

Warwick District Council

SHARED PARENTAL LEAVE Policy (SPL)

Key Points:

- Shared parental leave (SPL) enables eligible parents to choose how to share the care of their child during the first year after birth or following adoption.
- All eligible employees have a statutory right to take SPL.
- The total amount of SPL that can be taken is 50 weeks, less the weeks spent by the child's mother/adopter during maternity/adoption leave (or the weeks in which the mother has been in receipt of SMP or MA if not entitled to maternity leave).
- A mother is legally required to take at least 2 weeks leave following the birth of her child. An adopter is required to take 2 weeks leave immediately following adoption.
- SPL can be taken in continuous or discontinuous (depending on the needs of the service) periods of time.
- SPL can only be taken during the 12 months following the birth/placement of the child, up to the eve of the child's first birthday/anniversary of placement. SPL not taken by this point will be lost.
- The father may wish to consider using ordinary paternity leave before taking SPL. Once SPL starts, any untaken paternity leave entitlement will be lost. SPL entitlement is additional to paternity leave entitlement.
- The online calculator available at <https://www.gov.uk/government/news/calculate-your-leave-and-pay-when-you-have-a-child>, allows perspective parents to calculate their entitlement to SPL

1. Introduction

- 1.1 Shared Parental Leave (SPL) is a form of leave available to working parents following the birth or adoption of a child. It applies in respect of children who are expected to be born on or after 5 April

2015 or adopted on or after 5 April 2015.

- 1.2 SPL allows parents to take up to 52 weeks leave in total (includes statutory 2 weeks maternity/adoption leave) following the birth (or placement) of a child. They may be able to take this leave at the same time or at different times during the 12 months following the birth/placement of the child.

2. Scope

- 2.1
- This policy applies to all staff employed by Warwick District Council

3. Eligibility

- 3.1 SPL can only be used by 2 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

- 3.2 Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family.

You are entitled to SPL in relation to the birth or adoption of a child if:

- You are the child's mother and share the main responsibility for the care of the child with the child's father (or your partner, if the father is not your partner).
- You are the child's father and share the main responsibility for the care of the child with the mother, or
- You are the mother's partner or civil partner and share the main responsibility for the care of the child with the mother (where the child's father does not share the main responsibility with the mother).
- You have at least 26 weeks continuous service with Warwick District Council by the end of the Qualifying Week (the fifteenth week before the expected week of childbirth, EWC – Expected week of Confinement) and still be employed by WDC in the week before the leave is taken.
- The other parent/spouse/civil partner, must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the EWC (the week beginning on a Sunday, in which the doctor or midwife expects the child to be born) and had average weekly earnings of at least £30 during 13 of those weeks.
- If you are the mother, SPL cannot begin until after the

statutory 2 weeks maternity leave following the birth of your child. After this period of time, you are able to end maternity leave early and opt in to SPL and pay instead.

4. Notifying the organisation of an entitlement to SPL

4.1 An employee who is eligible to take SPL must provide their manager with their intention to take SPL at least 8 weeks before they can begin this period of leave.

4.2 You and the other parent must give the necessary statutory notices and declarations as summarised below (see appendix A), including notice to end any maternity leave, statutory maternity pay (SMP) or maternity allowance (MA) periods:

- Curtailment notice - if you are the child's mother and are still on maternity leave, you must give WDC at least 8 weeks written notice to end your maternity leave before you can take SPL
- If you are the child's father or the mother's partner you must provide 8 weeks' notice before you intend the SPL to start
- The curtailment notice must state the date you maternity leave will end. You can give the notice before or after you give birth, but you cannot end your maternity until at least 2 weeks after the birth of your child.
- If the other parent is eligible to take SPL from their employer, they may be able to take this before your maternity leave ends, provided you have submitted the curtailment notice.

4.3

The curtailment notice is usually binding and cannot be revoked. You are only able to revoke a curtailment notice if maternity leave has not yet ended and only if one of the following applies:

- You realise that neither you, nor the other parent are in fact eligible for SPL or ShPP. In this situation you can revoke the curtailment notice in writing up to 8 weeks after it was submitted.
- If you submitted the curtailment notice before giving birth, you can revoke it in writing up to 8 weeks after it was given, or up to 6 weeks after birth, whichever is later.
- If the other parent has died.

4.4

If you are the child's father or the mother's partner, you will only be able to take SPL once the mother has:

- Returned to work
- If the mother has given her employer a curtailment notice to

- end her maternity leave
- If the mother has given her employer a curtailment notice to end her SMP (if she is entitled to SMP but not maternity leave); or
- Given a curtailment notice to the benefits office to end her MA (if she is not entitled to maternity leave or SMP).

5. Evidence

5.1 Warwick District Council may request the following evidence:

- A copy of the birth certificate (or if you have not yet obtained a birth certificate, a signed declaration of the child's date and place of birth)
- The name and address of the other parent's employer (or a declaration that they have no employer)
- A copy of the adoption certificate or a signed declaration confirming the child's placement.

6. Continuous Leave and Discontinuous Leave

- 6.1 The minimum period of leave that can be taken for SPL is 1 week. A period of SPL will be taken as one continuous period of leave or in separate blocks of leave (up to a maximum of 3 separate blocks). If you request SPL in one continuous block of leave, you are entitled to take this leave as set out in the notice and this will be confirmed by your manager in writing.
- 6.2 It may be possible, in some cases to allow a period of SPL where the leave is split into shorter periods (of at least a week) with periods of work in between. This is dependent on service need and whether WDC are able to accommodate such a request. For discontinuous leave, you may be able to take up to 3 separate blocks of SPL, returning to work between the periods of leave.
- 6.3 You need to inform your manager as soon as possible of your intentions to take SPL, the start and end dates of this leave and the pattern of leave that you would like to take.
- 6.4 You must submit a period of leave notice, setting out the requested period of leave and pattern of leave at least 8 weeks before the requested start date. If it is not possible to agree to your request straight away, there will be a 2 week discussion period. At the end of that period, your manager will confirm any agreed arrangements to you in writing. If an agreement is not reached, you will be entitled to take the full amount of requested SPL as one continuous block, starting at the start date that you have provided by you. For example, if you have requested 3 separate periods of 4 weeks

each, you will be entitled to take one 12 week period of leave.

6.5

Alternatively, you may wish to choose a new start date (this must be at least 8 weeks after your original period of leave notice was given, and tell WDC within 5 days of the end of the 2 week discussion period or, withdraw your period of leave notice within 2 days of the end of the 2 week discussion period (in which case it will not be counted and you may submit a new one if you choose).

6.6

The manager should discuss any requests with HR to ensure that they are working within the legislation and are aware of their responsibilities.

6.7

If you change your mind about taking SPL, you are able to cancel your period of leave by notifying WDC in writing at least 8 weeks before the start date of the period of SPL.

6.8

You can also change the dates of your period of SPL by informing WDC at least 8 weeks before the start date of your original leave and the intended start date of your amended period of leave. You do not need to give notice if the date of your SPL changes due to your child being born earlier than the EWC, where you wanted to start your SPL a certain length of time (but not more than 8 weeks after birth).

7. Payment

7.1 Eligible employees may be entitled to up to 37 weeks Shared Parental Pay (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.

7.2 ShPP may be payable during some of all of SPL, depending on the length and timing of the leave. 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 8 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.

7.3 Where an employee is entitled to receive ShPP they must, at least 8 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.

7.4 In addition to what needs to be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for SPP 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 organisation should they cease to be eligible.

7.5 It must be accompanied by a signed declaration from the employee's partner confirming:

- Their agreement to the employee claiming ShPP and for the organisation to process any ShPP payments to the employee;
- (in the case where the partner is the mother/adopter) that they have reduced their maternity/adoption pay or maternity allowance'
- (in the case where the partner is the mother/adopter) that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

Any ShPP will be paid at a rate set by the Government for the relevant tax year.

8. Terms and Conditions

During the period of SPL, the employee's contract of employment will continue and they are entitled to receive all of their contractual benefits, except for salary. Contractual annual leave will continue to be accrued throughout the period of SPL and employees are reminded that annual leave should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the

employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's leave year.

If the employee is a member of the Local Government Pension Scheme they will continue to make contributions on the pay received. As the employer, we will make good any shortfall in pay by way of Assumed Pensionable Pay. This means there is no reduction in pay to the CARE scheme.

For a period of no pay, employees will have the opportunity to make Additional Pension Contributions (APCs) for the pay lost and if this option is taken up within 30 days of their return to work, as employer, we will pay 2/3rds of the cost by way of a Shared Cost APC

9. Keeping in Touch Days

Managers may make reasonable contact with the employee from time to time during SPL. This may include contact to discuss arrangements for employees return to work.

Each parent may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days (KIT days) during SPL – these are known as Shared Parental Leave In Touch Day (SPLIT days). This is in addition to any KIT days that may have been taken during maternity leave. SPLIT days are not compulsory and must be discussed and agreed with the employee and line manager.

Employees will be paid at normal basic rate of pay for time spent working on a SPLIT day and this will be inclusive of any shared parental pay entitlement. Alternatively, employee may agree with their line manager to receive the equivalent paid time off in lieu.

10. When can I return to work after SPL?

If the employee wants to end a period of SPL early, they must give eight weeks' prior notice of the return date. It is helpful if this notice is given in writing.

If an employee wants to extend SPL they must submit a new period of leave notice at least eight weeks before the date they were due to return to work, assuming they still have SPL entitlement remaining and have not already submitted three periods' of leave notices. If an employee is unable to request more SPL they may be able to request annual leave or ordinary parental leave, which will be subject to business need.

An employee is normally entitled to return to work in the position they held before starting SPL, and on the same terms of employment. However, if it is not reasonably practicable to allow the employee to return into the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances:

If SPL and any maternity or paternity leave taken adds up to more than 26 weeks in total (whether or not taken consecutively); or

If SPL was taken consecutively with more than four weeks of ordinary parental leave (under our Parental Leave Policy).

If the employee wishes to change hours or other working arrangements on return from SPL they should make a request under the Flexible Working Policy. It is helpful if such requests are made as early as possible.

If the employee decides not to return to work they should give notice of resignation in accordance with their contract.

Appendix A

Shared Parental Leave - Notice of Entitlement

Information required:

Your name and the name of the other parent

If you are the child's mother, the start and end date of your maternity/adoption leave

If you are the child's father or the mother's partner, the start and end dates of the mother's maternity leave, or if she is not entitled to maternity leave, the start and end dates of any SMP or MA period

The child's EWC, actual date of birth or date of placement

The total SPL entitlement, 52 weeks minus the number of weeks' maternity leave, SMP or MA taken/to be taken

The amount of SPL that you intend to take (you can change your allocation by providing WDC with written notice, you do not have to use your full allocation)

If you are claiming statutory shared parental pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of the SMP or MA periods taken or to be taken.

How much of the 39 weeks will be allocated to you and how much to the other parent (you can change this by providing further written notice and you do not have to use your full allocation)

An indication of the pattern of leave you are thinking of taking, including suggested start and end dates for each period of leave

Declarations by you and the other parent that you meet the statutory conditions for entitlement to SPL and ShPP, that you will be sharing responsibility for the care of the child, the mother has given notice to end her maternity entitlement, the information provided is accurate and should you cease to be eligible you will immediately inform your manager.

Adoptive parents must also confirm the date the parents were matched with the child, the date the child is expected to be placed with the parents and a declaration which includes the parents national insurance numbers and consent to the amount of time the other parent intends to take.

A declaration signed by the other parent which states their name, address, NI number. It also needs to state that the other parent;

- Satisfies, or will satisfy the eligibility conditions required for the parent to take SPL;
- Consents to the amount of leave the other parent intends to take;
- Consents to the employer processing the information in the parent's declaration;
- If it is the mother's declaration, to immediately inform her partner if she ceases to be entitled to statutory maternity leave, statutory maternity pay or maternity allowance.
- All notifications must be provided in writing and be signed by the employee.

September 2015