



Essential Reference Paper "B"

East Herts Council

Shared Parental Leave

Policy Statement

**Policy Statement No 45 (Issue No 2) July
2015**

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Glossary

SPL	Shared Parental Leave
ShPP	Shared Parental Pay
SMP	Statutory Maternity Pay
SAP	Statutory Adoption Pay
MA	Maternity Allowance
OMP	Occupational Maternity Pay
HMRC	Her Majesty's Revenue and Customs
SPLIT	Shared Parental Leave in Touch days

1.0 Introduction

1.1 What is Shared Parental Leave?

1.2 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. All eligible employees have a statutory right to take Shared Parental Leave. For an employee to be eligible the mother must have curtailed her Maternity Leave.

1.3 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).

1.4 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

2.0 Who is eligible for Shared Parental Leave?

2.1 This policy applies to all employees of East Herts District Council.

2.2 SPL can only be used by two people:

- The mother/adopter/foster under the 'Foster for Adoption' scheme **and**
- One of the following:
 - the father of the child (in the case of birth)or
 - the spouse, civil partner or partner of the child's mother/adopter/foster under the 'Foster for Adoption' Scheme, at the time of the birth/placement for adoption.

2.3 Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.

2.4 Additionally, an employee seeking to take SPL must satisfy each of the following criteria:

- the mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be/have been entitled to

statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;

- the employee must still be working for the Council at the start of each period of SPL;
- the employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date;
- the employee's partner must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned an average of at least £30 a week in any 13 of those weeks as at 1 April 2015;
- the employee must correctly notify the Council of their entitlement and provide evidence as required.

3.0 The Shared Parental Leave entitlement

- 3.1 Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using the mother's/adopter'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.
- 3.2 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.
- 3.3 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.
- 3.4 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 but may choose to exhaust any maternity pay first.

- 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 leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).

3.5 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.

3.6 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" paragraph 8.0 and 10.0 below).

3.7 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.

4.0 Notifying the Council of an entitlement to Shared Parental Leave

4.1 An employee entitled and intending to take SPL must give their line manager notification of their entitlement and intention to take to SPL at least eight weeks before they can take any period of SPL.

4.2 Part of the eligibility criteria requires the employee to provide the Council with correct notification. Notification must be in writing using the **Notice of Entitlement – SPL and ShPP form** (Appendix 1) 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.

4.3 The employee must provide the Council with a signed Notice of Entitlement – SPL and ShPP form (Appendix 1) 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.

4.5 The employee must provide the Council with a **Partner SPL Declaration form** (Appendix 2) signed by 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” paragraph 2.0 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.

5.0 Requesting further evidence of eligibility

5.1 The Council may, within 14 days of the SPL entitlement notification being given, 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

5.2 In order to be entitled to SPL, the employee must produce this **information within 14 days of the employer's request.**

5.3 The Council will also provide the information above in 5.1 to other Council's/Companies/businesses when requested to do so.

6.0 Fraudulent claims

6.1 The Council will, 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, investigate the matter further in accordance with the Disciplinary and Conduct procedures.

7.0 Discussions regarding Shared Parental Leave

7.1 An employee considering/taking SPL is encouraged to contact their line manager to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the company to support the individual.

7.2 The line manager 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. The notification should be signed by the employee and returned to Human Resources.

- 7.3 Upon receiving the Notice of Entitlement – SPL and ShPP form (Appendix 1) the line manager will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave or where a request for discontinuous leave can, without further discussion, be approved in the terms stated in the employee's Notice of Entitlement – SPL and ShPP form, a meeting may not be necessary.
- 7.4 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.

8.0 Booking Shared Parental Leave

- 8.1 In addition to notifying the employer of entitlement to SPL/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.
- 8.5 ***Continuous leave notifications***

- 8.6 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).
- 8.7 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.
- 8.8 An employee may submit up to three separate notifications for continuous periods of leave.
- 8.9 ***Discontinuous leave notifications***
- 8.10 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).
- 8.11 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 (see "Discussions regarding Shared Parental Leave" paragraph 7.0 above).
- 8.12 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.

9.0 Responding to a Shared Parental Leave notification

- 9.1 Once the employee's line manager and Human Resources receive the Notification of Entitlement - SPL and ShPP form (Appendix 1), 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, weighing up the potential benefits to the employee and to the Council against any adverse impact to the business.
- 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.

10.0 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.

11.0 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 15th 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. (Use form Notice of Entitlement – SPL and ShPP form, Appendix 1)
- 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.

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.

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

12.0 Terms and conditions during Shared Parental Leave

12.1 General

12.1.1 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 Annual Leave

12.2.1 The entitlement to annual leave continues to accrue whilst on Shared Parental Leave. Where the leave period straddles two annual leave years, annual leave accrued up to the end of the first leave year should be taken before the commencement of the leave period in order that it is not lost.

12.2.2 An employee requesting to return to work on a part-time contract will normally take all annual leave accrued on the full-time contract before the new working arrangements commence.

12.2.3 Employees are entitled to paid leave for each of the bank holidays that fall during their maternity / adoption / additional paternity leave and these should be taken upon their return to work.

12.3 Pension

12.3.1 An employee who is a member of the Local Government Pension Scheme (LGPS) will continue to pay contributions; however this will be based on the employee's individual contribution rate of their actual earnings during Shared Parental Leave.

12.3.2 An employee wishing to maintain their contributions or make contributions during the unpaid period of Shared Parental Leave must contact Payroll before their leave commences.

12.3.3 An employee should contact Payroll or the London Pensions Fund Authority (LPFA) for further guidance.

12.3.4 An employee with a private pension should contact their pension provider for guidance.

12.4 Car Contributions

12.4.1 Payments towards a car loan will continue to be deducted from an employee's salary. An employee taking unpaid Shared Parental Leave must make arrangements with Payroll to continue to make payments during that period.

12.4.2 Employees in receipt of an essential user allowance will continue to receive this payment throughout their paid Shared Parental leave. If an employee moves onto unpaid Shared Parental Leave, the payments will cease until the employee returns to work.

12.4.3 An employee in possession of a council vehicle must ensure that it is left with East Herts District Council before they take Shared Parental Leave. The vehicle will be returned to the employee on their return to work.

12.5 Student Loans

12.5.1 Student loan repayments will continue throughout paid Shared Parental Leave until such point that monthly salary does not meet the income threshold set by the Student Loans Company. At this point, repayments will stop until the employee is earning above the income threshold. Employees should contact the Student Loans Company for more information.

12.6 Council Property

12.6.1 An employee will not be required to return Council property deemed to be a benefit in kind; in particular, any benefits in kind, such as use of a laptop, mobile phone and gym membership will continue. An employee will not be required to return items such as their security cards or uniforms.

12.6.2 An employee not returning to the Council's employ must ensure that all Council property is returned with their notice of resignation.

12.7 Childcare Vouchers

12.7.1 Employees requiring information about the effect on Childcare vouchers should refer to the Family Friendly Policy. For further assistance about Childcare vouchers employees should contact Human Resources.

13.0 Contact during Shared Parental Leave

13.1 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.

14.0 Shared Parental Leave in Touch days (SPLIT)

14.1 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.

- 14.2 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.
- 14.3 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.
- 14.4 The employee must make child care provision for all SPLIT days worked.

15.0 Returning to work after Shared Parental Leave

- 15.1 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.
- 15.2 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.

- 15.3 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.
- 15.4 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.
- 15.5 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.

16.0 Special Circumstances and further information

- 16.1 In certain situations an employee's rights and requirements regarding SPL and ShPP may change. In these circumstances the Council will abide by any statutory obligations and an employee should speak to Human Resources for clarification.

17.0 Policy review and amendment

- 17.1 This policy shall be reviewed after three years or sooner in line with legislation and good practice to reflect the best level of support and management.

Appendix 1: Notification of Entitlement to SPL or/and ShPP

Date of Notification			
Line Manager		Department	
Employee	Name	Payroll Number	
Name of Partner			
Maternity or Adoption Leave/Pay/Allowance			
Leave / Pay dates Start Date		End Date	
Expected DOB	Actual DOB	Matching Date	Placement Date
Total SPL available		Total ShPP Available	
SPL / ShPP to be taken by Employee		SPL / ShPP to be taken by Partner	
Planned dates of SPL From To		Planned dates of SPL From To	
Planned amount of ShPP for Employee		Planned amount of ShPP for Partner	
If different from SPL, dates when ShPP will be claimed by Employee		From To	
I confirm that I meet / will meet (<i>delete as appropriate</i>) the eligibility conditions and I am entitled to take SPL / ShPP.			
I confirm that I am the Mother / Adopter / Father of the child (<i>delete as appropriate</i>)			
I confirm that I am the Spouse / Civil Partner / Partner of the Mother / Adopter (<i>delete as appropriate</i>)			
I confirm that that all information provided above is accurate and will inform the council of any changes that affect my eligibility to SPL / ShPP.			
Signature			

Please return this form to the Human Resources Team

SPL Shared Parental Leave
DOB Date of Birth
Partner Father/Spouse/Civil Partner/Partner

Appendix 2 Partner Shared Parental Leave Declaration

- (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.

Date of Declaration		
Name of Employee		
Partner's Name		Partner's Declaration: I do not have an NI number. (.....) tick to confirm
NI Number		
Address		
I confirm that I have at the birth of the child had main responsibility for care of the child (<i>delete as appropriate</i>)		
I confirm that I meet the conditions of the Earnings and Employment test.		
I confirm that I am the Mother / Adopter / Father of the child (<i>delete as appropriate</i>) and have reduced my maternity / adoption pay or maternity allowance.		
I confirm that I am the Spouse / Civil Partner / Partner of the Mother / Adopter (<i>delete as appropriate</i>)		
I confirm my consent to the amount of SPL that the employee intends to take.		
I confirm my consent to the claim of ShPP by the employee and that payments for ShPP should be made to the employee.		
I give consent to the Council to process the information contained in this declaration.		
I confirm that that all information provided above is accurate and will inform the council of any changes that affect my eligibility to SPL ShPP.		
Signature		

SPL Shared Parental Leave
NI National Insurance
Partner Father/Spouse/Civil Partner/Partner

APPENDIX 3: SPLIT DAY CLAIM FORM

Please complete this form to claim payment for SPLIT days worked during shared parental leave. Forms must be submitted to Payroll by the 6th of the month. **Please note a maximum of 20 full SPLIT days can be worked during shared parental leave.**

Name: _____

Payroll No.

--	--	--	--	--	--

Job title: _____

Department: _____

Date	Time (rounded to 15 mins)		Reason	Total Hours	Payroll Use	
	From	To			Code	Amount

Total Claimed:

--

I certify that the above hours were worked on the dates shown for the reason given

Signed: _____

Date: _____

This claim has been examined and verified for payment by

Signed: _____

Date: _____

