



ADUR & WORTHING
COUNCILS

Shared Parental Leave Policy

1.0 Overview

- 1.1 The Councils are committed to all its employees being able to support their families alongside their work commitments, whilst appreciating that this can, at times, be a challenge.
- 1.2 The Councils are also committed to ensuring that shared parental leave benefits are applied fairly and consistently. This policy outlines the framework for managing shared parental leave and related absences and the steps that managers and employees must take to ensure that employees' statutory and occupational benefits are applied appropriately. This policy applies regardless of the gender of the employee's partner.
- 1.3 Employees will only have one entitlement to shared parental leave and pay, irrespective of the number of children born or adopted as part of the same pregnancy or adoption. Employees may be eligible for further shared parental leave and pay if they have more children at a later date. Statutory shared parental leave pay entitlements are defined by HMRC.

2.0 Areas of responsibility

- 2.1 All employees have the responsibility for complying with this policy. Individual areas of responsibility are:
 - **Corporate Leadership Team** – publicising the policy
 - **HR team** - reviewing this policy to ensure it is effective and advising managers on the interpretation and consistent application of the policy and on best practice
 - **Managers** - responsibility for ensuring the fair application of this policy, liaising with employees before and during leave.
 - **Employees and those working on behalf of the Councils** – complying with the spirit and wording of this policy, ensuring they read and understand this policy and submit relevant documentation as required.

3.0 Shared parental leave

- 3.1 This section applies to employees and not to agency workers or self-employed contractors, however there are some earners who may be entitled to shared parental pay despite not being employees. Individuals can contact HR to seek clarification.
- 3.2 Individuals may be able to take shared parental leave if they are having a baby or adopting a child. If both parents are eligible to take shared parental leave, the parents will be able to choose how to split the available leave between them, and can decide to be off work at the same time or at different times. The leave can be taken in blocks separated by periods of work or taken in one go.

Eligibility - Birth

- 3.3 To be eligible for shared parental leave, employees must meet the following criteria:
- a) they are the child's mother and share the main responsibility for the care with the child's father or with their partner
 - b) they are the child's father and share the main responsibility for the care of the child with the child's mother or
 - c) they are the mother's partner and share the main responsibility for the care for the child with the mother (where the child's father does not share the main responsibility with the mother).
- 3.4 A 'partner' means a spouse, civil partner or someone living with the employee in an enduring family relationship, but not a sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.
- 3.5 The following conditions must also be fulfilled:
- d) the employee must have at least 26 weeks continuous employment by the end of the fifteenth week before the Expected Week of Childbirth, and still be employed by the Councils in the week before the leave is to be taken
 - e) the other parent must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the Expected Week of Childbirth and had average weekly earnings of at least £30 during 13 of those weeks and
 - f) the employee and the other parent must give the necessary statutory notices and declarations as summarised below, including notice to end any maternity pay or maternity allowance periods.
- 3.6 The total amount of shared parental leave available is 52 weeks, less the weeks spent by the child's mother on maternity leave (or the weeks in which the mother has been in receipt of statutory maternity pay or maternity allowance if she is not entitled to maternity leave).
- 3.7 If the employee is the mother, she cannot start the shared parental leave until after the compulsory maternity period, which lasts until two weeks after birth.

- 3.8 If the employee is the child's father or mother's partner, they should consider using their two weeks' paternity leave before taking shared parental leave. Once the shared parental leave is started, any untaken paternity leave entitlement will be lost. Shared parental leave is in addition to paternity leave entitlement.

Eligibility - Adoption

- 3.9 An individual will be entitled to shared parental leave if an adoption agency has placed a child with them or their partner for adoption or where a child is placed with them or their partner as foster parents under 'fostering for adoption' or 'concurrent planning' scheme'. It must be the individual's intention to share the main responsibility for the care of the child with their partner.
- 3.10 The following conditions must be fulfilled:
- a. the employee must have at least 26 weeks continuous employment by the end of the week the adoption agency notifies the employee that they have been matched for adoption (the Qualifying Week), and still be employed by the Councils in the week before the leave is to be taken
 - b. the other parent must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the Qualifying Week and had average weekly earnings of at least £30 during 13 of those weeks and
 - c. the employee and the other parent must give the necessary statutory notices and declarations as summarised below, including notice to end adoption leave or statutory adoption pay.
- 3.11 Either the individual or their partner must qualify for statutory adoption leave and/or statutory adoption pay and must take at least two weeks of adoption leave and/or pay.
- 3.12 If the individual's partner is taking adoption leave and/or claiming statutory adoption pay, they may be entitled to two weeks' paternity leave and pay. This should be considered before taking shared parental leave as any untaken paternity leave entitlement will be lost once a period of shared parental leave is started.
- 3.13 The total amount of shared parental leave available is 52 weeks, less the weeks of adoption leave taken by either the individual or partner (or the weeks in which their partner has been in receipt of statutory adoption pay if they were not entitled to adoption leave).

Opting in to shared parental leave and pay

- 3.14 Not less than eight weeks before the date the employee intends for their shared parental leave to start, he/she must fill in the form on the intranet or in the place of work with all the information requested.

Ending maternity leave/adoption leave

- 3.15 Eight weeks' written notice (a curtailment notice) must be given to end maternity leave/adoption leave and opt into the shared parental leave scheme. The notice must state the date the maternity leave/adoption leave will end. The notice can be given before or after maternity leave/adoption leave starts but two weeks maternity leave/adoption leave must be taken.
- 3.16 The employee must also give, at the same time as the curtailment notice, a notice to opt into the shared parental leave scheme or a written declaration that the other parent has given their employer an opt-in notice and that they have given the necessary declarations in that notice.
- 3.17 The other parent may be eligible to take shared parental leave from their employer before the individual's maternity leave ends, provided the individual has given the curtailment notice.
- 3.18 The curtailment notice is binding and cannot usually be revoked. It can only be revoked if the maternity leave/adoption leave has not yet ended and one of the following applies:
- a. the individual realises that neither they nor the other parent is in fact eligible for shared parental leave or shared parental pay. In such a case, the curtailment notice can be revoked in writing up to eight weeks after it was given.
 - b. if the other parent has died or
 - c. in the case of maternity leave only, if the curtailment notice was given before giving birth, it can be revoked in writing up to six weeks after birth.
- 3.19 Once the curtailment notice has been revoked, the employee cannot opt back into the shared parental leave scheme unless 3.18(c) applies.

Ending the partner's maternity leave or pay/adoption leave or pay

- 3.20 If the employee is not the mother, but the mother is still on maternity leave or claiming statutory maternity pay or maternity allowance/if the individual's partner is taking adoption leave or claiming statutory adoption pay, they will only be able to take shared parental leave once she/he has either:
- a. returned to work
 - b. given her/his employer a curtailment notice to end her maternity leave/adoption leave
 - c. given her employer a curtailment notice to end her statutory maternity pay (if she is entitled to statutory maternity pay and not maternity leave)/given their employer a curtailment notice to end statutory adoption pay (if they are entitled to statutory adoption pay but not adoption leave) or

- d. in the case of maternity allowance, given the benefits office a curtailment notice to end her maternity allowance (if she is not entitled to maternity leave or statutory maternity pay).

Booking shared parental leave dates

- 3.21 Having opted into the shared parental leave scheme, leave must be booked by giving period of leave notice. This may be given at the same time as the opt-in notice or later provided it is at least eight weeks before the start of the shared parental leave and is in writing.
- 3.22 The period of leave notice can either give the dates that the individual wants to take as leave or, if the child has not been born yet, it can state the number of days after birth that the individual wants the leave to start and end. This might be particularly useful if the individual intends to take paternity leave starting on the date of birth/placement and wishes to take shared parental leave straight afterwards.
- 3.23 Leave must be taken in blocks of at least one week.
- 3.24 If the period of leave notice gives a single continuous block of shared parental leave, the employee can take the leave set out in the notice.
- 3.25 If the period of leave notice requests split periods of shared parental leave, with periods of work in between, the request will be considered.
- 3.26 An individual can have up to three periods of leave notices. This will enable the individual to take up to three separate blocks of shared parental leave (although if the individual gives a notice to vary or cancel a period of leave this will in most cases count as a further period of leave notice).

Changing the dates or cancelling the leave

- 3.27 A period of leave can be cancelled by giving written notice of at least eight weeks before the start date in the period of leave notice.
- 3.28 The start date for a period of leave can be changed by providing written notification at least eight weeks before the original start date or the new start date, whichever is earlier.
- 3.29 The end date for a period of leave can be changed by providing written notification at least eight weeks before the original end date or the new end date, whichever is earlier.
- 3.30 Discontinuous periods of leave can be combined into a single continuous period of leave. Since this will involve a change to the start and end date of the period of leave, see 3.21 and 3.22 above which set out how much notice is required.
- 3.31 A continuous period of leave can be split into two or more discontinuous periods of

leave, with periods of work in between. Since this will involve a change to the start date and end date, see 3.21 and 3.22 above which set out how much notice is required. This request may not be granted but it will be considered.

- 3.32 A notice to change or cancel a period of leave will count as one of the three period of leave notices unless:
- a. it is a result of the child being born earlier or later than the Expected Week of Childbirth/it is a result of the child being placed with the individual earlier or later than the Expected Placement Date
 - b. the individual is cancelling a request for discontinuous leave before it has been agreed
 - c. it is at the Councils' request or
 - d. the Councils' agree otherwise.

Premature Birth

- 3.33 Where the child is born early (before the beginning of the Expected Week of Childbirth), the individual can start shared parental leave in the eight weeks following birth even though eight weeks' notice has not been given. The following rules apply:
- a. If the individual has given a period of leave notice to start shared parental leave on a set date in the eight weeks following the Expected Week of Childbirth, but the child is born early, the individual can move the shared parental leave start date forward by the same number of days, provided he/she notifies their line manager in writing of the change as soon as they can. (If the period of leave notice already contained a start date which was a set number of days after birth, rather than a set date, then no notice of change is necessary.)
 - b. If the child is born more than eight weeks early and the individual wants to take shared parental leave in the eight weeks following birth, then the opt-in notice and period of leave notice should be submitted as soon as they can.

Shared Parental Pay

- 3.34 Employees who are absent from work on shared parental leave may be entitled to shared parental pay of up to 39 weeks (less any weeks of statutory maternity pay or maternity allowance claimed by the employee or their partner) if they meet either of the following eligibility criteria:
- a. they have at least 26 weeks' continuous employment at the end of the 15th week before the Expected Week of Childbirth and
 - b. their average earnings are not less than the lower earnings limit set by the government each tax year.
- 3.35 Eligibility for shared parental pay is based on the circumstances of the individual employee and cannot be transferred between partners. If both partners are eligible

for shared parental pay, their applications must detail how they wish for it to be shared.

- 3.36 Shared parental leave pay is paid at the same rate as statutory maternity and statutory adoption pay. This pay is treated as earnings and is therefore subject to the normal pay deductions (i.e. national insurance, income tax and pension contributions).
- 3.37 The Councils do not offer any occupational shared parental leave pay.
- 3.38 Individuals should in their period of leave notice state whether they intend to claim shared parental leave pay (and if so, for what period). If it is not in the period of leave notice, the individual can inform HR at least eight weeks before they want shared parental leave pay to start.

Shared Parental Leave In Touch (SPLIT) days

- 3.39 Both partners can each work up to 20 days while taking shared parental leave. These are called 'shared parental leave in touch' (or SPLIT) days.
- 3.40 These days are in addition to the 10 'keeping in touch' (or KIT) days available to those on maternity or adoption leave, further details of which are outlined in the maternity and adoption policies.
- 3.41 KIT and SPLIT days are optional - both the individual and the manager must agree to them.
- 3.42 It is the Councils' policy that where an employee attends work on a SPLIT day, they will be paid for the number of hours they work at their normal hourly rate of pay which will be paid on top of any statutory parental leave pay that is due.
- 3.43 The makeup of this pay may affect employees claiming benefits such as working tax credits so individuals are encouraged to look into what impact this might have before requesting/agreeing to work SPLIT days.

4.0 Pension regulations

- 4.1 Those receiving shared parental leave pay (occupational or statutory) who contribute to the local government pension scheme must continue to pay pension contributions. This will be based on the actual remuneration (including statutory pay) received.
- 4.2 Anyone taking additional unpaid leave has a choice of whether or not to pay pension contributions for the period of unpaid leave. The Payroll Section will write to individuals concerned at the appropriate time asking for notification of whether the individual is intending to pay pension contributions or not.
- 4.3 If the individual wants to pay additional contributions, this will be based on the actual remuneration received immediately before the unpaid period. If an individual

chooses not to pay pensions contributions, this period will not count as service for pension purposes.

5.0 Annual leave

- 5.1 Holiday entitlement will continue to accrue during shared parental leave in accordance with the employee's contract of employment.
- 5.2 If an employee takes shared parental leave and returns to work in a new annual leave year, the employee has the option to:
 - a. use their leave to 'return to work' at an earlier point (but be on annual leave)
 - b. use the leave in the first weeks of their return to 'phase' back into work or
 - c. attach it to the end of their leave.
- 5.3 Employees who are planning a period of family leave that is likely to last beyond the end of the holiday year should discuss their holiday plans with their manager in good time before starting the family leave. Any holiday entitlement for the year that cannot reasonably be taken before starting the family leave can be carried over to the next holiday year.
- 5.4 Any holiday carried over should be taken within three months of returning to work after the family leave.

6.0 Right to return to work

- 6.1 Individuals on shared parental leave are entitled to return to the job they were employed to do if the period of leave is 26 weeks or less.
- 6.2 If the leave is more than 26 weeks, then the individual has the right to return to the same job they had before their absence unless it is not reasonably practicable (other than by reason of redundancy) for the employee to return to their former job. In that case, the employee is entitled to return to another job that is both suitable and appropriate for them to do. The terms and conditions cannot be less favourable.
- 6.3 For more information about returning to work if the individual's team is going through a restructure, please see the managing people change policy available on the intranet or in the workplace.

Temporary contract information

- 6.4 If an individual is on a temporary contract which expires during their shared parental leave, providing the post is still required, the contract should be extended.
- 6.5 If the post is not required or funding no longer exists, the temporary contract will come to an end.

6.7 For details about specific circumstances, please contact HR.

7.0 Flexible working

7.1 Requests to change the working pattern (such as working part-time) after the shared parental leave will be dealt with in accordance with the Councils' Flexible Working Policy. It is helpful if flexible working requests are made as early as possible.

8.0 Monitoring and Review

8.1 This policy will be monitored and reviewed on a regular basis by the HR team. It does not form part of any contract of employment.

Date policy agreed with Unison: (31st March 2021)

Date agreed by Joint Staff Committee: (date)

Date policy formally adopted: (date)

Date for review: 3 years from formal adoption of policy (date)