

## **Shared Parental Leave and Pay Policy**

### **Purpose**

Shared Parental Leave will enable eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption. This could mean that the mother or adopter shares some of the leave with their partner, perhaps returning to work for part of the time and then resuming leave at a later date.

It is designed to give parents more flexibility in how to share the care of their child in the first year following birth or adoption. Parents will be able to share entitlement to leave, and can decide to be off work at the same time and/or take it in turns to have periods of leave to look after the child.

All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. This policy sets out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP) and outlines the process for requesting the leave via the IBC.

For information on other types of leave available for parents and carers please see the relevant policy in the A to Z section of the [HR Hub](#) or refer to the combined Family Friendly Policy.

### **Who does this policy apply to?**

This policy applies to employees of the Royal Borough of Kensington & Chelsea, whether the individual is the mother or the partner.

### **Confidentiality**

The Royal Borough of Kensington and Chelsea processes personal data collected in accordance with its data protection policy.

### **How it works**

You and your partner may be able to get Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) if you're having a baby or adopting a child.

You can share up to 50 weeks of leave and up to 37 weeks of pay between you. You need to share the pay and leave in the first year after your child is born or placed with your family.

You can use SPL to take leave in blocks separated by periods of work, or take it all in one go. You can also choose to be off work together or to stagger the leave and pay.

To get SPL and ShPP, you and your partner need to:

- meet the eligibility criteria - there's different criteria for birth parents and adoptive parents
- give notice to your employers

### **Eligibility for birth parents**

To be eligible for Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP), both parents must:

- share responsibility for the child at birth
- meet work and pay criteria - these are different depending on which parent wants to use the shared parental leave and pay

You're not eligible if you started sharing responsibility for the child after it was born.

You can [check if you can get leave and pay](#), including SPL and ShPP.

### **If both parents want to share the SPL and ShPP**

You and your partner must:

- have been employed continuously by the same employer for at least 26 weeks by the end of the 15th week before the due date
- stay with the same employer while you take SPL
- be 'employees' (not 'workers')
- each earn on average at least £120 a week

If either of you is a 'worker', you can share ShPP but not SPL. If either of you earns less than £120 a week, you can share SPL but not ShPP.

### **If the mother's partner wants to take the SPL and ShPP**

The mother must:

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

The mother's partner must:

- have been employed continuously by the same employer for at least 26 weeks by the end of the 15th week before the due date
- stay with the same employer while they take SPL
- be an 'employee' (not a 'worker')
- earn on average at least £120 a week

If the mother's partner is a 'worker', they can get ShPP but not SPL. If the mother's partner earns less than £120 a week, they can get SPL but not ShPP.

### **Eligibility for adopters**

To be eligible for Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP), both adoptive parents must:

- share responsibility for the child
- meet the work and earnings criteria - these are different depending on which one of you wants to use the shared parental leave and pay

### **If both parents want to share the SPL and ShPP**

You and your partner must:

- have been employed continuously by the same employer for at least 26 weeks by the end of the week you were matched with the child
- stay with the same employer while you take SPL
- be 'employees' (not 'workers')

- each earn on average at least £120 a week

If either of you is a 'worker', you can share ShPP but not SPL. If either of you earns less than £120 a week, you can share SPL but not ShPP.

If you usually earn an average of £120 or more a week each, and you only earned less in some weeks because you were paid but not working ('on furlough') under the Coronavirus Job Retention Scheme, you may still be eligible.

### **If only one of the parents wants to take the SPL and ShPP**

The parent who wants to take the leave and pay must:

- have been employed continuously by the same employer for at least 26 weeks by the end of the week you were matched with the child
- have stayed with the same employer while they take SPL
- be an '[employee](#)' (not a '[worker](#)')
- earn on average at least £120 each a week

The other parent must:

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

If the parent who wants to take the leave and pay is a 'worker', they can get ShPP but not SPL. If they earn less than £120 a week, they can get SPL but not ShPP.

### **When you can start SPL / SHPP**

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

For SPL to start the mother (or the person getting adoption leave) must either:

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

You can start SPL while your partner is still on maternity or adoption leave as long as they've given binding notice to end it.

You can give binding notice and say when you plan to take your SPL at the same time. The mother or adopter must end any maternity pay, adoption pay or Maternity Allowance so that they or their partner can get SPL.

For ShPP to start the mother (or the person getting adoption pay) must give their employer binding notice of the date when they plan to end any maternity or adoption pay. If they get Maternity Allowance, they must give notice to Jobcentre Plus instead.

They cannot restart maternity pay, Maternity Allowance or adoption pay once it's ended.

You can start ShPP while your partner is still on maternity pay, adoption pay or Maternity Allowance as long as they've given binding notice to end it.

You can give binding notice and say when you plan to [take your ShPP](#) at the same time.

Binding notice is given on submission of the shared parental leave form.

### **Compulsory leave**

A mother cannot return to work before the end of the compulsory 2 weeks of maternity leave following the birth. If you're adopting, the person claiming adoption pay must take at least 2 weeks of adoption leave.

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

The mother or adopter may be able to change their decision to end maternity or adoption leave early if both:

- the planned end date has not passed
- they have not already returned to work

One of the following must also apply:

- you find out during the 8-week notice period that neither of you is eligible for SPL or ShPP
- the mother or adopter's partner has died
- the mother tells her employer less than 6 weeks after the birth (and she gave notice before the birth)

### **What you'll get**

If you're eligible and you or your partner end maternity or adoption leave and pay (or Maternity Allowance) early, then you can:

- take the rest of the 52 weeks of maternity or adoption leave as Shared Parental Leave (SPL)
- take the rest of the 39 weeks of maternity or adoption pay (or Maternity Allowance) as Statutory Shared Parental Pay (ShPP)

ShPP is currently paid at the rate of £151.20 a week or 90% of your average weekly earnings, whichever is lower. This is the same as Statutory Maternity Pay (SMP) except that during the first 6 weeks SMP is paid at 90% of whatever you earn (with no maximum).

### **Providing supporting documents**

Your employer can ask you for more information within 14 days of you applying for SPL or ShPP.

They can ask for:

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

If you're adopting, your employer can ask for the:

- name and address of the adoption agency
- date you were matched with the child
- date the child will start to live with you
- name and address of your partner's employer or a declaration that your partner has no employer

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

## **Taking blocks of leave**

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

If your partner is also eligible for SPL, you can take up to 3 blocks of leave each. You can take leave at different times or both at the same time. SPL must be taken in blocks of at least 1 week. You can request to take SPL in the following ways:

### Continuous leave notifications

- A request for 1 continuous block of leave up to the maximum leave remaining.
- And up to 2 additional requests (maximum of 3 requests in total) for continuous blocks of leave up to the maximum leave remaining.

**Note: requests for continuous SPL must be granted provided the employee meets the eligibility and notice requirements.**

### Discontinuous leave notifications

- A request for a number of discontinuous blocks of leave (up to 3 discontinuous blocks) in which case you need to seek the Council's agreement via your line manager.

If requesting discontinuous periods of shared parental leave, your manager has a two-week period (beginning with the date the notice was given) to:

- consent to the periods of leave requested;
- propose alternative dates for the periods of leave; or
- refuse the periods of leave requested without proposing alternative dates.

If your manager is unable to reach an agreement with you within that two-week period, you are entitled to take the total amount of leave requested as a continuous period of leave.

If a period of discontinuous leave is refused and you take the total amount of leave as a continuous period of leave:

- you must choose a start date for that leave which is a date after the period of eight weeks beginning with the date on which the period of leave notice was given and must notify your manager of that date within 5 days of the end of the two-week period; or
- if you do not choose a start date, that leave must start on the start date of the first period of leave requested in the period of leave notice.

## **Changing the SPL dates**

You are permitted to vary or cancel an agreed and booked period of SPL, provided you advise your line manager in writing at least 21 days before the date of any variation.

A notice to vary SPL will count as one of the 3 possible notifications for SPL. If you have already used up all of your 3 notifications for SPL your manager is not obliged to consider the further variation or cancellation request.

An exception (to it counting as one of the 3 notifications) is where the baby is born early and you wish to amend SPL dates. This request would not count as 1 of the 3 notifications as long as it is made in the first 8 weeks after the birth.

Your manager should consider any variation requests and advise you if the changes are accepted or not. If they are not granted a discussion should take place and an alternative arrangement, agreeable for both parties, should be sought.

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

You and your partner can each work up to 20 days while you're taking SPL. These are called 'Shared Parental Leave in touch' (or SPLIT) days.

These days are in addition to the 10 'keeping in touch' (or KIT) days available to those on maternity or adoption leave. KIT and SPLIT days are optional - both you and your employer must agree to them.

Employees will be paid for any hours work undertaken during SPLIT days

An employee taking a SPLIT day will receive full 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.

### **How to request and amend SPL via the IBC**

You must complete and submit the shared parental leave form to the IBC at the earliest opportunity having given your manager 21 days' notice of your intentions to take SPL. This is achieved by selecting the 'my family leave' app via Employee Self Service (ESS) and setting up a 'new leave' type. The IBC will respond within 28 days of receipt.

If you need to change the information provided on your shared parental leave notification form, you must first notify your manager giving them 21 days' notice and then update the IBC using the 'my family leave' app in ESS. Alternatively, your line manager can amend the dates via the 'manage family leave' app.

Further guidance can be found here - [family leave](#)

### **Recording SPLIT days via the IBC**

SPLIT days can be added via the 'my family leave' app in ESS, alternatively, the line manager can update this information using the 'manage family leave' app.

The IBC will update the employee's ESS record and process any payment due in the next available pay run.

Further guidance can be found here - [entering SPLIT days into the IBC](#)

### **Sickness absence**

If you are ill whilst you are on shared parental leave, you are not entitled to statutory or occupational sick pay, even if you are in an unpaid period of shared parental leave.

If you wish to access the statutory and occupational sick pay schemes, you will need to 'return' from your shared parental leave and then start a period of sickness absence.

Once you have 'returned' from shared parental leave to a period of sickness absence, you cannot re-start your shared parental leave entitlements at a later date.

If you wish to return to work to access the statutory and occupational sick pay schemes you should enter this information via the 'my family leave' app in ESS. You will then need to enter the sickness start date via the 'my sickness' app. Alternatively, the line manager can end the SPL via the 'manage family leave' app and then raise an enquiry asking the IBC to open the sickness absence.

Once you have 'returned' to work, your absence should be managed in accordance with the Sickness Absence Policy.

### **Flexible working requests**

There is no statutory right to return to work on a flexible basis (different working pattern, different hours per week etc.) but there is a statutory obligation to consider requests under the flexible smarter working policy.

### **Resignations**

If you wish to resign whilst on SPL, you should inform your manager as soon as you are aware that you will not be returning to work. Your last day of service will be the date of your letter of resignation and, if you are still being paid, your salary will cease from this date.

If you have received any occupational maternity or adoption pay you are required to return to work for a period of three months at the end of your leave.

As the employee must 'return' to work from maternity or adoption leave in order to take shared parental leave, periods of continuous and dis-continuous shared parental leave do count towards the required return to work period.

An element of occupational maternity or adoption pay may be repayable you have not met the relevant return to work criteria defined under those policies.

Where a resignation means you has been overpaid, the amount will be recovered in accordance with your contract of employment.

### **Death of a child or adoption non placement / removal**

If the child dies (in cases of childbirth) or the child is not placed or is subsequently removed (in cases of adoption) but notice of entitlement has already been given, the mother/adopter, father or partner will continue to be entitled to that shared parental leave as set out in the notification.

The line manager must ensure that the IBC is notified. The IBC will then write to the employee confirming their remaining entitlements.

### **Death of a parent**

In the case of death of either partner, shared parental leave comes to an end. In such circumstances the mother or primary adopter may be entitled to resume maternity or adoption leave and pay if they have any entitlements remaining under those schemes. The line manager must ensure that the IBC is notified. The IBC will then write to the employee confirming their remaining entitlements.

## **Local Government Pension Scheme**

If the employee is a member of the Local Government Pension Schemes, their pension contributions are automatically made on paid periods of leave. Contributions will continue at the usual percentage rate. This period will count in full for pension purposes. This applies whether they receive full or part pay.

For the periods of unpaid shared parental leave the employee will be given the option to make pension contributions at the rate paid during their half pay period. If they do so, the unpaid period will count in full for pension purposes.

If the employee wants to pay contributions they must confirm this in writing to the IBC within 30 days of returning to work, or leaving the Council's employment if sooner.

If the employee does not pay contributions, this period of unpaid will then count in full for pension purposes.

## **Frequently asked questions**

### **Can a mother's partner begin a period of SPL while the mother is still on maternity leave?**

If the mother has provided her employer with a maternity leave curtailment notice, and all the relevant eligibility criteria and notice requirements are satisfied, the mother's partner can begin a period of SPL while the mother is still on maternity leave.

### **Can both parents take SPL at the same time?**

Yes – provided that the mother has formally ended her maternity leave and is entitled to SPL, both can take SPL at the same time.

### **How is statutory shared parental pay divided between the parents if they take SPL at the same time as each other?**

Parents can be on SPL at the same time as each other and can receive statutory shared parental pay at the same time provided this does not exceed the overall maximum of 37 weeks' pay available to share (39 weeks less the two weeks of compulsory maternity leave) or 39 weeks for adoption.

### **Can an employee use periods of SPL to reduce his or her hours over a period, for example by working for two days a week and taking SPL for three days a week?**

No, SPL must be taken in blocks of at least 1 week at a time. An option could be for the employee to take SPL for 10 weeks and use 2 SPLIT days each week to attend work, provided your manager agrees to this.

### **What happens to my annual leave while I'm on SPL?**

You will continue to accrue your annual leave entitlement while you are on SPL. You will also accrue any public holidays which fall during your period of leave. You will be required to take any outstanding balance of leave that you have accrued during your SPL before returning to work.

Any annual leave accrued before you start your SPL should be taken before you go on leave. Of leave accrued during your SPL, you will be entitled to carry this leave forward to the leave year in which you return to work and bank a maximum of 5 days (pro rata for part time staff).

### **What happens to my pension whilst I'm on SPL?**

If you are in the pension scheme, your pension will continue to be deducted as a percentage of your salary during your SPL, and the Council as your employer will continue to make contributions as a percentage of your salary. No pension contributions are paid during unpaid shared parental leave.

When you return to work, you can choose to make pension payments for your period of unpaid SPL. If you want to do this, you should contact the pensions section when you are back at work.

**What happens if I am sick while I am on unpaid SPL – can I claim sick pay?**

No. You cannot claim sick pay while you are on SPL.

**Am I required to come into the office during my SPL if I am asked to attend a meeting, for example?**

No. You are not required to come into the office during your SPL unless you want to do so and agree this with your manager. If you do agree to come in, you can count this as one of up to 20 SPLIT days that you are allowed to have while you are still on leave.

**What are SPLIT Days?**

While you are on SPL you can, in agreement with your manager, work up to twenty days, if you wish to do so. Any work, (even if it is only a couple of hours) done on a SPLIT Day will be subtracted from the maximum of 20 days.

You are entitled to be paid for the actual hours worked on these days, and this will usually be paid at your normal rate of pay. Your statutory shared parental pay (ShPP) will not be affected by any payment which you receive for a keeping in touch day.

**How much notice do I have to give before taking SPL?**

You should give your manager 21 days' notice of the date you wish any period of SPL to commence.

**Will I get details of my SPL in writing?**

Your manager will ensure that the IBC confirm to you in writing the details of your SPL within 28 days of receiving your leave application form and intention to take SPL.

**Am I entitled to take time off to attend antenatal appointments?**

All pregnant employees are entitled to take paid time off work for antenatal care and are not expected to make this time up.

If you are a father, partner or civil partner of a pregnant woman, you are entitled to take unpaid leave to attend two appointments. This includes the intended parents if you are adopting or having a baby through surrogacy arrangements.

**What happens re performance assessment (individual appraisal) during SPL?**

Your manager should undertake a performance assessment at the end of the performance year for the period of time you have been at work during that year. If this assessment is to be undertaken while you are on SPL, an option may be for you to be sent the appropriate forms to complete and where you request it you will be given the opportunity to attend a meeting with your manager to discuss your assessment.

**What happens if the department is reorganised while I'm on SPL?**

If there is a reorganisation which affects your post while you are on SPL, your manager is required to consult you just as he/she will consult other staff. Although this may not always be in the same format as for other staff e.g. at scheduled staff meetings, he/she will update

you for example by sending you any minutes of meetings to ensure that you are as aware of any proposals being considered as your colleagues who are at work. You will be able to submit any comments in the same way as your colleagues. If you want to attend any meetings etc, you should let your manager know that you are willing to do so during your leave and this could be counted as paid keeping in touch (SPLIT) days.

**Am I entitled to return to the same job once my SPL is over?**

If you are returning to work following SPL, you are entitled to return to the same job on the Same terms and conditions as if you had not been absent on SPL, unless there is a redundancy situation. For a reason (other than redundancy) which means that it is no longer reasonably practical for you to return to the same job, you are entitled to be offered suitable alternative work.

**Am I entitled to Childcare Vouchers?**

Both boroughs offer a childcare voucher scheme through the provider Kiddivouchers. You can only apply for the childcare voucher scheme whilst you are receiving pay (not when on unpaid SPL). For more information on the childcare voucher scheme please see here – [childcare vouchers](#)

**Are agency workers casual workers entitled to shared parental leave and pay?**

An agency worker will not be entitled to SPL as they are unlikely to meet the employment criteria. They may however be entitled to claim statutory shared parental pay (ShPP) provided they meet the criteria of the statutory framework (e.g. the earnings test).