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# Shared Parental Leave and Pay Policy

SHARED SERVICES

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Council of the  
ISLES OF SCILLY

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May 2015

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**Law relating to this document:**

The Shared Parental Leave Regulations 2014

The Shared Parental Pay (General) Regulations 2014

The Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014

Employment Rights Act 1996

Child and Families Act 2014

Equality Act 2010

Please see <https://www.gov.uk/shared-parental-leave-and-pay/overview> for more information.

## REVISIONS TO SOURCE DOCUMENT

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Family Friendly Policy (includes Maternity Leave, Paternity Leave and Parental Leave)

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## POLICY STATEMENT

- 1.1 Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child.
- 1.2 All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay.
- 1.3 It is the Council's policy to mirror the legislative requirements in terms of leave and pay entitlement, eligibility and notification arrangements thus reflecting the statutory rights and responsibilities of employees in respect of taking statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).
- 1.4 The Council will offer the statutory rate of pay to employees who choose to take shared parental leave and meet the qualifying criteria for payment. Any Shared Parental Pay due will be paid at a rate set by the Government for the relevant tax year.
- 1.5 The Council may (at its absolute discretion) vary the notification requirements where it deems it appropriate to do so.
- 1.6 The Council reserves the right to check details provided in respect of a partner's employer/employment and relevant arrangements.
- 1.7 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 usual company investigation and disciplinary procedures, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

## SHARED PATERNITY LEAVE AND PAY – SUMMARY FOR MANAGERS

- 2.1 Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) have been introduced to enable mothers/adopters to share the care of their child with their partner in the first year after birth or adoption. It is available to eligible parents of children born/adopted on or after 5th April 2015 and requires the maternity or adoption leave of the parent to be ended in order for shared parental leave to be taken.

### Informal Discussion

- 2.2 You may initially informally discuss the possibility of an employee taking SPL and this will be helpful as it enables the needs and options of employer and employee to be considered and understood by both parties at an early stage. It is also an opportunity for everyone to review the requirements of the formal process so that they are clear what steps must be taken. Advice should also be sought from Human Resources.

## Formal Process

- 2.3 To take SPL and ShPP, the employee has to provide the employer with various notices containing information specified by law and this must be done within specified timescales. You may receive such notices either from an employee who is the parent who was entitled to maternity/adoption leave or the partner of such a parent or both (if they are both line managed by you). When a notice is received, the employer should check that all the information on the form has been provided within the appropriate timescale and then meet with the employee and confirm the response. The manager may wish to consult Human Resources when a notice is received for further advice, however the full details of the required process can be found at the following links to <http://www.acas.org.uk/>
- 2.4 The forms which must be completed by the employee and provided to you are available on the Shared Drive/ Human Resources.
- 2.5 Briefly, you should receive:
- A Notices to Curtail existing leave and pay if your employee is currently on maternity/adoption leave and pay. This is because SPL and ShPP cannot be taken at the same time as maternity/adoption leave.
  - A Notice of Entitlement to take SPL at least 8 weeks before the first period of leave is to begin. This will confirm the employee's eligibility against certain criteria.
  - A Notice to Book leave at least 8 weeks before the period of leave begins. This will specify the dates to be taken as leave.

## Periods of leave

- The first two weeks following birth are compulsory maternity leave and have to be taken by the mother; the maximum amount of SPL available is therefore 50 weeks.
- Leave must be taken in blocks of complete weeks, as one continuous period of leave or a number of discontinuous periods.
- A 'Continuous Block' of leave is an entitlement regardless of agreement by the employer if the SPL procedure has been followed correctly.
- 'Discontinuous Blocks' of leave may be refused by the employer and automatically become one continuous block of leave if refused (unless the SPL request is withdrawn).
- Parents can decide to be off work at the same time or take it in turns.
- The SPL entitlement must be taken within 52 weeks of birth/match date.

## **Statutory Shared Parental Pay (ShPP)**

- 2.6 If the mother is entitled to Statutory Maternity/Adoption Pay/Allowance and she gives notice to curtail her entitlement, the remaining weeks' pay become available as ShPP.

### **Action required by Managers on receipt of formal notices**

- 2.7 You must liaise immediately with Payroll as soon as you receive a formal notice relating to SPL/ShPP otherwise the employee will receive incorrect pay.

### **Rights during SPL**

- 2.8 All terms & conditions of employment remain during a period of SPL except that of normal pay. This means, for example, that annual leave is accrued and those on parental leave must be consulted regarding any proposed re-structure. They are also entitled to be offered any suitable alternative vacancy in a redundancy situation.

### **Contact during SPL**

- 2.9 The employer can maintain reasonable contact with the employee whilst on SPL. In addition, up to 20 'Shared Parental Leave in Touch' Days (SPLIT Days) can be worked by the employee but these must be mutually agreed and there is no obligation for either employee or employer to offer or accept them.

### **Returning to work after SPL**

- 2.10 The employee has the right to return to the same job if returning within 26 weeks or less.
- 2.11 After 26 weeks, there is a right to return to the same job unless it is not reasonably practicable. In these circumstances the employee has the right to return to another suitable role.

## **WHAT IS SHARED PARENTAL LEAVE?**

- 3.1 SPL is a new legal entitlement for eligible parents of babies due, or children placed for adoption, on or after 5 April 2015. It provides both parents with the opportunity to consider the best arrangement to care for their child during the child's first year.
- 3.2 The amount of leave available is calculated using the mother's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL. This means their partner could begin to take SPL while the mother is still on maternity/adoption leave.

- 3.3 SPL enables parents to share the caring responsibilities evenly or have one parent taking the main caring role, depending on their preferences and circumstances.
- 3.4 Employers and employees will find that having early conversations regarding leave intentions will be beneficial, enabling them both to be clear regarding the entitlement, what leave arrangements are being considered and how any leave will be accommodated.
- 3.5 This guide outlines the arrangements and notification requirements before a period of SPL and the entitlement to Shared Parental Pay (ShPP) during SPL.

## WHAT HAPPENS TO MATERNITY / ADOPTION / PATERNITY LEAVE?

- 4.1 Parents will remain entitled to take maternity, paternity and adoption leave. However, an eligible mother or adopter may now choose to reduce their maternity/adoption leave early and opt in to SPL.
- 4.2 A birth mother must take at least two weeks maternity leave following the birth of a child (four weeks for manual work in a factory environment) but can otherwise choose to end her maternity leave at any stage. An adopter can end their adoption leave once they have taken it for two weeks.

## SCOPE

- 5.1 This guidance applies to all employees who opt into shared parental leave.
- 5.2 Surrogacy - Intended parents in surrogacy who meet certain criteria will be eligible for statutory adoption leave and pay and SPL and ShPP.

## ELIGIBILITY TO SPL

- 6.1 To trigger the right to SPL for one or both parents, the mother/adopter must:
  - have a partner
  - be entitled to maternity/adoption leave; or to statutory maternity/adoption pay or maternity allowance (if not eligible for maternity/adoption leave)
  - have curtailed, or given notice to reduce, their maternity/adoption leave, or their pay/allowance (if not eligible for maternity/adoption leave).
- 6.2 A partner who intends to take SPL must:
  - be an employee
  - share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption
  - have properly notified their employer of their entitlement and have provided the necessary declarations and evidence.

6.3 In addition, a parent wanting to take SPL is required to satisfy the ‘continuity of employment test’ and their partner must meet the ‘employment and earnings test’.

**Continuity of employment test**

The individual has worked for the same employer for at least 26 weeks at the end of the 15th week before the child’s expected due date/matching date and is still working for the employer at the start of each leave period.

**Employment and earnings test**

In the 66 weeks leading up to the baby’s expected due date/ matching date, the person has worked for at least 26 weeks and earned an average of at least £30 (as of 2015) a week in any 13 weeks.

6.4 Sometimes only one parent will be eligible. For example a self-employed parent will not be entitled to SPL themselves but they may still pass the employment and earnings test so their partner, if they are an employee, may still qualify for SPL allowing them to request to take their leave in discontinuous blocks (see below).

6.5 If both parents are employees and both meet the qualifying requirements then there will be a joint entitlement and the parents will have to determine how to divide the leave entitlement once the mother has decided to curtail their maternity/adoption leave.

6.6 The mother can share her leave with only one other person.

**ENTITLEMENT TO SHARED PARENTAL LEAVE**

7.1 Eligible parents will be able to share a maximum of 50 weeks leave and 37 weeks statutory pay (calculated with 2 weeks compulsory leave removed), for the purpose of caring for a child within the first year of the child’s life or in the year after the child is placed for adoption.

7.2 Shared parental leave cannot be taken until after the birth/placing of the child and only applies to babies born or children placed on or after 5th April 2015.

7.3 Partners do not have to work for the Council of the Isles of Scilly but they must satisfy minimum employment and earnings criteria as per legislation.

**CONSIDERING IF SHARED PARENTAL LEAVE IS SUITABLE**

8.1 Not everyone will meet the criteria to qualify for SPL but even those who are eligible may find that other arrangements suit them better. It will be sensible for parents to give serious consideration as to which option will be most beneficial to their situation.

8.2 In relation to SPL, considerations may include:

- Whether one or both parents qualify for SPL and how they would like to share the care of the child?
- Whether the mother is prepared to reduce their maternity/adoption leave?



- Is there a contractual entitlement to enhanced maternity/adoption/ paternity/SPL pay and would reducing the mother's maternity/adoption leave impact on this?
  - Availability of other legal rights (such as flexible working requests, annual leave and parental leave) and how they could work alongside SPL?
  - The wider financial implications to the family e.g. pay and pensions.
- 8.3 If parents don't choose SPL at first, they have the option to use it at a later date while they are still eligible. For example, six months into a maternity leave period, a mother may choose to reduce their maternity leave by two months, giving their partner the chance to take those two months as SPL (provided they give eight weeks' notice to their employer and take the SPL within a year of the birth/adoption).

## PERIODS OF LEAVE (CONTINUOUS AND DISCONTINUOUS)

9.1 Shared Parental Leave can:-

- start on any day of the week
- only be taken in complete weeks (so if SPL lasts for one week and begins on a Tuesday it will finish on the following Monday)
- be taken using three separate notices to book leave (although an employer could decide to accept more)
- be taken by the partner, while the mother is still on maternity/adoption leave if the mother reduces their entitlement to maternity/adoption leave.

9.2 Each notice to book SPL can be for either a 'continuous' block or multiple 'discontinuous' blocks.

9.3 Notifying an employer of a continuous block means taking an unbroken period of leave. For example, this could be a notification for a period of six weeks' leave. Eligible employees have a statutory right to take SPL in this way and an employer cannot refuse it.

9.4 Requesting a discontinuous block means asking for leave over a period of time, with breaks between the leave where the employee returns to work. For example, four weeks' SPL followed by three weeks back at work, followed by a further four weeks' SPL. Discontinuous leave, in a single notice, can only be taken with the employer's agreement and is most likely to be accepted where the needs of the employer and employee have both been considered.

9.5 Once a request for discontinuous leave is made the employee and employer will have a discussion period of 14 calendar days to talk about the request.

- 9.6 If a request for discontinuous leave is not agreed then the total amount of leave in the request must be taken as one continuous block unless the employee withdraws their notice and submits a new request (see the Default Provisions Section 11).
- 9.7 Provided that both parents qualify for SPL you can choose to take leave at the same time as your partner or you can take your leave separately. You may take one or more periods of shared parental leave per pregnancy or adoption.

Factors for employees	Factors for employer
<ul style="list-style-type: none"> <li>essential dates where leave must take place</li> <li>leave needs of partner</li> <li>desire for and availability of childcare options</li> <li>impact on career/pension etc</li> <li>the need to maintain own wellbeing.</li> </ul>	<ul style="list-style-type: none"> <li>important events/days planned</li> <li>any challenging/busy periods coming up</li> <li>how the role will be covered</li> <li>staffing issues during the period</li> <li>customer impact in client-facing</li> </ul>

- 9.8 Finally, for both types of SPL arrangements, it is important to consider how reliant a parent is on the proposed pattern the other parent is seeking to agree. Where both parents are taking continuous leave, this consideration is minimal because the patterns must be accepted by the respective employers. Where the care of the child is dependent on one or both of the parents agreeing discontinuous leave arrangements and one is refused, one or both parents may need to withdraw their notification and make new amended ones.
- 9.9 Having an early discussion can be helpful for an employee to explore options, find out what discontinuous leave arrangements the employer may be agreeable to, and what plans the employer has to accommodate the leave. It is good practice for employees and employers to do this before formal notices to book leave are given.

**I WOULD LIKE TO ARRANGE SHARED PARENTAL LEAVE – WHAT ACTION IS REQUIRED?**

**Curtailment notice – Complete Annex 1**

- 10.1 Anyone eligible and intending to take shared parental leave must submit a maternity/adoption leave curtailment notice, giving at least 8 weeks’ notice stating that they wish to end their maternity or adoption leave early. By not doing so (or not opting into SPL), employees are automatically on maternity and/or paternity policies. Once the employee has ended their maternity/adoption leave, and have returned to work they will only be entitled to statutory pay during periods of shared parental leave. At that point they cannot revert back onto maternity/adoption leave.

If the mother is not entitled to maternity/adoption leave (for example because they are self-employed), they must have ended, or given notice to reduce, their maternity/adoption pay period or maternity allowance period, for their partner to be eligible for SPL.

**Notice of Intention to take Shared Parental Leave – Annex 2a (if mother is employee) or Annex 2b (if partner is employee)**

10.2 If you decide to take SPL instead of traditional maternity leave, a notice of entitlement and intention to take shared parental leave must be submitted using Annex 2a (if mother) or 2b (if partner). This should be submitted at the same time as the maternity/adoption curtailment notice and cannot be later than 8 weeks before the date of the first period of shared parental leave.

10.3 The notice of entitlement to take SPL must include:

- how many weeks maternity/adoption leave (or maternity/adoption pay or maternity allowance if the mother was not eligible for maternity/adoption leave) has been/will be taken
- how much leave both parents are entitled to take
- how much leave each parent intends to take
- when they expect to take their leave
- the signatures of both parents.

10.4 A full list of what must be included in the employee's notice is laid out in the form.

10.5 The notice of entitlement must be accompanied by a declaration from the employee's partner that at the time of the birth they:

- share the main responsibility for the care of the child with the employee
- meet the employment and earnings test
- consent to the employee taking the number of weeks of SPL specified in the employee's notice of entitlement.

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

**Notice to Book Leave – Annex 3**

10.7 You must have already submitted a notice of entitlement and intention before using this form.

10.8 The start date of the first period of SPL that you wish to take must be at least 8 weeks after you have provided this notice.

10.9 A request for a single block of SPL must be accepted (if eligible and entitled)

10.10 If a request is for more than a single block, the Manager may:

- A. Agree to your request
- B. Decline your request due to organisation need
- C. Propose alternative dates

10.11 Although a request for discontinuous leave can be refused, the entitlement remains and the number of weeks requested in the notice will default to a single block of continuous leave. If you do not want this you will need to withdraw your notice and submit a new request (see the Default Provisions in the next section)

10.12 Up to three separate requests for periods of shared parental leave and three withdrawal notices may be submitted. Any periods of leave that have been declined do not count towards these totals.

### DEFAULT PROVISIONS (FOR DISCONTINUOUS LEAVE ONLY)

11.1 Understanding the default provisions is essential because they could make the difference between an employee withdrawing their notification (and possibly applying again) or taking a continuous block of SPL instead.

Within 14 calendar days of the original notification...

If an agreement is reached regarding when the employee will take their leave, no default provisions will apply. If no agreement is reached or the employer refuses the discontinuous leave notification or the employer makes no response to a discontinuous leave notification, the default provisions will apply.

Within 15 calendar days of the original notification...

If no agreement is reached, the employee may withdraw their discontinuous leave notification. If the employee does withdraw the request it will not count as one of their three notices to book leave. If the employee does not withdraw their request, the discontinuous leave notification automatically defaults to a period of continuous leave.

Within 19 calendar days of the original notification...

The employee can choose when the continuous leave will commence but it cannot start sooner than eight weeks from the date the original notification was given. If the employee does not choose, the start date automatically defaults to the date the requested discontinuous leave would have first started.

## POTENTIAL OUTCOMES OF SHARED PARENTAL LEAVE REQUESTS

- 12.1 Depending on the circumstances involved, there are four possible outcomes once we have received, considered and discussed a notice to book SPL:
- A. Accept a leave notification
  - B. Confirm and agree modification to a leave notification
  - C. Refuse a leave notification (discontinuous leave only)
  - D. No response to a leave notification
- A. Accept a leave notification**
- 12.2 Agreement will be confirmed in writing within 14 calendar days of notification being received, confirming the relevant leave dates being taken. A continuous leave notification must be accepted (where the employee is eligible and entitled).
- B. Confirm an agreed modification to a leave notification**
- 12.3 If the employer and employee agree a different discontinuous leave arrangement to the one originally requested by the employee, both should confirm their agreement, ideally in writing, within 14 calendar days of the date the notification was received, confirming the agreed dates. The new arrangement could include different dates/duration to the pattern originally requested or could be a move to a continuous leave arrangement instead.
- 12.4 There is no legal requirement for an employee to change a continuous leave notification but if they are agreeable to a modification then this may be agreed instead. An employee should not be put under any pressure to change the period or face any detriment if they refuse.
- 12.5 A modification in either of these instances will not count as a further statutory notification and this should be confirmed in writing.
- C. Refuse a leave notification (discontinuous leave only)**
- 12.6 Where the employer is not immediately agreeable to a notification for discontinuous leave they should always seek to arrange a meeting to discuss the request with the employee. If the notification remains unacceptable to an employer, they should provide the following, ideally in writing, within 14 calendar days of the date the notification was given:
- 12.7 Proposed alternative dates (wherever the option is viable) for the employee to consider
- AND
- A confirmation of their refusal

AND

Clear information on what options are now available to the employee i.e. withdraw, move to the default provisions or agree a modified arrangement.

- 12.8 If no agreement is reached then the employee and employer need to be mindful of the default provisions (see Default Provisions section 11.0)

**D. No response to a leave notification**

- 12.9 We hope that this possible outcome would be avoided in all cases! If you haven't had a response to your request please follow it up with your manager to check your notification has been received. A continuous leave notification must be accepted. If no response is made to such a notification the employee has the right to take the leave as outlined in the notification.

- 12.10 If a response is not provided to a request for discontinuous leave it will be regarded as having been refused and the employee and the employer need to be mindful of the default provisions (Section 11.0).

**WHAT HAPPENS IF PARENTS CHANGE THEIR MINDS ABOUT OPTING IN TO SPL?**

- 13.1 Once the mother has given notice to end maternity/adoption leave and either parent has informed their employer of their entitlement to take SPL then the notice to end maternity leave is binding and cannot be withdrawn unless:

- within eight weeks of the mother submitting notice to end their maternity/adoption leave it transpires that neither parent qualifies for SPL or ShPP
- when notice was given before birth, it may be withdrawn without a reason up to six weeks following the birth
- the mother's partner dies.

**WHAT HAPPENS IF PARENTS CHANGE THEIR MINDS ABOUT HOW THEY DIVIDE THEIR SPL?**

- 14.1 If there is a joint entitlement to SPL, parents will have notified their respective employers of how much leave they each intend to take as part of the entitlement notice. They can vary this allocation of leave between them at any stage. To vary this, both parents must notify each employer in writing of the following:

- details of their original division of leave
- advising of the fact they are changing it
- advising how they now intend to take the available SPL.

- 14.2 Both parents must sign the notice to confirm that they are in agreement with the variation. If leave was booked that will no longer take place, a notice to vary leave must also be made.

## REQUEST TO CHANGE / VARY PERIOD OF LEAVE – FORM 4

- 15.1 Situations will arise where an employee may need to vary or cancel a period of booked leave. An employee should give written notice to vary/cancel their leave and make clear what change they are seeking. Any variation must be made at least eight weeks before the dates varied begin.
- 15.2 A notice to vary booked SPL will count as a further notification. Therefore if the employee had originally agreed the leave as part of their first notice to book SPL, cancelling or varying the leave would count as a second notification, meaning, unless the employer allowed them to give more notices, they would only have one further notification to use any remaining leave.
- 15.3 If the employee has already used up all of their notifications the employer is under no obligation to agree to vary/cancel the leave but could still consider the request and decide whether it is reasonably practicable to grant it.
- 15.4 Instances where the employer proposes a variation to leave, and the employee is agreeable, would not count as a further notification and this should be confirmed in writing.

## ELIGIBILITY FOR SHARED PARENTAL PAY (SHPP)

- 16.1 A mother, subject to certain criteria, will be entitled to statutory maternity pay/adoption pay/Maternity Allowance for up to 39 weeks. If the mother gives notice to reduce their entitlement before they have received it for 39 weeks any remaining weeks could become available as ShPP.
- 16.2 Information on the current statutory rate for ShPP can be found at <https://www.gov.uk/shared-parental-leave-and-pay/what-youll-get> . If both parents qualify for ShPP they must decide who will receive it, or how it will be divided, and they must each inform their employer of their entitlement.
- 16.3 To qualify for ShPP an employee needs to have met the ‘continuity of employment test’ and their partner must meet the ‘employment and earnings test’, just like SPL. In addition, the employee must also have earned above the ‘Lower Earnings Limit’ in the 8 weeks leading up to and including the 15th week before the child’s due date/matching date and still be employed with the same employer at the start of the first period of ShPP.
- 16.4 If an employee’s employment comes to an end while they are still entitled to some ShPP then any remaining weeks will usually remain payable unless they start working for someone else.

## CONDITIONS OF EMPLOYMENT

- 17.1 Expecting employees have the right not to be dismissed or discriminated against for any reason connected with their pregnancy or SPL.
- 17.2 During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a laptop and mobile phone) will continue and contractual annual leave entitlement will continue to accrue. Pension contributions will continue to be made during any period when the employee is receiving Shared Parental Pay (ShPP) but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the organisation's contributions will be based on the salary that the employee would have received had they not been taking SPL.
- 17.3 Just like maternity, adoption and paternity leave employees still accrue annual leave while on SPL. Employees are reminded that holiday 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 holiday year.
- 17.4 You have the right to return to the same job if you have been on shared parental leave plus any other type of leave for 26 weeks or less. If you have been on leave for more than 26 weeks you have the right to return to the same job unless this is not reasonably practicable. If due to organisational change your role no longer exists you would be managed in accordance with other employees in the service area.

## SPLIT DAYS (SHARED PARENTAL LEAVE IN TOUCH DAYS)

- 18.1 An employee can agree to work for the Council (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave In Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.
- 18.2 The Council has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's SPL. Any work undertaken is a matter for agreement between the Council and the employee. An employee taking a SPLIT day will receive contractual pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of SPL.
- 18.3 An employee, with the agreement of the Council, may use SPLIT days to work part of a week during SPL. The Council and the employee may use SPLIT days to affect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.



- 18.4 The 20 SPLIT days per parent are in addition to the 10 KIT days the mother could take on her maternity leave.

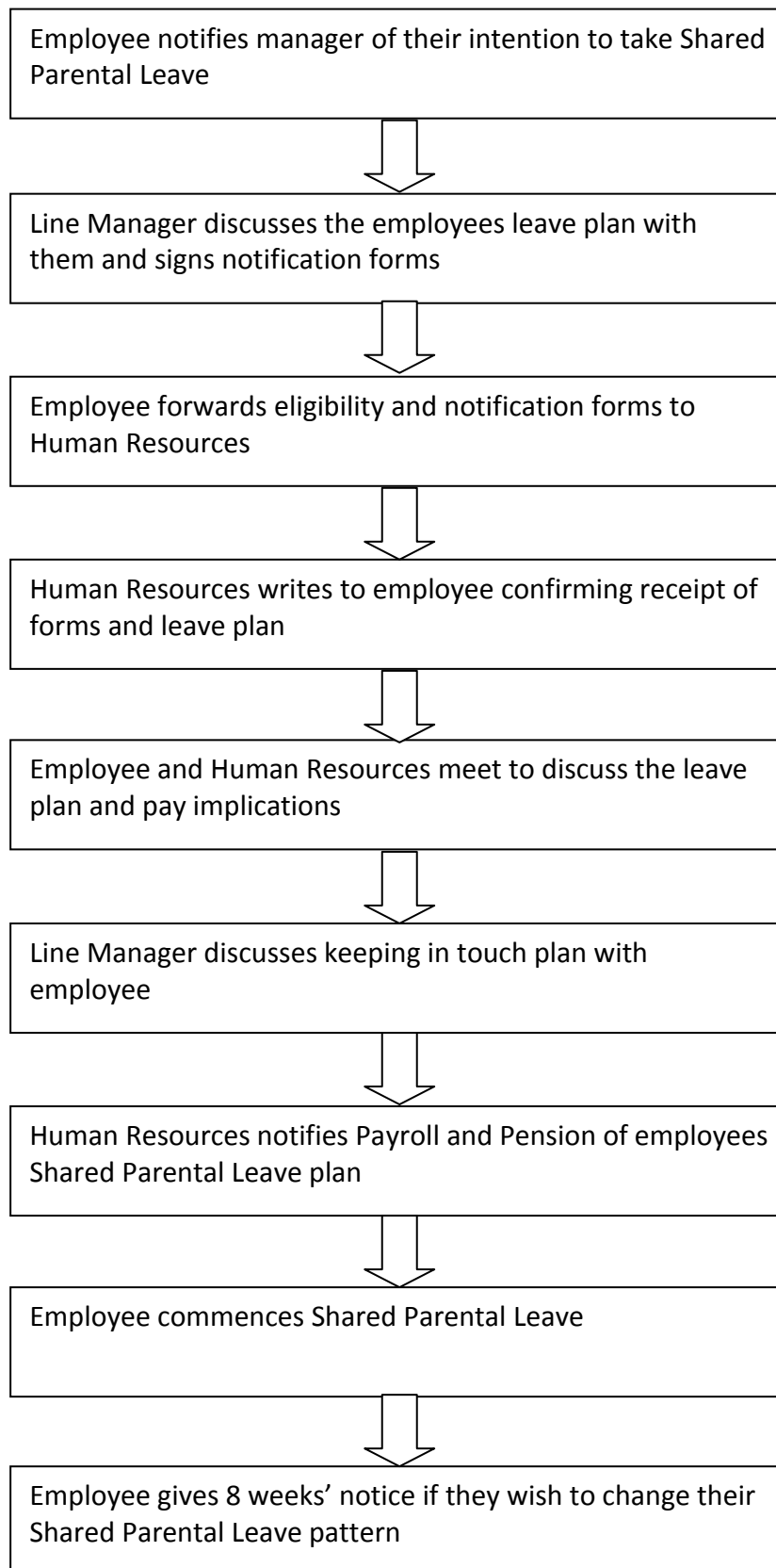
#### RETURNING FROM SPL

- 19.1 The employee will have been formally advised in writing by payroll of the end date of any period of SPL. The employee is expected to return on the next working day after this date, unless they notify the Council otherwise. If an employee is unable to attend work due to sickness or injury, our normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence. If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the Council at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the Council does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

#### FALSE DECLARATION

- 20.1 The Council can, where there is a suspicion that fraudulent information may have been provided or where the Council has been informed by the HMRC that a fraudulent claim was made, carefully investigate the matter further in accordance with the usual disciplinary procedures, and without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

## APPENDIX 1 – SHARED PARENTAL LEAVE FLOWCHART



**ANNEX 1: CURTAILMENT OF MATERNITY LEAVE AND PAY (FOR MOTHER'S EMPLOYER)**

<b>SECTION A: General (must be completed)</b>	
Please accept this as my notice to curtail my maternity leave and/or SMP. This form is accompanied by notification that either I intend to take SPL and/or ShPP or that my partner intends to take SPL and/or ShPP. I understand that my maternity leave will end on the date given in Section B and that my SMP will end on the date given in Section C. I understand that I can only reinstate my maternity leave if I revoke this notice before the curtailment date given in Section B. I understand that if I am eligible for myself or my partner to opt into SPL and ShPP I can only reinstate my SMP if I revoke this notice before the end date given in Section C.	
Mother's surname	
Mother's first name(s)	
Child's expected date of birth	
Actual date of child's birth (if born)	
<b>SECTION B: Curtailing maternity leave (must be completed)</b>	
Date statutory maternity leave started/is intended to start	
Date statutory maternity leave will come to an end	
Total number of weeks of statutory maternity leave that will have been taken at the date that statutory maternity leave ends	
<b>SECTION C: Curtailing maternity pay (only complete if claiming ShPP)</b>	
Date SMP started/is intended to start	
Date SMP will come to an end	
Total number of weeks of SMP that will have been paid at the date that SMP ends	
<b>SECTION D: Signature (must be completed)</b>	
Signature of mother	
Date signed	

**ANNEX 2A: NOTIFICATION THAT MOTHER IS INTENDING TO TAKE SPL (FOR MOTHER'S EMPLOYER)**

<b>SECTION A: General (must be completed)</b>	
Please accept this as notification that I (the mother) am entitled to and intend to take SPL (and ShPP if section C is completed).	
Mother's Surname	
Mother's First name(s)	
Partner's surname	
Partner's first name(s)	
Partner's Address	
Partner's National Insurance number (State 'none' if no number is held)	
Child's expected date of birth	
Actual date of child's birth (if child not yet born I will provide this information as soon as reasonably practicable following birth and before I take any SPL)	
<b>SECTION B: Maternity entitlement details (all answers that apply must be completed)</b>	
Date mother started (or intends to start) statutory maternity leave	
Date mother's statutory maternity leave ended (or will end)	
Total number of weeks of statutory maternity leave that will have been taken at the date that statutory maternity leave ends	
Date mother started (or intends to start) SMP or MA	
Date mother's SMP or MA ended (or will end)	
Total number of weeks SMP or MA has been paid or will have been paid at date of curtailment	
Total number of weeks by which SMP or MA will be reduced (i.e. 39 weeks minus total number of weeks SMP or MA has been paid or will have been paid at date of curtailment)	
<b>SECTION C: Amount of SPL available (must be completed)</b>	
Total number of weeks of SPL created (52 weeks less total number of maternity weeks taken and any SPL from a previous notice and revocation)	

Total number of weeks of SPL I (the mother) intend to take	
Total number of weeks of SPL my partner intends to take	
<b>SECTION D: Indication of Mother's leave intentions (must be completed but is not binding)</b>	
I (the mother) currently expect to take SPL as follows:	
Note: It will usually be helpful to answer this in a "From... To..." format	
<b>SECTION E: Amount of ShPP available (only complete if claiming ShPP)</b>	
Total number of weeks of ShPP created (39 weeks less total number of SMP taken and any ShPP paid from a previous notice and revocation)	
Total number of weeks of ShPP I (the mother) intend to take:	
Total number of weeks of ShPP my partner intends to take:	
I (the mother) currently expect to take ShPP as follows:	
Note: It will usually be helpful to answer this in a "From... To..." format	
<b>SECTION F: Mother's declaration (must be completed)</b>	
<b>The following points apply in all circumstances where a mother is entitled to maternity leave:</b>	
<ul style="list-style-type: none"> <li>• I am giving notice that I am entitled to and intend to take SPL</li> <li>• I have, or will have, been continuously employed for 26 weeks at the end of the 15<sup>th</sup> week before the week in which the child is due</li> <li>• I will remain employed with this employer until any period of SPL that I intend to take</li> <li>• I had (or will have) the main responsibility for the care of the child at the time of the child's birth (along with my partner who has made the declaration below)</li> <li>• I am entitled to maternity leave, my maternity leave period is reduced and the remaining weeks are now available as SPL</li> <li>• I will inform my employer immediately if I am no longer caring for my child</li> <li>• I will give my employer a copy of my child's birth certificate or a declaration of the date and place of the birth where no certificate is available if my employer asks for this within 14 days of the date of this notice</li> <li>• I will give my employer the name and address of my partner's</li> </ul>	

employer or a declaration that they do not have an employer if my employer asks for this within 14 days of the date of this notice

- I (or my partner) have given a period of SPL notice
- The information provided in this declaration is accurate and meets the notification requirements for SPL

**The following points only apply if Section E has been completed:**

- I am giving notice that I am entitled to and intend to take ShPP
- I have been (or will be) paid at least the Lower Earnings Limit in the 8 weeks leading up to the end of the 15<sup>th</sup> week before the expected week of childbirth
- I am entitled to SMP in respect of the birth of our child, my maternity pay period is reduced and the period that remains is available as ShPP
- I will be absent from work in each week in which I will be paid ShPP and I will be on SPL in those weeks (if entitled to SPL)
- I intend to care for my child in the weeks I receive ShPP
- I will remain employed with this employer until before the date of my first period of ShPP
- I will immediately inform the person who will be paying ShPP if I revoke the curtailment of my SMP or MA
- The information provided in this declaration is accurate

Signature of mother	
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Date mother signed	
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**SECTION G: Partner's declaration (must be completed)**

- I am the father of the child, or at the date of the birth I was/will be the mother's spouse, the mother's civil partner and/or the mother's partner living with her and the child in an enduring relationship
- I had (or will have) the main responsibility for the care of our child at the time of the birth (along with the child's mother)
- I have been (or will have been) employed or self-employed in England, Scotland or Wales in 26 weeks of the 66 weeks before the expected week of birth
- I have (or will have) earned in total at least £390 in 13 weeks of the 66 weeks before the expected week of childbirth
- I consent to the amount of SPL which the mother intends to take, as set out in Section D above.
- I consent to the mother's employer processing the information I have provided
- I consent to the amount of ShPP which the mother intends to take, as set out in Section E above.
- The information provided in this declaration is accurate

Signature of partner	
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Date partner signed	
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**ANNEX 2B: NOTICE CONFIRMING THAT PARTNER IS TAKING SPL BUT MOTHER IS NOT (FOR MOTHER'S EMPLOYER)**

<b>SECTION A: General (must be completed)</b>	
Please accept this as notification that I (the mother) do not intend to take SPL (or ShPP where relevant) but that my partner will be.	
Mother's surname	
Mother's first name(s)	
<b>SECTION B: Confirmation</b>	
<ul style="list-style-type: none"> <li>• I am either not entitled to SPL (or ShPP where relevant), or I do not intend to take SPL (or claim ShPP where relevant)</li> <li>• I declare that my partner has given a notice to their employer to take SPL and/or ShPP.</li> <li>• I consent to my partner's intended claim for SPL and/or ShPP.</li> </ul>	
<b>SECTION C: Signature (must be completed)</b>	
Signature of mother	
Date signed	

**ANNEX 2C: NOTIFICATION THAT PARTNER IS INTENDING TO TAKE SPL (FOR PARTNER'S EMPLOYER)**

<b>SECTION A: General (must be completed)</b>	
Please accept this as notification that I (the mother's partner) am entitled to and intend to take SPL (and ShPP if section C is completed).	
Partner's Surname	
Partner's First name(s)	
Mother's surname	
Mother's first name(s)	
Mother's Address	
Mother's National Insurance number (State 'none' if no number is held)	
Child's expected date of birth	
Actual date of child's birth (if child not yet born I will provide this information as soon as reasonably practicable following birth and before I take any SPL)	
<b>SECTION B: Maternity entitlement details (all answers that apply must be completed)</b>	
Date mother started (or intends to start) maternity leave (if applicable)	
Date mother's maternity leave ended (or will end) (if applicable)	
Total number of weeks of maternity leave taken (or that will be taken) when maternity leave ends	
Date mother started (or intends to start) SMP or MA (if applicable)	
Date mother's SMP or MA ended (or will end) (if applicable)	
Total number of weeks SMP or MA has been paid or will have been paid at date of curtailment	
Total number of weeks by which SMP or MA will be reduced (i.e. 39 weeks minus total number of weeks SMP or MA has been paid or will have been paid at date of curtailment)	



**SECTION C: Amount of SPL available (must be completed)**

The total number of weeks of SPL created depends on the mothers leave and pay entitlements:

- If the mother was/is entitled to maternity leave and SMP/MA, the total created will be 52 weeks less any weeks maternity leave taken
- If the mother was/is entitled to maternity leave but not to SMP or MA, the total created will be 52 weeks less any weeks maternity leave taken
- If the mother was/is not entitled to maternity leave but was entitled to SMP/MA, the total created will be 52 weeks less any weeks of SMP/MA that was paid
- If the mother previously revoked her curtailment notice any SPL that was taken by the partner must be deducted

Total number of weeks of SPL created (50 max)	
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Total number of weeks of SPL I (the partner) intend to take	
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Total number of weeks of SPL the mother intends to take (if applicable)	
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**SECTION D: Indication of Partner's leave intentions (must be completed but is not binding)**

I (the partner) currently expect to take SPL as follows:

Note: It will usually be helpful to answer this in a "From... To..." format

**SECTION E: Amount of ShPP available (only complete if claiming ShPP)**

Total number of weeks of ShPP created (39 weeks less total number of SMP/MA taken and any ShPP paid from a previous notice and revocation)	
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Total number of weeks of ShPP I (the partner) intend to take:	
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Total number of weeks of ShPP mother intends to take:	
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I (the partner) currently expect to take ShPP as follows:

Note: It will usually be helpful to answer this in a "From... To..." format

**SECTION F: Partner’s declaration (must be completed)**

**The following points apply in all circumstances:**

- I am giving notice that I am entitled to and intend to take SPL
- I am the father of the child, or at the time of the birth I was/will be the mother’s spouse, the mother’s civil partner and/or the mother’s partner living with her and the child in an enduring relationship
- I have been (or will be) continuously employed for 26 weeks at the end of the 15<sup>th</sup> week before the week in which the child is due
- I will remain employed with this employer until any period of SPL that I intend to take
- I had (or will have) the main responsibility for the care of our child at the time of the child’s birth (along with the child’s mother who has made the declaration below)
- I will give my employer a copy of my child’s birth certificate or a declaration of the date and place of the birth where no certificate is available if my employer asks for this within 14 days of the date of this notice
- I will give my employer the name and address of the mother’s employer or a declaration that she does not have an employer if my employer asks for this within 14 days of the date of this notice
- I will inform my employer immediately if I am no longer caring for our child or if my partner revokes her notice to curtail her maternity leave or SMP/maternity allowance period
- I (or my partner) have given a period of SPL notice
- The information provided in this declaration is accurate and meets the notification requirements for SPL

**The following points only apply if Section E has been completed:**

- I am giving notice that I am entitled to and intend to take ShPP
- I have been (or will be) paid at least the Lower Earnings Limit in the 8 weeks leading up to the end of the 15<sup>th</sup> week before the expected week of childbirth
- I intend to care for my child in the weeks I receive ShPP
- I will be absent from work in each week in which I will be paid ShPP and I will be on SPL in those weeks (if entitled to SPL)
- I will remain employed with this employer until before the date of my first period of ShPP
- The information provided in this declaration is correct

Signature of partner

Date partner signed

**SECTION G: Mother's declaration (must be completed)**

**The following points apply in all circumstances:**

- I had (or will have) the main responsibility for the care of the child at the time of the birth (along with my partner who has made the declaration above)
- I am entitled to maternity leave and/or SMP or MA in respect of the child and I have curtailed (or will curtail) my entitlement to maternity leave (or I have returned to work) and/or my entitlement to SMP or MA.
- I have, or will have, been employed or self-employed in England, Scotland or Wales in 26 weeks of the 66 weeks before the expected week of childbirth
- I have (or will have) earned in total at least £390 in 13 weeks of the 66 weeks before the expected week of birth
- I will immediately inform my partner if I revoke my notice to curtail my maternity leave or, if I am not entitled to maternity leave, my SMP or MA entitlement
- I consent to my partner's intended SPL as set out in Section D above
- I consent to my partner's employer processing the information I have provided
- The information provided in this declaration is accurate and meets the notification requirements for SPL

**The following points only apply if Section E has been completed:**

- I am entitled to SMP or MA, and I have reduced (or will reduce) the SMP or MA period and the remainder will be available as ShPP
- I consent to my partner's intended ShPP as set out in Section E above
- I will immediately inform my partner if I revoke the reduction of my SMP or MA
- I consent to the person who will pay ShPP to my partner or the child's father processing the information I have provided
- The information provided in this declaration is correct

Signature of mother

Date mother signed

### ANNEX 3: NOTICE BOOKING A PERIOD OF SPL (PERIOD OF LEAVE NOTICE)

These are the letters needed to give your employer notification that you are taking a period of Shared Parental Leave (SPL). The letters can also be used to indicate if you wish to take Shared Parental Pay (ShPP) for any of the dates you have specified.

<b>What letter needs to be completed?</b>	
Notice booking a period of <b>continuous</b> SPL	Complete this if you want to book a period of SPL that is taken in one block. Your employer must accept this, although they can discuss it with you.
Notice booking a period of <b>discontinuous</b> SPL	Complete this if you want to book in a single notice SPL weeks that are arranged around some weeks where you want to work and some weeks where you want to take SPL. Your employer can refuse this or discuss it with you. However, if you do not reach an agreement with your employer, there are default provisions you can read about in the Acas guidance.

- You will need to edit your letter where the text is **in bold**. You will need to add in dates, personal details or delete parts that do not apply to you.
- If you don't want to claim ShPP for this particular notice, or if you don't qualify for ShPP, delete the parts in the letter that are about pay.
- You can only make notifications when you have confirmed your eligibility and entitlement to SPL and/or ShPP with both your own employer and the employer of the person you are sharing this entitlement with.
- You can usually make up to 3 separate statutory notifications
- You must give 8 weeks' notice of any SPL or ShPP you want to take
- To find out more about the points above and SPL and ShPP in general go to [www.acas.org.uk/spl](http://www.acas.org.uk/spl)
- Parents and employers should keep a copy of any completed notices
- Some employers may provide their own standard notices for employees to use

**[INSERT YOUR ADDRESS]**

**[INSERT THE DATE YOU PRINT OR SEND THE LETTER]**

Dear **[INSERT THE NAME OF YOUR EMPLOYER]**

## **Notice booking a period of continuous Shared Parental Leave (SPL)**

My current remaining entitlement to SPL is **[INSERT THE TOTAL NUMBER OF WEEKS OF SPL YOU HAVE LEFT]** weeks.

This is my **[INSERT 'FIRST', 'SECOND' OR 'THIRD' AS APPROPRIATE]** statutory notification to book leave.

This notice is to book a period of **[INSERT THE NUMBER OF WEEKS SPL YOU WANT TO TAKE]** weeks of SPL.

I will be taking a continuous period of leave from **[INSERT WHEN YOU WANT TO START YOUR SPL]** to **[INSERT WHEN YOU WANT TO END YOUR SPL]**.

My current remaining entitlement to Statutory Shared Parental Pay (ShPP) is **[INSERT THE TOTAL NUMBER OF WEEKS OF SPL YOU HAVE LEFT]** weeks.

During my period of SPL I would like to receive **[INSERT THE NUMBER OF WEEKS SHPP YOU WANT TO TAKE]** weeks ShPP.

I would like this paid from **[INSERT WHEN YOU WANT TO START YOUR SHPP]** to **[INSERT WHEN YOU WANT TO END YOUR SHPP]**.

Yours sincerely

**[INSERT YOUR NAME AND SIGNATURE]**