

## **SHARED PARENTAL LEAVE SCHEME**

### **1. Our Policy**

- 1.1 Luton Borough Council is committed to the equality of the mother/adopter of a child and the father or the person who, at the time of the birth, is married to, or the civil partner or partner of the mother.
- 1.2 This policy is compliant with The Shared Parental Leave Regulations 2014, The Shared Parental Pay (General) Regulations 2014, The Maternity and Adoptions Leave (curtailment of statutory rights to leave) Regulations 2014, Employment Rights Act 1996, Child and Families Act 2014 and Equality Act 2010.

### **2. Purpose of the Procedure**

- 2.1 Shared Parental Leave (SPL) enables parents to choose how to share the care of their child during the first year of birth or adoption.
- 2.2 The purpose of this document is to outline the procedure to be followed and is to ensure that all employees are treated fairly and equitably by the Council.

### **3. Scope of the Procedure**

- 3.1 The following procedure applies to all employees other than staff in schools with delegated budgets. The position held by an employee within the Council does not affect their right to access this procedure.
- 3.2 This procedure does not cover Maternity, Paternity or Adoption Leave as this is covered in the Maternity, Paternity and Adoption Schemes.

### **4. Eligibility**

- 4.1 SPL can only be used by the mother/adopter and the father or the person who, at the time of the birth, is married to, or the civil partner or partner of the mother.
- 4.2 Both of these parents must share the main responsibility for the care of the child at the time of birth/placement for the adoption.
- 4.3 The mother/adopter must have been entitled to statutory maternity/adoption leave, or must have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce maternity/adoption entitlements.
- 4.4 The employee must still be working for the Council at the start of each period of SPL.
- 4.5 The employee must have a minimum of 26 weeks' service and the end of the 15<sup>th</sup> week prior the EWC/matching date.

- 4.6 In the 66 weeks' leading up to EWC/matching date, the partner must have worked for at least 26 weeks' and earned an average of at least £30 a week (maternity allowance threshold) in any 13 of those weeks.
- 4.7 The employee must correctly notify the Council of their entitlement and provide evidence as required.

## **5. Entitlement**

- 5.1 Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in the family. This is calculated using the mother's/adopter's entitlement to maternity or adoption leave, which allows them to take up to 52 weeks' leave.
- 5.2 A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.
- 5.3 If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

SPL can commence as follows:

- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
  - The adopter can take SPL after taking at least two weeks of adoption leave
  - The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity or maternity support leave entitlements (as the father/partner cannot take paternity leave or maternity support leave or pay once they have taken any SPL or Shared Parental Pay (ShPP)).
- 5.4 Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.
- 5.5 SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave" below).
- 5.6 If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period (see "Shared Parental Pay" below).
- 5.7 SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

## **6. Notifying the Council**

- 6.1 An employee entitled and intending to take SPL must give their line manager notification of their entitlement and intention to take SPL, at least eight weeks before they can take any period of SPL.
- 6.2 Part of the eligibility criteria requires the employee to provide the Council with correct notification. Notification must be in writing and requires 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 the employee and their partner each intend to take;
  - a non-binding indication of when the employee expects to take the leave.
- 6.3 The employee must provide the Council with a signed declaration 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.
- 6.4 The employee must provide the Council 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' (see "Who is eligible for Shared Parental Leave?" above), 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 whether the partner is the mother/adopter), that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

## **7. Discussions**

- 7.1 An employee considering/taking SPL is encouraged to contact HR to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the Council to support the individual.
- 7.2 The HR department may upon receiving a notification of entitlement to take SPL seek to arrange an informal discussion with the employee to talk about their intentions and how they currently expect to use their SPL entitlement.
- 7.3 Upon receiving a leave booking notice the HR department will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave, a meeting may not be necessary.
- 7.4 Where a request for discontinuous leave is submitted it is likely that a meeting will be required with the employee and their manager to discuss whether it is able to be approved (see discontinuous leave notifications below).
- 7.5 At the meeting the employee may, if they wish, be accompanied by a workplace colleague, trade union representative or even a personal friend or family member.
- 7.6 The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the Council, and what the outcome may be if no agreement is reached.

## **8. Booking Shared Parental Leave**

- 8.1 In addition to notifying the employer of entitlement to SPL/Shared Parental Pay(ShPP), an employee must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.
- 8.2 The employee has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either (a) a single period of weeks of leave; or (b) two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.
- 8.3 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. Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

- 8.4 The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

#### *Continuous leave notifications*

- 8.5 A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).
- 8.6 An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the employer has been given at least eight weeks' notice.
- 8.7 An employee may submit up to three separate notifications for continuous periods of leave.

#### *Discontinuous leave notifications*

- 8.8 A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).
- 8.9 Where there is concern over accommodating the notification, the council or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the Council.
- 8.10 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.

### **9. Responding to a Shared Parental Leave Notification**

- 9.1 Once the HR department receives the leave booking 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.
- 9.2 All notices for continuous leave will be confirmed in writing.
- 9.3 All requests for discontinuous leave will be carefully considered by your manager in conjunction with HR, weighing up the potential benefits to the employee and to the Council against any adverse impact to the Council.

- 9.4 Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.
- 9.5 The employee will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th day after the leave notification was made. The request may be granted in full or in part: for example, the Council may propose a modified version of the request.
- 9.6 If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

## **10. Variations to Arranged Shared Parental Leave**

- 10.1 The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the Council in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.
- 10.2 Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the council requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the Council.

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

- 11.1 Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.
- 11.2 ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.
- 11.3 In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:
- the mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;

- the employee must intend to care for the child during the week in which ShPP is payable;
  - the employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the child's expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;
  - the employee must remain in continuous employment until the first week of ShPP has begun;
  - the employee must give proper notification in accordance with the rules set out below.
- 11.4 Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.
- 11.5 In addition to what must be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for ShPP must include:
- the start and end dates of any maternity/adoption pay or maternity allowance;
  - the total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
  - a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the Council should they cease to be eligible.
- 11.6 It must be accompanied by a signed declaration from the employee's partner confirming:
- their agreement to the employee claiming ShPP and for the council to process any ShPP payments to the employee;
  - (in the case whether the partner is the mother/ adopter) that they have reduced their maternity/adoption pay or maternity allowance;
  - (in the case whether the partner is the mother/ adopter) that they will immediately inform their partner should they cease to satisfy the eligibility conditions.
- 11.7 Any ShPP due will be paid at a rate set by the Government for the relevant tax year.

## **12. Terms and Conditions During Shared Parental Leave**

- 12.1 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 will continue and contractual annual leave entitlement will continue to accrue.

- 12.2 Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the Council's contributions will be based on the salary that the employee would have received had they not been taking SPL.

### **13. Annual Leave**

- 13.1 SPL is granted in addition to an employee's normal annual holiday entitlement. 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.

### **14. Contact During Shared Parental Leave**

- 14.1 Before an employee's SPL begins, the council will discuss the arrangements for them to keep in touch during their leave. The Council reserves the right in any event to maintain reasonable contact with the employee from time to time during their SPL. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

### **15. Shared Parental Leave Keeping in Touch Days**

- 15.1 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.
- 15.2 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 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. Any SPLIT days worked do not extend the period of SPL.
- 15.3 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 effect 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.



## **16. Returning to Work After Shared Parental Leave**

- 16.1 The employee will have been formally advised in writing by the Council 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 they are unable to attend work due to sickness or injury, the Council's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.
- 16.2 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.
- 16.3 On returning to work after SPL, the employee is entitled to return to the same job if the employee's aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, he or she will return to the same job. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.
- 16.4 If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.
- 16.5 If the employee also takes a period of unpaid parental leave of 4 weeks or less this will have no effect on the employee's right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.
- 16.6 If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.