

# Shared Parental Leave Policy

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<b>Effective Date of Policy:</b>	<b>5<sup>th</sup> April 2015</b>
<b>Review Date:</b>	
<b>Applicable To:</b>	<b>All Caerphilly employees except employees directly employed by Schools unless the School Governing Body has adopted the Policy.</b>
<b>Equalities Sentence:</b>	<b>All Equalities considerations have been taken into account when drafting this Policy. These have been reflected in all documentation during the consultation and governance processes.</b>

The Council's recognised trade unions have been consulted on this policy.



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### NOTES

In this policy, the term Manager is used to encompass anyone who has the responsibility of managing employees, including Head teachers. The policy is available on the Council Intranet site, from Managers, or from HR.

## **INTRODUCTION**

1. Caerphilly County Borough Council believes that its employees are its most valuable resource. Lack of recognition of an employee's outside commitments helps to contribute to negative effects, which may result in low morale, poor service provision and excessive overhead costs.
2. Caerphilly County Borough Council is committed to Equal Opportunities and the principles of work life balance working practices and seeks to ensure that policies and practices meet the requirements of the Equality Act 2010.
3. This Scheme embraces the statutory requirements of current legislation.
4. This policy must be cross-referenced with all other relevant Council policies and procedures.

## **WHAT THE POLICY COVERS**

5. This policy outlines qualifying employees' 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 before a period of SPL and the entitlement to pay during SPL.
6. SPL gives you and your partner more flexibility in how to share the care of your child in the first year after birth or adoption than simply taking maternity/adoption and paternity leave. Assuming you are both eligible, you will be able to choose how to split the available leave between you, and can decide to be off work at the same time or at different times. You may be able to take leave in more than one block.
7. This policy must be used to apply for any periods of SPL.
8. If you are the mother you cannot start SPL until after the compulsory maternity leave period, which lasts until two weeks after birth.
9. If you are the child's father or the mother's partner, you should consider using your two weeks' paternity leave before taking SPL. Once you start SPL you will lose any untaken paternity leave entitlement. SPL entitlement is additional to your paternity leave entitlement.

## **GUIDING PRINCIPLES**

10. SPL allows employees with the main caring responsibilities for babies or newly adopted children the opportunity to share up to 52 weeks leave between parents should they wish to do so. The 52 weeks is reduced by any maternity leave that is taken – there is a compulsory period of 2 weeks maternity leave. SPL does not replace ordinary paternity leave.
11. The only provision for parents having a child via a surrogacy arrangement under this legislation is where a parental order has been made. The Council will deal with requests for SPL in these circumstances on a case by case basis. Heads of Service should discuss any cases with HR.
12. To be entitled to SPL you must:
  - be the mother, father, or main adopter of the child, or the partner of the mother or main adopter (each will be referred to in this policy as a parent – a partner is a spouse, civil partner or someone living with you in an enduring family relationship but not your sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew);

- have (or share with the other parent) the main responsibility for the child's upbringing;
- have at least 26 weeks continuous service with the Council [or continuous local government service] at the 15th week before the expected week of childbirth 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:

- have at least 26 weeks employment (employed or self employed) out of the 66 weeks prior to the relevant week;
- have average weekly earnings of at least £30 during at least 13 of the 66 weeks prior to the relevant week.

13. If the other parent meets these conditions, but does not qualify for SPL themselves, the Council's employee may still be entitled to the whole SPL period.

#### **ENTITLEMENT TO SHARED PARENTAL PAY**

14. In addition to the requirements regarding entitlement to leave as outlined above, if you wish to claim Shared Parental Pay (ShPP) you must have an average weekly earnings equal to or above the Lower Earnings Limit over the eight week period ending with the relevant week.
15. A maximum of 39 weeks ShPP (reduced at least by the 2 weeks compulsory maternity leave period) is payable and this will be reduced by the number of week's statutory maternity/adoption pay or maternity allowance already taken by the mother or main adopter. ShPP is a standard weekly rate (or 90% of your normal weekly earnings if this is lower) which is set by the government each tax year.
16. In all cases the statutory notification, declaration and information requirements must be followed. In particular there are limited exceptions to the requirement to give 8 weeks notice. These are
- In the case of the father/partner, where the mother dies.
  - In the case of the mother, where the father/partner dies.
  - Where the baby is born more than 8 weeks early.
17. The Shared Parental Pay (General) Regulations 2014 do not provide for you to be paid 90% of earnings for the first 6 weeks of the ShPP period where this is higher than the statutory rate as is the case for statutory maternity/adoption pay. You are not able to work for any other employer, whilst on a period of ShPP, unless the arrangement was in place prior to the commencement of the ShPP.
18. If both parents qualify for ShPP they must decide who will receive it or how it will be divided and inform their respective employers in writing accordingly. ShPP will end once the total received by both parents (including any weeks of SMP, MA or SAP) reaches 39 weeks. The legislation also prescribes a date after which no further ShPP will be paid even if the full 39-week entitlement has

not been used up. In relation to the birth of a child, ShPP must be used before the child's first birthday. In relation to the adoption of a child, ShPP must be used before the first anniversary of the date the child was placed for adoption. SLP and ShPP may be suspended where you are too ill to care for your child. In that situation, you may be entitled to sick pay if you are not fit for work.

## SHARED PARENTAL LEAVE OPTIONS

19. SPL allows the leave to:
  - start on any day of the week;
  - only be taken in complete weeks (e.g. starts on Tuesday and finishes following Monday);
  - be taken in up to three separate blocks of leave;
  - be taken by both parents at the same time as long as the combined leave does not exceed a total of 50 weeks, taking into account the need for the mother/main adopter/intended parent to take a minimum of 2 weeks;
  - be taken at separate times by the parents.
20. You and your Manager should, where possible, have an informal discussion prior to you giving formal notification of your intention to take SPL so that statutory (and contractual) entitlements 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 (See Pattern of Shared Parental Leave below).

## SHARED PARENTAL LEAVE CONDITIONS

21. You have the option to choose SPL at any time whilst you are eligible (within a year of the birth/adoption) as long as you meet the notification requirement of notifying at least eight weeks before the start date, apart from in the limited exceptions outlined in paragraph 16 above.
22. You have the option to give three separate notifications of a period of SPL.
23. Parents do not have to be working for the same employer to be eligible. A mother/main adopter can only share parental leave with **one** other person. It should be noted that SPL can only be used by the mother/main adopter after they have either returned to work, or given notice that reduces their maternity/adoption leave, confirming when the maternity/adoption leave will come to an end in the form of a 'maternity curtailment notice'. This notice is binding and cannot be withdrawn except in the following circumstances:
  - if it becomes apparent that neither parent is entitled to SPL or ShPP;
  - if the curtailment notice was given before the birth and is revoked within 6 weeks of the birth (in this case another curtailment notice can be submitted);
  - if the other parent dies.

## NOTICE OF ENTITLEMENT AND INTENTION

24. The notification requirements for SPL and ShPP are very specific and detailed. Other than for specific exceptions the legislation does not allow the Council to waive the 8 week notification period.

25. You will need to complete the form at Appendix 1 as fully as possible which has been designed to assist you to provide the required information and declarations. You should return this form to your Line Manager, who will forward it on to HR.
26. The minimum requirements by law are:-
  - 'A maternity curtailment notice' (if appropriate);
  - Notice of entitlement and intention;
  - A period of leave notice.
27. In practice, at least your first period of SPL will be identified in your initial notice of entitlement and intention to take SPL. You are entitled to submit a maximum of a further two 'periods of leave' notices. Each notice must be given at least eight weeks before you want to start a period of leave, stating the dates of the leave and the dates on which ShPP will be claimed, if applicable.
28. If your first 'period of leave' notice is given prior to the birth/placement of your child, the notice may express the start date in relation to the date of birth/placement, for example 'starting two weeks after the baby is born for a period of four weeks'.

#### **PATTERN OF SHARED PARENTAL LEAVE**

29. SPL can be taken as either a 'continuous' block or multiple 'discontinuous' blocks.

##### ***A Continuous Block***

This is an unbroken period of leave, e.g. for a period of six weeks leave. If you are eligible for SPL, you have a statutory right to take SPL in this way.

If you request a continuous period of leave in each period of leave notice, you will be entitled to take that period of leave and this will be confirmed to you in writing.

##### ***Discontinuous Block***

This is a period leave but with breaks in between the leave where you return to work, e.g. 3 weeks leave, followed by a return to work for 6 weeks, followed by another period of leave.

30. Discontinuous leave can only be taken with the Council's agreement, and once a request for discontinuous leave has been made the request must be discussed by you and your Line Manager within a period of 14 calendar days. Your Manager will discuss your requests with you to determine whether the request
  - can be accommodated and the leave approved;
  - propose an alternative pattern of leave which can be agreed;
  - or the request can be refused.

Your Line Manager's decision will be confirmed in writing.

31. If no agreement is reached within two weeks of the period of leave notice being submitted you can:

- take the leave requested in one continuous block, beginning on the original start date;
- take a continuous block of leave starting on a new date, as long as the new date is later than the original start date and your Line Manager is notified 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 the three requests allowed.

## **VARYING A PERIOD OF LEAVE**

32. You can submit a request to vary a period of leave in the following ways:
- vary the start or end date as long as the variation is requested at least eight weeks before the original start date and the new start date;
  - 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.
33. A variation will count as one of your three periods of leave notice requests (See above) unless:
- it is made as a result of the child being born earlier or later than the expected week of childbirth. The usual eight week notice requirement may be modified if the 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;
  - the Council has requested the variation.

## **SHARED PARENTAL LEAVE - KEEPING IN TOUCH DAYS (SPLIT DAYS)**

34. The Council has the right to ask you to attend work on occasional days during the SPL period. These days could be for training, to attend department meetings, or just for keeping in touch in line with same principle as KIT days for maternity and adoption leave. There is no obligation on you to work during SPL and there is no obligation on the Council to offer you work. You will accrue pension for any SPLIT days worked.
35. There are 20 SPLIT days available during SPL which are in addition to the 10 KIT days available during maternity and adoption leave.
36. You may work for up to 20 SPLIT days without bringing the SPL to an end. Any work undertaken during SPL will not extend the SPL period. If you undertake any work you will be paid at your normal rate of pay inclusive of any ShPP entitlements.

## **TERMS AND CONDITIONS DURING SPL**

37. Your contract of employment continues in force during your period of SPL and you are entitled to receive all your contractual benefits, except for remuneration. SPL does not affect incremental salary increases or honorarium payments. If you are entitled to receive a telephone allowance as part of your remuneration you will continue to do so for the period of your paid SPL.

## PENSION CONTRIBUTIONS

38. Pension contributions will continue to be made during any period when you are receiving Shared Parental Pay (ShPP) but not during any period of unpaid SPL. Your contributions will be based on actual pay whilst the Council's contributions will be based on the salary that you would have received had you not been taking SPL. If you wish to consider making additional payments you should contact Payroll.

Your pension benefits will remain the same as if you had not been absent from work on SPL. If you require any further details on the Scheme please contact the Greater Gwent Pensions Section at Torfaen County Borough Council on 01495 766266 or alternatively visit the website [www.greatergwentpensions.co.uk](http://www.greatergwentpensions.co.uk).

## ANNUAL LEAVE AND BANK HOLIDAYS

39. SPL does not affect annual leave entitlement and existing conditions of service apply. Therefore an employee will be entitled to their full annual leave provision during the period of their SPL. An employee may end their SPL and immediately commence annual leave, without having to physically return to work. This must be agreed with the Line Manager in the normal manner. If an employee's SPL spans two years and they have not used all of their annual leave prior to commencing their SPL they will be able to carry any remaining annual leave into the new year.
40. SPL does not affect Bank Holiday entitlement and existing conditions of service apply. Any employee who is on SPL will receive a day back in lieu. Employees may return to work and immediately commence accrued Bank Holiday leave. This must be agreed with the Line Manager in the normal manner.

## SALARY SACRIFICE

41. If you have joined any of the Council's salary sacrifice schemes, arrangements will be made with you to ensure that any salary sacrifice schemes continue during your period of SPL as part of your continuing contractual benefits and in line with the similar arrangements in place for those employees on Maternity and Adoption leave. When you return to work, the total value of the salary sacrifice payments accrued during the period where no salary reduction has taken place will be notified to you and an agreement made with Payroll as to how the outstanding amount will be repaid.

## RETURNING FROM SPL

42. If you wish to return early from SPL you must notify your Line Manager at least eight weeks before both the original end date and the new end date. The Council can insist that you still take the eight week notice period as SPL before returning.
43. If you return to work immediately after a period of SPL which (together with any statutory maternity/adoption leave taken in relation to the same child) is **26 weeks or less**, you will return to the same job.
44. If you do not wish to return to work at the end of a period of SPL, you must give your Line Manager notice in the usual way.
45. If you return to work immediately after a period of SPL which (together with any statutory maternity/adoption leave taken in relation to the same child) is **26 weeks or more** you will normally be entitled to return to the same job unless that is not reasonably practicable in which case you will return to another job which is suitable and appropriate under the circumstances.



46. Your right to return means that you will return on terms and conditions that are no less favorable than those that would have been applied had you not been absent. Your return will be at the same level of seniority, pension rights and any other similar rights.
47. Under Flexible Working legislation the Council shall take all reasonable steps to accommodate requests from employees to return on less or different hours following a period of SPL. Employees have no automatic right to return to work on reduced hours and such requests shall be considered in light of operational and organisational considerations. Please refer to the Council's Flexible Working Policy for details.

### **PROTECTION FROM DETRIMENT AND DISMISSAL**

48. You are protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take SPL.
49. This policy and its associated provisions covers employees on fixed term contracts. If the fixed term contract ends immediately before or during the SPL period, the future of the post will be decided after considering the operational requirements of the Service.

### **FRAUDULENT CLAIMS**

50. The Council can, where there is a suspicion that fraudulent information may have been provided or where the organisation has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the Council's Disciplinary Procedure, acting in a non-discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010. There is also provision in the legislation for the Council to check any employee's entitlement to ShPP or SPL.

### **INTERPRETATION OF THE POLICY**

51. In the event of a dispute relating to the interpretation of this policy the Head of Workforce and Organisational Development or the Human Resources Service Manager will make the final decision on interpretation.

### **REVIEW OF THE POLICY**

52. A review of this policy will take place when appropriate. Any amendments will be consulted on with all the relevant parties. However, in the case of amendments relating to legislative requirements, the scheme will be amended and reissued.

**APRIL 2015**

**Notice Of Entitlement And Intention To Take Shared Parental Leave (SPL) Form**

Employees with a child due to be born or placed for adoption on or after 5th April 2015 who wish to take shared parental leave (SPL) to share the main caring responsibilities with the other parent/partner must submit this form to their Line Manager at least eight weeks before the start date of the first period of SPL.

To be entitled to SPL you must:

- be the mother, father or main adopter/intended parent of the child, or partner of the mother or main adopter/intended parent (referred to in this form as parent);
- have (or share with the other parent) the main responsibility for the care of the child;
- have at least 26 weeks continuous service at the 15th week before the expected week of birth or at the week in which the main adopter was notified as 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.

The other parent must have at least 26 weeks employment (employed or self-employed) out of the 66 weeks prior to the relevant week and have average weekly earnings of at least £30 during at least 13 of those weeks.

Please refer to the Shared Parental Leave Policy before completing this form.

**Section 1 - Basic Details**

<b>Employee Name:</b>	
<b>Employee Number:</b>	
<b>Service Area:</b>	
<b>Child's expected date of birth/date of placement for adoption:</b>	
<b>Child's actual date of birth/date of placement for adoption (if known):</b>	
<b>Start date of mother/main adopter's/intended parent's maternity/adoption/surrogacy leave (or pay period:*)</b>	
<b>End date of mother/main adopter's/ intended parent's maternity /adoption/surrogacy leave (or pay period *):</b>	

\* the start and end dates of the statutory maternity/adoption/surrogacy pay or maternity allowance period if the mother/main adopter/intended parent is not entitled to statutory leave

## Section 2 - Shared Parental Leave Details

The total amount available is 50 weeks minus the number of weeks leave/pay already taken by the mother/main adopter/intended parent according to the dates given in Section 1.

<b>Total number of weeks SPL available:</b>	
<b>Number of weeks SPL you intend to take:</b>	
<b>Number of weeks SPL the other parent intends to take:</b>	
<b>Indication of start and end dates of SPL that you intend to take:</b>  <i>This indication is non-binding. You must submit a formal period of leave notice for each period of SPL you wish to request for it to be binding. Complete the section below if you wish your request for any/all of these periods of leave to be treated as a period of leave notice</i>	
<b>Do you wish the dates indicated for the period/s of leave to constitute a formal (binding) period of leave notice?:</b> <b>Delete as applicable</b>	Yes/No Yes for the following dates only:

## Section 3 - Shared Parental Pay Details

The total amount of Shared Parental Pay (ShPP) which may be available is 37weeks minus the number of weeks' pay already taken by the mother/main adopter/intended parent according to the dates given in Section1.

<b>Total number of weeks ShPP available:</b>	
<b>Number of weeks ShPP you intend to claim:</b>	
<b>Number of weeks ShPP the other parent intends to claim:</b>	
<b>Indication of start and end dates of your ShPP periods:</b>	

#### Section 4 - Employee Notice Of Curtailment Of Maternity/Adoption/Surrogacy Leave

Complete this section if you are the employee named in this notice and you are the mother or main adopter or intended parent. You must give at least eight weeks' notice of your curtailment date. If you are entitled to maternity leave the curtailment date must be at least two weeks after the birth of your child (four weeks if you work in a factory).

I wish my maternity leave to end on \_\_\_\_\_ (insert date)

#### Section 5 - Employee Declaration

I confirm that I meet the following conditions:

- I am the mother, father or main adopter or intended parent of the child, or the partner of the mother or main adopter;
- I have (or share with the other parent) the main responsibility for the care of the child and am taking SPL in order to care for the child;
- I have at least 26 weeks continuous service with the Council 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):
- I intend to be in continuous employment until the week before any SPL is taken:
- If I am claiming shared parental pay I have average weekly earnings equal to or above the Lower Earnings Limit over the eight week period ending with the relevant week I agree to inform the Council immediately if I cease to meet the conditions for entitlement to SPL or ShPP.

If you are the mother or main adopter or intended parent:

- I have submitted a curtailment of maternity/adoption/surrogacy leave notice by completing Section 4 above

<b>Signature:</b>	
<b>Print Name:</b>	
<b>Date:</b>	

## Section 6 Declaration Of Other Parent

<b>Name:</b>	
<b>Address:</b>	
<b>National Insurance Number::</b>	

I confirm that I meet the following conditions:

- I have at least 26 weeks employment (employed or self-employed) out of the 66 weeks prior to the 15th week before the expected date of birth or at the week in which the main adopter was notified as having been matched for adoption with the child (known as the relevant week);
- I have average weekly earnings of at least £30 during at least 13 weeks of the 66 weeks prior to the relevant week;
- I agree to inform your employee immediately if I cease to meet the two conditions above;
- I consent to your employee taking SLP and ShPP as set out in Sections 2 and 3 above.

If you are the mother/main adopter/intended parent:

- I have curtailed my maternity leave and pay/adoption/surrogacy leave and pay/maternity allowance or will have done so by the time your employee starts SPL.

I consent to you processing the information contained within the declaration.

<b>Signature:</b>	
<b>Name:</b>	
<b>Date:</b>	