

# Shared Parental Leave Guidance

## Document Control

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## SECTION 1: INTRODUCTION

### **Purpose of the Guidance**

This guidance is part of our Family Friendly suite of resources. These are designed to reflect that the demands and responsibilities vary from family to family and can be applied to differing circumstances.

Employees working in supportive and compassionate environments are more likely to feel able to discuss a wellbeing issue or a challenging life event, to ask for help when needed, and to make an effective return to work. When managers manage well and build trust-based relationships with their team, they help to create an environment that is open, respectful and kind.

The purpose of this guidance is to provide managers and employees with relevant information on how and when Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) can be accessed.

Core to this guidance is that no employee will be adversely treated in the workplace due to them taking Shared Parental Leave.

### **Inclusivity statement**

This guidance is applicable to any employee considering Shared Parental Leave. The gender, sexual orientation or other characteristics are irrelevant in the application of any of our family friendly policies.

### **What is shared Parental leave (SPL) and Statutory Shared Parental Pay (ShPP)**

Shared parental leave (SPL) allows the mother/birth parent to end maternity leave/pay early so that they or they and their partner/ the father can take leave in a more flexible way during their baby's first year. The birth mother/parent can choose to share a portion of their maternity leave/paid leave with their partner to care for children from birth until their first birthday. Parents can take time off at the same time or separately.

Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) may also apply to parents who are:

- using a surrogate to have a baby
- adopting a child
- fostering a child who they are planning to adopt

This guidance details how SPL/ShPP applies to maternity, surrogacy and adoption and fostering.

### **Responsibility of Managers**

Managers should ensure that they are familiar with this provision and supportive of any employee seeking to request Shared Parental Leave.

## **Responsibility of Employees**

Employees should ensure that they meet any criteria required before requesting Shared Parental Leave or Statutory Shared Parental Pay. It is recommended for each parent who plans to take shared parental leave to talk informally with their manager as soon as possible about how and when they will take the leave. This can help the manager plan how they will cover any absences and provide support accordingly.

## SECTION 2: SHARED PARENTAL LEAVE (SPL) AND STATUTORY SHARED PARENTAL PAY GUIDANCE (ShPP)

### Overview of Shared Parental Leave

Regardless of circumstances the following provisions / criteria apply:

- Any shared parental leave or pay only applies to the first year after your child is born or placed with your family.
- SPL can be taken:
  - All in one go
  - In blocks, with periods of work in between
  - In blocks, with other periods of absence in between (such as annual leave)Or
  - a mix of the above options.
- Once shared parental leave has started it is not possible to return to another leave process such as maternity or adoption leave.
- The mother/birth parent/ adopting parent/ surrogate parent can share up to 50 weeks of leave and up to 37 weeks of pay with their partner.

Parents eligible for shared parental leave can decide how they want to use the leave and pay available to them. When deciding if Shared Parental Leave is beneficial to them, parents may wish to consider:

- Are there dates they need to be absent from work
- Are there any work projects or events coming up they want to be involved with
- What are their childcare options and availability
- How their work will be covered while they're off
- Do they want to use the time to be off together with their child, separately, or a mix.

An employee is **not eligible** for Shared Parental Leave if they started sharing responsibility for the child after it was born.

- To establish if you are eligible for SPL and ShPP, you'll need to know:
  - your child's due date or birth date
  - your and your partner's employment status and earnings
  - if you and your partner can get Statutory Maternity Pay or Statutory Paternity Pay

The [shared parental leave / shared parental pay](#) planning tool can be used to confirm if employees are eligible; and how these could be arranged to suit specific circumstances:

(The above tool uses a Monday as the start for each calculation, however if maternity leave begins on another day of the week this will be reflected in the arrangements for an employee accessing SPL/ShPP), when processed by the HR Service Centre.)

## **Maternity - Converting Maternity Leave into SPL / ShPP**

Before applying for shared parental leave the mother / birth parent must elect to convert part of their maternity leave into Shared Parental Leave.

The mother / birth parent is required to take the first 2 weeks after the birth of the baby as maternity leave. After this compulsory maternity leave, they can, at any time (with appropriate notice, of at least 8 weeks) move from maternity leave to shared parental leave (either with or without shared parental pay) over the following maximum of 50 weeks.

Where maternity leave starts before the birth of the baby these weeks will impact on the number of weeks available to be used for shared parental leave.

For example – if maternity leave begins 4 weeks before the birth of the baby, and the mother / birth parent takes their 2 weeks compulsory maternity leave immediately after the birth of the baby, then there would be 46 weeks available to take as shared parental leave.

Once the mother / birth parent have moved to Shared Parental Leave, they cannot return to maternity leave.

## **Maternity - If only one parent wishes to take SPL (giving up maternity leave)**

The parent who would like to take the leave and pay must:

- stay with the same employer until they start their SPL.
- have been employed continuously by the same employer for at least 26 weeks by the end of the 15th week before the due date
- And to be eligible for ShPP, they must earn on average at least £123 each a week.

The other parent must:

- have been working for at least 26 weeks out of the 66 weeks before the week the baby's due (the 26 weeks do not need to be in a row)
- have earned at least £390 in total in 13 of the 66 weeks (add up the highest paying weeks - they do not need to be in a row)

## **Maternity - The mother/birth parent and the father/ their partner both wish to share SPL**

- The mother / birth parent can share up to 50 weeks of leave and up to 37 weeks of pay with their partner.
- To be eligible for SPL and ShPP (Statutory Shared Parental Pay), the mother/birth parent and partner need to:
  - share responsibility for the child at birth
  - meet work and pay criteria - these are different depending on which parent wants to use the shared parental leave and pay
- To get SPL and ShPP the mother / birth parent or their partner have to:

- take less than the 52 weeks of maternity or adoption leave and use the rest as SPL
- take less than the 39 weeks of maternity or adoption pay (or Maternity Allowance) and use the rest as ShPP / give up some of their maternity or adoption leave and pay

For example, if you're the mother / birth parent and you've taken 22 weeks of Maternity Leave and Statutory Maternity Pay, you can share 30 weeks of SPL and 17 weeks of ShPP with your partner.

### **Adoption or Surrogacy - Both adopting / surrogate parents wish to share SPL and ShPP**

To be eligible for Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP), both adoptive parents or both parents using a surrogate must share responsibility for the child from:

- the child's due date or birth date if you're using a surrogate
- the date the child is placed with you, if you're adopting or fostering to adopt

Both parents must also meet the work and earnings criteria. The criteria are different depending on which one of you wants to use the shared parental leave and pay.

To get SPL and ShPP the adopting/ surrogate person or their partner have to:

- take less than the 52 weeks of maternity or adoption leave and use the rest as SPL
- take less than the 39 weeks of maternity or adoption pay (or Maternity Allowance) and use the rest as ShPP / give up some of their maternity or adoption leave and pay

For example, the surrogate parent takes 22 weeks of Maternity Leave and Statutory Maternity Pay, can then share 30 weeks of SPL and 17 weeks of ShPP with their partner.

If both parents want to share SPL and ShPP they must stay with the \*same employer until they start SPL. They must be employed \*\*continuously by them for at least 26 weeks, by either:

- the end of the week they/ their partner are matched with a child if adopting
- the end of the 15th week before the due date if using a surrogate
- and currently each earn on average at least £123 a week.

\*continuous employment with ACC recognises continuous service at any relevant organisation listed in (Continuity of Employment in Local Government, etc.) (Modification) Order 1999

<https://www.legislation.gov.uk/uksi/1999/2277/made>

\*\*Same employer – for clarity while each parent must remain with their employee for the periods given, both employees do not need to work for the same employer. The request for



SSP is processed using national insurance numbers and other details which ensures where two parents intend to utilise shared parental leave it will be joined up.

### **Adoption or Surrogacy – If one of the parents wants to take the SPL and ShPP**

Both parents must meet some eligibility criteria.

- The parent who wants to take the leave and pay must stay with the same employer until they start their SPL.

They must also have been employed continuously by the same employer for at least 26 weeks, by either:

- the end of the week they/ their partner is matched with a child if adopting
- the end of the 15th week before the due date if using a surrogate

To be eligible for ShPP, they must earn on average at least £123 each a week.

The other parent must:

- have been working for at least 26 weeks out of the 66 weeks before the week the child was placed with them (the 26 weeks do not need to be in a row)
- have earned at least £390 in total in 13 of the 66 weeks (add up the highest paying weeks - they do not need to be in a row)

Please note when the birth parent is a surrogate, they cannot access shared parental leave. They will however be eligible for Maternity Leave.

### **How Shared Parental Leave is applied**

Parents can share up to 50 weeks of leave and up to 37 weeks of pay between them. The actual amount depends on how much maternity or adoption leave and pay (or Maternity Allowance) you or your partner take. If you or your partner are eligible then you can:

- take less than the 52 weeks of maternity and use the rest as Shared Parental Leave (SPL)
- take less than the 39 weeks of maternity pay (or Maternity Allowance) and use the rest as Statutory Shared Parental Pay (ShPP)

You can check when you and your partner can take your leave and how much statutory pay you'll get using the Shared Parental Leave and Pay planning tool.

### **How much pay you will receive**

ShPP is paid at the rate of £172.48 a week or 90% of your average weekly earnings, whichever is lower.

This is the same as Statutory Maternity Pay (SMP) except that during the first 6 weeks SMP is paid at 90% of whatever you earn (with no maximum).

### Example

A mother / birth parent decides to start maternity leave 4 weeks before the due date and gives notice that they will start SPL from 10 weeks after the birth (taking a total of 14 weeks maternity leave). They normally earns £200 a week.

They are paid £180 (90% of their average weekly earnings) as SMP for the first 6 weeks of maternity leave, then £172.48 a week for the next 8 weeks. Once they go onto SPL, they are still paid £172.48 a week.

You can only start Shared Parental Leave (SPL) or Shared Parental Pay (ShPP) once the child has been born.

You can check when you and your partner can start your leave using the Shared Parental Leave and Pay planning tool shared above.

### **When can SPL or ShPP begin?**

An employee can only start Shared Parental Leave or Shared Parental Pay once the child has been born or placed with the family for adoption.

For SPL to start the mother / birth parent must either:

- return to work, which ends any maternity or adoption leave
- Or
- Give 'binding notice' of the date when they plan to end their (maternity/ adoption) leave (you cannot normally change the date you give in binding notice)

SPL can begin while the mother / birth parent / adoptive parent/ surrogate parent is still on maternity or adoption leave as long as they (the mother / birth parent / adoptive parent/ surrogate parent) have given binding notice to end it. This means that one parent can remain on maternity/ adoption leave, while their partner starts shared parental leave.

The mother / birth parent / adoptive parent / surrogate parent can give binding notice and advise what dates they plan to take your SPL at the same time.

A mother / birth parent cannot return to work before the end of the compulsory 2 weeks of maternity leave following the birth.

For ShPP to start the mother / birth parent must give binding notice of the date when they plan to end any maternity pay.

Once maternity pay is ended, the employee cannot return to it and will remain on ShPP. ShPP can begin while one parent is still on maternity pay, adoption pay or Maternity Allowance as long as they (the mother / birth parent / adoptive parent/ surrogate parent) have given binding notice to end it.

## **Change the decision to end maternity or adoption leave**

The mother / birth parent / adoptive parent **may** be able to change their decision to end maternity leave early.

They must let their manager know as early as possible and they can only change the decision if both:

- the planned end date (for maternity/ adoptive leave) has not passed
- they have not already returned to work

One of the following must also apply:

- During the 8-week notice period it is identified that that neither parent is eligible for SPL or ShPP
- the birth parent/ mother or partner has died
- the mother tells their employer less than 6 weeks after the birth (and they gave their employer notice before the birth)

## **Booking blocks of leave**

Parents can book up to 3 separate blocks of Shared Parental Leave (SPL) instead of taking it all in one go, even if they are not sharing the leave with their partner.

If the partner/ other parent is also eligible for SPL, they can also take up to 3 blocks of leave. This leave can be taken at different times or both at the same time.

Requests for more than 3 blocks of leave can be made, however these can only be approved where service delivery allows. Such requests must be for at least a week.

Employees must tell their manager about any plans for leave when they apply for SPL. While these plans can be changed later, managers will need at least 8 weeks notice prior to a block of leave starting

The [Shared Parental Leave and pay planning tool](#) can be used to work out how the provision can be used.

Please note you cannot take Paternity Leave after you take SPL.

Example:

A mother / birth parent finishes their maternity leave at the end of October and takes the rest of their leave as SPL. They share it with their partner, who's also eligible. They each take the whole of November as their first blocks of SPL. The partner then returns to work.

The mother / birth parent also returns to work in December. They give the employer notice that they go on leave again in February - this is their second block of SPL. Their employer agrees to a work pattern of 2 weeks on, 2 weeks off during the block.

## **Shared Parental Leave in touch (SPLIT) days**

The mother / birth parent /adoptive parent and their partner can each work up to 20 days while taking SPL. These are called 'Shared Parental Leave in touch' (or SPLIT) days.

These days are in addition to the 10 'keeping in touch' (or KIT) days available during maternity.

KIT and SPLIT days are not mandatory; however they can be useful opportunities to attend training courses, catch up on what is happening at work or contribute to an area of work.

When an employee wishes to use KIT / SPLIT days they must discuss and agree this with their manager.

## **Applying for SPL and ShPP**

Shared Parental Leave forms and templates created by [ACAS](#) are currently used:

- for employees to give notice that they plan to take SPL and ShPP
- for giving notice of when the mother/birth parent/ adoptive parent/ surrogate parent is going to end their maternity/ adoption leave, and when they intend to stop maternity/ adoptive pay
- for booking any leave dates (as well as confirming dates when the employee intends to be in work, taking annual leave, or other arrangements)

You might not get SPL or ShPP if you do not include all the required information.

## **Giving more information**

Aberdeen City Council can ask you for more information within 14 days of you applying for SPL or ShPP.

You may be asked for:

- a copy of the birth certificate
- a declaration of the place and date of birth (if the birth has not been registered yet)
- the name and address of your partner's employer or a declaration that your partner has no employer

You must provide this information within 14 days of being asked for it.