ordinary parental leave, which is unaffected by shared parental leave. Ordinary parental leave is the entitlement to a maximum of 18 weeks' unpaid leave per child.

Maternity Leave

All employed women will continue to be eligible to take up to 52 weeks of maternity leave (or in the case of adopters, 52 weeks of adoption leave).

Paternity Leave

Fathers/partners will continue to be eligible to take a maximum of two weeks of ordinary paternity leave. From 5th April 2015 staff are no longer be able to apply for additional paternity leave and instead will need to apply for any additional time off under the Shared Parental Leave Policy. If you wish to take paternity leave you must do so before you take SPL.

3. POLICY SCOPE

This policy applies to SCDC employees, whether they are the mother/adopter or the partner. If it is the mother/main adopter who is employed by SCDC, her partner must (where relevant) submit any notifications to take shared parental leave to his/her own employer, which may have its own shared parental leave policy in place. Similarly, if it is the partner who is employed by SCDC, the mother/main adopter must (where relevant) submit any notifications to take shared parental leave to her own employer.

Shared Parental Leave and Pay cannot begin before the birth, or placement for adoption, and all leave must be taken within one year of the birth or the date that the child was placed with the family (i.e. the day before the child's first birthday or the anniversary of the placement of an adopted child).

4. PROCEDURE

If you are considering/taking SPL, you are encouraged to contact the HR Team to arrange an informal discussion as early as possible to discuss your potential entitlement and to talk about your plans.

The HR Team may upon receiving your notification of entitlement to take SPL seek to arrange an informal discussion with you and your line manager to talk about your intentions and how you currently expect to use your SPL entitlement.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while you are away from work. Where it is a request for 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 organisation, and what the outcome may be if no agreement is reached.

5. MATERNITY LEAVE AND PAY

Maternity leave, statutory maternity pay and maternity allowance remain unchanged.

However, eligible mothers and expectant mothers who share or intend to share the care of their child with their partner or the child's father will be able to choose to bring their maternity leave and/or pay or allowance to an end early to enable both parents to opt into the shared parental leave and pay system. Where the eligibility criteria are met, any untaken maternity leave and/or pay or allowance potentially becomes available to take as shared parental leave and/or pay.

6. ADOPTION AND SURROGACY

An adopter or parental order parent in a surrogacy arrangement who takes adoption leave and/or pay may choose to end their adoption leave and pay early and opt into the shared parental leave and pay system in the same way as birth parents can.

7. ELIGIBILITY CRITERIA – SHARED PARENTAL LEAVE

For a parent to be able to take SPL they must satisfy eligibility criteria. The right of one parent to take leave is not only dependent on them satisfying their own eligibility criteria, but is also dependent on their partner also satisfying certain conditions.

To be entitled to SPL you must:

- Be the mother, father, or main adopter of the child, or the partner of the mother or the main adopter (each will be referred to in the policy as 'parent')
- Have (or share with the other parent) the main responsibility for the care of the child
- Have at least 26 week's 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 meet the '**employment and earnings test**' for you to qualify for shared parental leave.

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To meet this test, the other parent must:

- Have been employed or self-employed earner in Great Britain for a total of 26 weeks (not necessarily continuously) in the period of 66 weeks leading up to the week in which the child is due (or matched for adoption)
- Have earned an average of £30 a week in 13 of those weeks (not necessarily continuously).

If the other parent meets the employment and earnings test but does not qualify for SPL, you may be entitled to the whole SPL period – the main advantage being the ability to request leave in different blocks and return to work in between these blocks.

You must also follow the statutory notification and information requirements detailed in paragraph 11.

For a parental order parent in a surrogacy arrangement, the continuity of employment test is the same as that which applies to birth parents (i.e. they must have been continuously employed by SCDC for 26 weeks up to and including the 15th week before the week in which the baby is due to be born).

8. ELIGIBILITY CRITERIA – SHARED PARENTAL PAY

In order to qualify for statutory shared parental pay, you must:

- Meet the qualifying requirement for shared parental leave and have a partner who meets the employment and earnings test
- Have earned not less than the lower earnings limit (currently £111 per week) in the relevant period. This is usually the 8 weeks leading up to the qualifying week (as with shared parental leave, the qualifying week is the end of the 15th week before the week in which the baby is due to be born, or the week that the adopter is notified of being matched with the child)

A maximum of 39 weeks' shared parental pay is payable, and it will be reduced by the number of weeks' statutory maternity/adoption or maternity allowance already taken by the mother or main adopter.

Shared parental pay is a standard weekly rate (as set out on the HMRC website) or 90% of your normal weekly earnings, if this is lower.

9. AMOUNT AND TIMING OF SPL

Shared parental leave may be taken in a single continuous block or may be taken in smaller blocks of leave (a minimum of a week at a time) and within a one year period beginning with the date of the baby's birth or the child's placement for adoption. It can be interspersed with time at work (in contrast to maternity leave which has to be taken in a single continuous block).

After the birth of a child, it is compulsory to take two week's maternity leave, so in the majority of cases working parents will have the opportunity to split 50 weeks of SPL.

Where a mother or main adopter takes 51 weeks or more of the 52 weeks of maternity or adoption leave that is available to her, then no shared parental leave can be created. It is only the untaken balance of the maternity or adoption leave that can be taken as shared parental leave.

Where a mother or main adopter takes 38 weeks or more of statutory maternity or adoption pay or maternity allowance, then no statutory shared parental pay can be created.

10. CURTAILMENT OF MATERNITY/ADOPTION LEAVE

If you are an eligible mother and want to take shared parental leave or enable your eligible partner to take shared parental leave, you will need to curtail (shorten) your maternity/adoption leave. You can do it in one of two ways:

- 1) You can return to work before the end of your maternity leave period thus bringing your maternity leave to an end.

Please note – whilst returning to work automatically ends your entitlement to maternity or adoption leave, it does not end your maternity or adoption pay period or maternity allowance period. The statutory maternity/adoption pay period (or maternity allowance if applicable) will continue to run “in the background” for 39 weeks from when it was started (it will not be added to your regular salary). If you want to opt into the statutory shared parental pay after returning to work, you must give SCDC a notice to end your maternity pay period at least 9 weeks before the expiry of the 39 week period. If you claim maternity allowance from Jobcentre Plus, you must tell Jobcentre Plus that your maternity allowance period is to end. The maternity pay or allowance period will end on the last day of the pay week in which the notice is given.

- 2) You can give notice to SCDC to end your maternity leave on a specified date in the future. This will enable your partner to start taking shared parental leave from the birth of the child.

The same rule applies if you are an adopter and would like to end your adoption leave to opt into the shared parental leave. You would either return to work before the end of your adoption leave (i.e. take less than 52 weeks leave) or give notice to your line manager that you wished to end your adoption leave on a specified date in the future. Again, this notice must be given at least 9 weeks before their 52 weeks of adoption leave is due to end.

11. NOTICES TO SCDC

If you are planning to take SPL, you must give SCDC a number of notices, as set out below:

Mother employed by SCDC

If you are the mother, you must let SCDC know that you intend to take leave by providing a ‘Notice of Entitlement and Intention to take SPL’. If you have not returned to work, you must also provide your ‘Curtilment Notice’ (see below) at this time. Finally, either at the same time or at a subsequent point you must provide a ‘Period of Leave Notice’, which will inform SCDC when you want to take the leave.

Father/Partner employed by SCDC

If you are the father/partner intending to take leave, you must give a ‘Notice of Entitlement and Intention to take SPL’ and, either at the same time or subsequently, a ‘Period of Leave Notice’.

The scheme works on the basis of these notices, which contain declarations from both parents about the amount of leave they are entitled to and the consent of the other parent to the taking of leave. There is no need for SCDC to contact the other parent’s employer to verify details, although a parent is required to provide the other parent’s employer’s details if SCDC requests them.

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Notices can be provided in person, by post and, if your manager agrees, by email. Notices given in person or by email will be taken to have been given on the day they were transmitted or delivered. A notice sent by post is taken to have been given on the day it was posted, provided it is sent in a properly addressed envelope with the appropriate postage.

Notice of Entitlement and Intention to take SPL and ShPP

You must notify your line manager in writing at least eight weeks before the start date of the first period of SPL. This is a 'one off' notification. The written notice must contain the following information:

- Your name and the other parent's name
- 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 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. The indication is not binding and can be amended at a later date
- A declaration that you meet the conditions for entitlement to SPL, the information you provided is accurate and that you will notify SCDC immediately if you cease to meet the conditions for entitlement
- A declaration from the other parent containing his or her name, address and National Insurance number, confirmation that s/he meets the employment and earnings test, consents to the amount of leave the employee intends to take and will immediately inform you if s/he ceases to satisfy the employment and earnings conditions

Notice of curtailment of maternity/adoption leave and payments

If you are the mother/main adopter, you must give SCDC a '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 you are not entitled to maternity/adoption leave). This should be done at the same time when you submit your 'Notice of Entitlement and Intention to take SPL'. If you are only entitled to maternity allowance (and not maternity leave) your 'Curtailment Notice' must be submitted to Jobcentre Plus. Your maternity allowance cannot be reinstated, so effectively you will be giving consent for your partner to take the whole of ShPP entitlement available.

Notice to take a specific period of SPL and ShPP

In practice, at least the first period of SPL will be identified within the initial notice of entitlement and intention to take SPL. You are entitled to submit a maximum of a further two Period of Leave Notices. Any requests exceeding the statutory maximum will be given reasonable consideration, but may not be granted. Each 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 the 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*'.

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Please note that, while a request for a block of SPL can be submitted before the birth of your child, or before the placement of your child with you for adoption, the leave itself cannot commence until two weeks after the child's birth, or two weeks after the child has been placed with you.

12. CONFIRMATION OF SPL AND 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', your line manager 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 manager's decision will be confirmed in writing.

If no agreement is reached within two weeks 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
- 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 company of the new date within five days of the two week period referred to above
- Withdraw the request at any time up to the 15th day after it was originally made. If the request is withdrawn in these circumstances it will not count as one of your three requests.

13. VARYING A PERIOD OF LEAVE

You are entitled to submit a request to vary a period of leave in the following ways:

- Vary the start date as long as the variation is requested at least eight weeks before the original start date or the new start date, whichever is the earliest
- Vary or cancel the amount of leave requested at least eight weeks before the original start date
- 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 'period of leave notices', unless:

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

14. CHILD BORN EARLY

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.

15. REVOKING NOTICE TO CURTAIL MATERNITY/ADOPTION LEAVE

If you are the mother or main adopter and have already given notice to curtail your maternity or adoption leave, you may withdraw the notice only if you have not returned to work, the curtailment date has not passed, and one of the following circumstances apply:

- Where it is discovered in the 8 weeks following the notice that neither you nor your partner has any entitlement to shared parental leave or pay
- In the event of the death of the partner
- (for mothers only) If the notice was given before the birth, and you revoke your maternity leave curtailment notice in the six weeks following the birth

If you revoke your notice in the first two circumstances, there is no further opportunity to opt into shared parental leave at a later date for the same child.

If you revoke your maternity leave curtailment notice within 6 weeks of the birth in the last of the above circumstances, you will be able to opt into shared parental leave at a later date with the same partner – either by returning to work and then giving notice of entitlement to shared parental leave to SCDC, or by giving another notice to curtail your maternity leave.

If you revoke your notice to end your maternity or adoption leave, you will remain on maternity or adoption leave. Your entitlement to maternity or adoption leave will be restored to a total of 52 weeks, even if your partner has taken shared parental leave prior to you revoking your leave curtailment notice.

If you give notice to curtail your maternity leave before the birth and then change your mind within 6 weeks of the birth, your partner's entitlement to shared parental leave stops.

16. EVIDENCE REQUIREMENT

SCDC 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, SCDC 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 SCDC 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 the request was made before the child was born).

If a birth certificate has not yet been issued, you must sign a declaration confirming it along with the date and location of the child's birth. If the other parent has no employer, this must also be declared.

17. SHARED PARENTAL LEAVE IN TOUCH (SPLIT) DAYS

You may carry out up to 20 days' work for SCDC without bringing your shared parental leave to an end. These days, which are known as 'shared parental leave in touch (SPLIT) days, are in addition to the 10 keeping-in-touch days available to employees during maternity leave. The purpose of SPLIT days is to allow you to stay in touch with

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the workplace during your absence. SPLIT days do not extend the total duration of the shared parental leave period.

Any work carried out on a day constitutes one day's work. For example, if you attend a one-hour training course, this will count as one of the 20 days available. Work includes any work done under the contract of employment and may include training or any activity aimed at keeping in touch.

Reasonable contact between you and your line manager during a period of shared parental leave does not count as work.

Employees cannot insist on being able to carry out work during shared parental leave. Similarly, SCDC cannot require you to carry out work during shared parental leave.

18. TERMS AND CONDITIONS DURING SPL

During a period of shared parental leave you are entitled to the benefit of - and are bound by - all the terms and conditions of employment.

Continuity of service

Continuous service is unbroken during a block of Shared Parental Leave. All blocks of Shared Parental Leave (both paid and unpaid) count towards the calculation of those benefits which accrue with length of service, i.e. sickness benefits and redundancy pay.

Pension payments

If you contribute to the Local Government Pension Scheme, deductions will continue to be made during paid SPL on the payment you actually receive. SCDC as the employer will pay pension contributions on notional full pay.

In the unpaid period of SPL, your pension contributions will cease. However, you will be given the option of paying contributions based on the level of your earnings during the last week of your paid SPL, by arrangement with Payroll. Whilst you continue to contribute to the Pension Scheme the Council will also contribute proportionately.

If you do not pay contributions during unpaid leave, this period will not count as pensionable service. If you wish to discuss this further please contact the Pensions Section at 01604 366537.

Redundancy during shared parental leave

If you are to be made redundant whilst on shared parental leave, you will be entitled to be offered a suitable alternative vacancy that SCDC may have. The work must be suitable and appropriate. Additionally, the new place of work and the other terms and conditions must not be substantially less favourable.

Sickness absence and shared parental pay

There is no entitlement to shared parental pay during any time you are entitled to Statutory Sick Pay.

19. RETURNING FROM SHARED PARENTAL LEAVE

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) is 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 for SCDC, then you will return to another job which is suitable and appropriate in the circumstances.

Returning to work part-time or on a job-share basis

If you worked full-time before shared parental leave but wish to return on a job-share or a part-time basis, you should discuss this with your manager.

You have a statutory right to request flexible working to enable you to care for a child, resulting in a permanent change to your contract, if granted. Details of how to request a change to your working arrangements can be found in the Flexible Working Policy. Contact the HR team for further advice on this.

20. ANNUAL LEAVE ENTITLEMENT DURING SPL

You will continue to accrue annual leave entitlement whilst on SPL. You will also accrue any bank holidays, the 2 extra statutory days by local government agreement and the SCDC concessionary day (where this is given). Part time staff will have a pro-rated allocation of bank holiday leave. The HR team will advise on days accrued.

Any arrangements for taking this leave must be agreed and authorised by your line manager in the usual way even if you intend to take the accrued annual leave immediately after your SPL finishes.

It is recommended that you consider taking any outstanding holiday for the current year, depending on your SPL start and return date, prior to commencing SPL.

You can take your accrued leave as you return to work. Existing rules on carry-over of leave into the next leave year will apply.

On returning from SPL, full-time employees who have agreed to return on a part-time or job-share basis will be entitled to the full time holiday entitlement until their first day on reduced hours.

21. FORMS

Curtailed Notice

If you are an eligible mother and want to take SPL or enable your eligible partner to take SPL, you will need to complete this form to bring your maternity/adoption leave to an end. You should complete and submit this form alongside SCDC's 'Notice of Entitlement and Intention to take SPL'.

Revocation of Curtailed Notice

Please complete this form if you are the mother or main adopter and would like to withdraw the notice to curtail your maternity or adoption leave.

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Notice of Entitlement and Intention to take SPL

This notice is to allow SCDC to check that you are entitled to SPL and to provide an initial indication of the SPL pattern that you wish to take. The notice is not binding and you must give SCDC a 'Period of Leave Notice' at least eight weeks before the start date of the first period of SPL. Any periods of SPL that you indicate in this notice may be changed at a later date by giving SCDC a 'Period of Leave Variation Notice'.

Period of Leave Notice

This notice is to confirm to SCDC the SPL that you intend to take. You must have already submitted a 'Notice of Entitlement and Intention to take SPL' before using this form.

Period of Leave Variation Notice

This notice is to amend a period of SPL that you intend to take and that you provided in a Period of Leave Notice.

SPLIT Days Claim Form

This form needs to be completed by the line manager after the SPLIT days have been worked in any given month.