

BRACKNELL FOREST BOROUGH COUNCIL

SHARED PARENTAL LEAVE POLICY

POLICY AND GUIDELINES FOR EMPLOYEES

1. SCOPE AND PURPOSE

- 1.1 This document sets out the Council's Policy for Shared Parental Leave (SPL) which has been agreed by the Council's Employment Committee.
- 1.2 This policy applies to all Council Employees (excluding those employed in Schools) whether they are the mother, adopter or the partner.

2. INTRODUCTION - WHAT IS SHARED PARENTAL LEAVE (SPL)?

- 2.1 Shared Parental Leave (SPL) is a new legal entitlement for parents of babies due, or children placed for adoption, on or after 5 April 2015. It is also available to surrogate parents.
- 2.2 It enables mothers/adopters to end their maternity leave and pay and to share the untaken balance of leave and pay as SPL (and pay) with their partner or to return to work early from maternity or adoption leave and opt in to shared parental leave/pay at a later date. SPL replaces additional paternity leave and pay.

3. DEFINITIONS IN THIS POLICY

- 3.1 The following definitions are used in this policy:
 - **Parent** - means one of two people who will share the main responsibility for the child's upbringing. If the biological father is not sharing responsibility for the child's upbringing he will not meet the definition of "partner" or "parent".
 - **Partner**: the biological father or the partner of the mother / adopter. This can be a spouse, civil partner; or a partner who is living in an enduring relationship with the mother and the child.
 - **Statutory Shared Parental Pay (ShPP)** – will be £139.58 per week from 5 April 2015. It is available, subject to eligibility, for the balance of the paid weeks that are not taken as maternity pay, for whichever parent is taking SPL to look after the child. For future up to date rates please see www.hmrc.gov.uk or contact Bracknell Forest Council Payroll Department.
 - **The Employee** – the mother or the partner, either working for the Council, or may be working for another organisation – both individuals could be requiring SPL from their respective employers, if they are 'eligible' (see below). Casual workers should consult HR to see if they meet eligibility requirements, which are partly based on earnings and length of service.

4. AMOUNT/FREQUENCY OF SHARED PARENTAL LEAVE

- 4.1 The mother/adopter is able to take up to 52 weeks maternity/adoption leave and receive up to 39 weeks maternity/adoption pay as usual or choose to end maternity leave early and create an entitlement to SPL for themselves and their partner. The mother must take the minimum of two weeks compulsory maternity leave following the birth and the adopter must take at least two weeks of adoption leave. **Therefore the maximum amount of SPL is 50 weeks, whilst the maximum shared parental leave pay (ShPP) is 37 weeks.**

4.2 The amount of shared parental leave to which an individual is entitled will, therefore, depend on when the mother/adopter brings their maternity/adoption leave period to an end and the amount of leave that the other parent takes in respect of the child.

4.3 An employee taking shared parental leave can split their leave into **a maximum of three** separate blocks instead of taking it all in one go, even if they are not sharing the leave with their partner. **Shared parental leave must be taken in blocks of at least one week.** Notices can be submitted one at a time or all at the same time.

In practice, at least the first period of SPL will be identified in the initial notice of entitlement and intention to take SPL. The employee will be entitled to submit a maximum of a further two 'period of leave' notices. Each notice must be given at least eight weeks before the start of a period of leave, stating the dates of the leave and the dates on which ShPP will be claimed, if applicable.

If the first 'period of leave' notice is given prior to the birth of a child, the notice may express the start date in relation to the date of birth, for example 'starting two weeks after the baby is born for a period of four weeks'.

4.4 Employees can request to take SPL in
a) continuous blocks OR b) as discontinuous blocks:

a) *Continuous leave notifications:* An employee has the right to take a continuous block of leave so long as it does not exceed the total number of weeks of SPL available to them and the employer has been given at least eight weeks' notice. The manager can not refuse this request.

OR

b) *Discontinuous leave notifications:*

A single notification may instead contain a request for a pattern of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement to work every other week for a period of three months).

Please note that the Council will consider a discontinuous leave notification, but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

All SPL can only be taken in complete weeks but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish on a Monday.

4.5 A period of SPL can be taken at any time from the date of the child's birth/placement (but partners are still entitled to take up to two weeks' ordinary paternity leave following the birth/date of placement of a child under the current paternity policy).

4.6 The partner can take shared parental leave simultaneously while the mother /adopter is still on maternity / adoption leave, but this counts towards the total amount of leave available.

4.7 Any shared parental leave not taken by the first birthday or first anniversary of placement for adoption will be lost. Shared parental leave must end no later than one year after the birth/placement of the child

5. ELIGIBILITY FOR SPL

- 5.1 For employees to be eligible to take SPL, both parents must meet the following eligibility requirements.

The mother/adopter is eligible for SPL if they:

- have, at the date of the child's birth/placement date, the main responsibility, apart from the partner, for the care of the child;
- qualify for statutory maternity leave **OR** statutory maternity pay or maternity allowance;
- give the relevant maternity/adoption leave curtailment and shared parental leave notice and evidence;
- are still be working for the organisation at the start of each period of the SPL;
- have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date.

Partner's eligibility for shared parental leave?

The partner is eligible for shared parental leave if they:

- have, at the date of the child's birth/placement date, the main responsibility, apart from the mother/adopter, for the care of the child;
- comply with the relevant shared parental leave notice and evidence requirements;
- there is no qualifying service for this leave, but to qualify for pay they must in the 66 weeks leading up to the child's expected due date have worked for at least 26 weeks and earned an average, currently of at least £30 a week in any 13 of those weeks.

6. NOTICE REQUIREMENTS FOR SHARED PARENTAL LEAVE

- 6.1 The employee is required to give **not less than eight weeks' notice**, before the intended start date of each SPL 'leave' period, and produce three types of information:
- a) The curtailment of the mother's maternity leave for herself and her partner to access SPL.
 - b) Provide the Council with provisional dates.
 - c) Provide the Council with confirmed leave dates which become a binding agreement.

To do this there are three main forms (known as Notices) to use

- **The Curtailment Notice** - ([Appendix A](#)) - This notice is to inform the council that you wish your maternity leave and pay (or just your maternity pay if you are no longer in employment) to end, in order **that the person who shares main responsibility to care for the child can take SPL**. However, it does state the intention to surrender the maternity leave entitlements and change to an SPL basis. Your partner/the other parent is not entitled to take shared parental leave until you have submitted this notice of curtailment.

Or use:

- **The Curtailment Notice combined with notice of entitlement and intention** - ([Appendix B](#)) from the employee giving an initial, non-binding indication of dates required for each period of SPL and includes a declaration from both parents, that they meet the eligibility requirements.

And:

- **A Period of Leave notice** - ([Appendix C](#)) from the employee which sets out the start and end dates of each period of SPL that he/she is requesting. Unlike the earlier notices which are indications, this is binding for the dates given.

Forms required to make variations or cancellations are also available.

7. CURTAILMENT NOTICE - ([Appendix A](#))

7.1 Before the parents can take SPL, the mother/adopter must either return to work before the end of her maternity/adoption leave or provide a maternity/adoption leave curtailment notice, which is in writing and states the date when the maternity leave will end.

This date must be:

- after the two week compulsory maternity leave period or two week adoption leave;
- at least eight weeks after the date on which the curtailment notice has been given in;
- at least one week before the 52 weeks of maternity/adoption leave is due to end.

7.2 Withdrawal of maternity leave curtailment notice

The mother can withdraw her curtailment notice providing that she gives eight weeks notice, it may be set aside for the following reasons;

- If the maternity leave curtailment notice was given before the birth of the child and the mother withdraws that notice within six weeks of the child's birth; or
- If the partner has died; or
- In any other circumstance where there are significant difficult personal circumstances such a request will not be unreasonably refused.

8. CURTAILMENT NOTICE, COMBINED WITH NOTICE OF ENTITLEMENT AND INTENTION TO TAKE SPL - ([Appendix B](#))

8.1 Part of the eligibility criteria requires the employee to provide the Council with correct notification. It must be in writing and include each of the following:

- the name of the employee;
- the name of the other parent;
- the start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available;
- the date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption;
- the amount of SPL each parent intends to take;
- an indication of when the employee expects to take the leave.

8.2 It also includes a signed declaration from the employee stating:

- that they meet, or will meet, the eligibility conditions and are entitled to take SPL;
- that the information they have given is accurate;

- if they are not the mother/adopter they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter;
- that should they cease to be eligible they will immediately inform the Council.

8.3 It also includes with a signed declaration from their partner confirming:

- their name, address and national insurance number (or a declaration that they do not have a national insurance number);
- that they are the mother/adopter of the child or they are the father of the child or are the spouse, civil partner or partner of the mother/adopter;
- that they satisfy the 'employment and earnings test' and had at the date of the child's birth or placement for adoption the main responsibility for the child, along with the employee;
- that they consent to the amount of SPL that the employee intends to take;
- that they consent to the Council processing the information contained in the declaration form; and
- (in the case where the partner is the mother/adopter), that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

8.4 It must have evidence of eligibility attached as follows or provided within 14 days of the request –

- the name and business address of the partner's employer (where the employee's partner is no longer employed or is self employed their contact details must be given instead);
- in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth);
- in the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption.

9 NOTICE OF VARIATION OR CANCELLATION OF ENTITLEMENT AND INTENTION TO TAKE SPL – (having previously submitted a 'Notice of Entitlement and Intention to take SPL') – ([Appendix C](#))

9.1 The employee can vary or cancel his/her proposed SPL provided that he/she provides the Council with a written notice. The written notice must contain:

- an indication as to when the employee now intends to take shared parental leave;
- details of any periods of leave that have been notified already;
- details of any periods of statutory shared parental pay that have been already and are now being changed or cancelled;
- a declaration signed by the mother and the partner that they agree to the variation.

9.2 There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

10. PERIOD OF LEAVE NOTICE – THIS IS BINDING – ([Appendix D](#))

10.1 In addition to the above an employee must complete this notice as confirmation they wish to take a period of SPL again stating the specific dates required. They must have previously submitted a notice of entitlement and intention to take leave form. This Notice will be a binding agreement.

10.2 A period of leave notice must be given at least eight weeks before the start date of the first period of shared parental leave requested in the notice.

11. PERIOD OF LEAVE VARIATION OR CANCELLATION OF NOTICE – (having previously submitted a ‘Period of leave Notice) – ([Appendix E](#))

- 11.1 The employee can vary or cancel his/her proposed SPL dates following the submission of a ‘period of leave notice’, provided that he/she provides the Council with a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. This variation will count as one of the employee’s three periods of leave.

The written notice can:

- vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

12. LIMIT ON NUMBER OF REQUESTS FOR LEAVE

- 12.1 The employee has the right to submit three notifications specifying leave periods they are intending to take.

- 12.2 If the employee submits a period of leave notice requesting one **continuous** period of leave, he/she will be entitled to take that period of leave.

- 12.3 If the employee submits a period of leave notice requesting **discontinuous** periods of leave, the Council, has 14 days to:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested.

- 12.4 If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

The manager has the right to refuse the request for discontinuous leave on the same grounds as they do in the Bracknell Forest Council Flexible Working Policy, which are for the following reasons:

- detrimental effect on ability to meet customer demand;
- inability to reorganise work among existing staff;
- inability to recruit additional staff;
- detrimental impact on quality;
- detrimental impact on performance;
- planned structural changes.

This will involve a formal meeting; HR can provide the procedure on request.

- 12.5 If the leave pattern is refused or no agreement has been reached, the employee can either withdraw the application within 15 days of giving it, or can take the leave in a single continuous block. The employee must notify the Council of that date within five days of the end of the two-week discussion period. If the employee does not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date of the first period of leave requested in the period of leave notice.

12.6 A notice for discontinuous leave that has been withdrawn before it has been considered/is agreed does not count towards the total number of requests for leave that an employee can make.

13. RESPONDING TO A "PERIOD OF NOTICE"

13.1 On receipt of the notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th day after the leave request was made. All notices for continuous leave will be acknowledged in writing.

13.2 All requests for discontinuous leave will be carefully considered, on a case by case basis, weighing up the potential benefits to the employee and to the Council against any adverse impact to the service delivery (See paragraph 13.4). If refused, reasons must be given in writing.

14. SHARED PARENTAL PAY (SHPP)

14.1 ShPP is available for eligible parents to share between them while on shared parental leave.

14.2 Maternity/adoption pay or allowance will be paid to the mother/adopter from the start of their maternity/adoption leave and will be paid in accordance with the Council's maternity/adoption policy until such time as SPL starts. When the SPL commences the sharing partners will receive the remaining weeks of ShPP at the ShPP rate only. This principle will apply at whatever point in the 50 weeks the SPL commences.

14.3 The Council's maternity/paternity entitlements - may be paid at a higher rate than ShPP. Once the mother has ended her maternity leave in favour of SPL, those entitlements to enhanced pay end. The mother would therefore be advised to consider using up any maternity pay over the SHPP pay level before embarking on SPL. Similarly, the father/partner/nominated carer, should also consider using up Paternity leave or Maternity Support leave before embarking on SPL as this too will be lost when SPL begins.

15. ELIGIBILITY FOR SHPP

15.1 The employee has already established that they meet the eligibility requirements for SPL. An employee seeking to claim ShPP must also:

- intend to care for the child during the week/s in which ShPP is payable;
- give proper notification in accordance with this Policy.

16. RIGHTS DURING SHARED PARENTAL LEAVE

16.1 During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue. Employees should receive all non-pay related contractual benefits during their SPL. They shall be consulted about planned changes to their workplace in the same way as other staff.

17. ANNUAL LEAVE ENTITLEMENT

17.1 Annual leave continues to accrue during shared parental leave.

18. PENSION

- 18.1 Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL. If you wish to make contributions for any unpaid period of SPL you may either make a lump sum payment on your return to work or alternatively, increase your level of contribution until the outstanding sum has been paid off. Please ask your HR team for details.

19. CONTACT DURING SHARED PARENTAL LEAVE

- 19.1 Employees and managers are encouraged to maintain communication during SPL. For example, employees should know how to stay informed of job vacancies, and should be informed by their Line Manager, about any changes within their department and updates on issues facing the Council as a whole.

Before an employee's SPL begins, the manager should discuss the arrangements for them to keep in touch during their leave e.g. do they prefer email contact, phone contact and how often. The Council reserves the right to maintain reasonable contact during SPL

20. SHARED PARENTAL LEAVE IN TOUCH (SPLIT) DAYS

- 20.1 An employee can agree to work (or to attend training) for up to 20 days during shared parental leave without that work bringing the period of his/her shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days. Working part of a day counts as one day from the 20 allowed. An employee will only be paid for the hours worked; this can be offset against any ShPP claimed.
- 20.2 The Council has no right to require employees to carry out any work and employees have no requirement to undertake any work during their shared parental leave.
- 20.3 SPLIT days replace the Maternity Keep In Touch Days (KITs) for those parents accessing SPL.

21. RETURNING TO WORK FOLLOWING SHARED PARENTAL LEAVE

- 21.1 Confirmation of return to work: The end date of any period of SPL will have been confirmed in writing by the manager. The employee is expected to return on the next working day after this date, unless they notify the manager otherwise. If they are unable to attend work due to sickness or injury, normal arrangements for sickness absence will apply. The employee may have agreed with the manager to use accrued annual leave or unpaid parental leave. In any other case, late return without prior authorisation will be treated as unauthorised absence.

22 RETURNING FROM SPL EARLY

- 22.1 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 at least eight weeks' notice of their date of early return. The notice must be at least eight weeks' before both the original end date and the new end date.

This will count as one of the employee's three allowed notifications. If they have already used their three notifications to vary leave then the Council does not have to accept the notice to return early - but may do if the Council considers it reasonably practicable to do so. Such requests will not be unreasonably refused.

23 SPECIAL CIRCUMSTANCES

23.1 Early birth

- If the child is born or placed before the expected due date or placement date and the employee had booked to take SPL within the first eight weeks of the due date, they may take the same period of time off after the actual birth without having to provide eight weeks' notice, by submitting a notice to vary their leave as soon as is reasonably practicable.
- Any leave arranged after the first eight weeks of the due date is still bound by the eight-week notice required to vary leave.
- If the child is born more than eight weeks before their expected due date and notice has not yet been given, then there is no requirement to give eight weeks' notice before the period of leave starts. The notices should be given as soon as is reasonably practicable after the actual birth.

23.2 Death of the child before or during birth, or within the first year

- Should the child die before the parents have submitted a notice of entitlement to take SPL then they cannot opt into SPL because a qualifying condition is caring for a child. The mother / adopter may remain entitled to maternity / adoption leave and the partner could still qualify for statutory paternity leave.
- If the parents have opted into SPL and they have already booked leave, they will still be entitled to take the booked leave. No further notice booking leave can be submitted but one variation notice could be given to reduce a period of leave or to rearrange a discontinuous leave arrangement into a single block of leave.

23.3 Partner no longer caring for the child

- If the circumstances of an employee who has booked SPL change so that they will no longer be responsible for caring for the child (unless it is because the child has died), their entitlement to both SPL and ShPP will immediately cease and they must tell the Council.
- If the employee has any SPL arranged within eight weeks of their entitlement ceasing, the Council can still require them to take it as SPL if it is not reasonably practicable for the Council to have their employee in work, for example because cover has been arranged. Any weeks of SPL arranged after eight weeks of their entitlement ceasing must be cancelled.
- If the remaining parent will be continuing to care for the child then they will still be eligible to take their SPL entitlement. If the other parent, who is no longer caring for the child had any SPL leave entitlement outstanding, the remaining parent will only be able to transfer it into their own entitlement if they can get the signed agreement of the other parent to a notice confirming a variation of leave entitlement or if the Council agrees to such a transfer in light of all the circumstances. Requests for a transfer of entitlement in such circumstances will be considered sensitively and will not be unreasonably refused.

23.4 Death of a parent during the child's first year

- If either parent dies and the other parent is taking, or is entitled to SPL then they will continue to be eligible. Any SPL that was due to be taken by the deceased parent may be transferred to the other parent if the other parent is eligible for SPL.

23.5 Returning to Flexible Working Arrangements

- If an employee wishes to change his or her hours or other working arrangements on return from SPL he or she should make a request under the flexible working rules, just as they would following maternity/paternity leave.

23.6 Resignations of employment

- If the employee decides that he or she does not wish to return to work they should give notice of resignation in accordance with their contract.