

APPENDIX A

Forest Heath & St Edmundsbury councils

**West Suffolk**  
working together

Shared Parental Leave and Pay  
Guidance

July 2015

<b>Contents</b>	<b>Page</b>
Introduction	3
Eligibility	3
Entitlement	4
Starting and Taking SPL	5
Notification Requirements	5
Shared Parental Leave In Touch (SPLIT) Days	7
Pension	8
Annual Leave	8
Flexible Working	8
Questions About SPL	8
Shared Parental Leave – FAQs	9

## 1. **Introduction**

- 1.1 We assist employees to achieve a work-life balance through various policies and support available to staff.
- 1.2 Shared parental leave is a statutory parental right for both parents/adopters and this guidance explains your rights and how we can support you.
- 1.3 If your baby is due, or you are adopting a child on or after 5 April 2015, you may be entitled to Shared Parental Leave (SPL) and Shared Parental Pay (ShPP). SPL and ShPP give parents the opportunity to share an entitlement to time off and pay during the first year of a child's life, or the first year following adoption.
- 1.4 The right to maternity or adoption leave and pay remains in place, but, if the employee chooses to bring their maternity or adoption leave and pay to an early end, then eligible working parents will be able to share the balance of the remaining leave and statutory pay as SPL and ShPP. Partners of the mother or primary adopter maintain their entitlement to up to two weeks paternity leave and pay, but this will be deducted from any available SPL and ShPP.
- 1.5 Depending on your eligibility, SPL and/or ShPP may be available to one or both parents.

## 2. **Eligibility**

### 2.1 Shared Parental Leave (SPL)

- 2.2 To be eligible for SPL, the child's mother or the other adoptive parent must be eligible for maternity leave or pay, maternity allowance or adoption leave or pay.
- 2.3 If you wish to take SPL you must:
  - have a least 26 weeks continuous service with the Company by the end of the 15th week before the due date (or by the date you are notified of a match for adoption),
  - still be employed by the council when you take SPL,
  - have or expect to have parental responsibility for the child, and
  - give the correct notice, including a declaration that your partner meets the employment and income requirements for SPL. See the notification form for details.
- 2.4 The other parent must have worked for 26 weeks in the 66 weeks leading up to the due date and have earned above the maternity allowance threshold in 13 of the 66 weeks.

## 3.

## 2.5 Shared Parental Pay (ShPP)

2.6 You may be eligible for ShPP during a period of SPL if:

- you qualify for Statutory Maternity Pay, or Statutory Adoption Pay, or
- you qualify for Statutory Paternity Pay and your partner qualifies for Statutory Maternity Pay, or Statutory Adoption Pay.

2.7 ShPP is paid at the statutory entitlement, which is Statutory Maternity Pay (SMP). SMP is paid for up to 39 weeks. You get:

- 90% of your average weekly earnings (before tax) for the first six weeks
- a rate, which is reviewed every April, or 90% of your average weekly earnings (whichever is lower) for the next 33 weeks.

2.8 Information on the current rates is available on: [www.gov.uk/maternity-paternity-calculator](http://www.gov.uk/maternity-paternity-calculator).

2.9 If both parents qualify for ShPP, they must decide who will receive it, or how it will be divided, and they must each inform their employer of their entitlement.

2.10 To qualify for ShPP an employee needs to have met the \*'continuity of employment test' and their partner must meet the \*'employment and earnings test'. In addition, the employee must, also, have earned above the 'lower earnings limit' in the eight weeks leading up to and including the 15th week before their child's due date/matching date and still be employed with the same employer at the start of the first period of ShPP.

\*To qualify for SPL you must satisfy the employment and earnings test, ie you must have been employed or self-employed for at least 26 weeks in the 66 weeks before the baby is born and you must have earned an average of £30 in 13 of those 66 weeks.

## 3. **Entitlement**

3.1 If you are eligible and you or your partner bring your maternity or adoption leave and pay to an end early, then you may:

- take the remaining balance of the 52 weeks' leave as SPL
- be paid ShPP for the balance of the 39 weeks' pay period.

3.2 The mother must take a minimum of two weeks' maternity leave following the birth. Therefore, the maximum leave can be shared is 50 weeks and the maximum pay to be shared is 37 weeks.

3.3 If your partner is eligible for SPL you can take the leave together or at different times.

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3.4 You may request SPL in continuous or discontinuous periods. A continuous period would be where you take your SPL in a fixed block of, for example, one month. A discontinuous period would be where you ask to take your leave in shorter blocks, so, for example, you might ask to take every other week off over a period of eight weeks.

#### 4. **Starting and taking SPL**

4.1 For SPL to begin, the mother or adopter must:

- end their maternity or adoption leave
- give us/their employer binding notice of the date when they'll end their maternity or adoption leave (at least eight weeks beforehand)
- end adoption pay, maternity pay or Maternity Allowance (if they are not entitled to maternity leave)

4.2 SPL can start for the partner whilst the mother or adopter is still on maternity or adoption leave provided the mother/adopter has given binding notice to end their leave (or pay if they are not entitled to leave).

#### 5. **Notification requirements**

##### 5.1 Written notice of entitlement

5.2 If you wish to take SPL you must give us written notice of your entitlement to SPL and ShPP.

5.3 This notice must include the following information:

- Your partner's name
- The start and end dates of maternity or adoption leave
- The total amount of SPL and ShPP available and how much you and your partner intend to take
- Confirmation that you are sharing childcare responsibility with your partner

5.4 You must, also, give us a signed declaration from your partner, stating the following:

- Their name, address and national insurance number
- Confirmation that they satisfy the qualifying requirements for SPL
- That they agree to you taking SPL and ShPP.

5.5 If we ask you for a copy of the child's birth certificate and the name and address of your partner's employer you must provide us with this within 14 days.

5.6 Any dates indicated in your notice of entitlement are not binding and, having given us this notice of entitlement you may vary it, provided you still have at least eight weeks to go before you are due to start a period of SPL. Any variation notice must also be signed by your partner.

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5.7 Notice to take SPL

5.8 In addition to giving us the notice of entitlement set out above, you must give us notice of each particular period of SPL you wish to take. The notice must be given at least eight weeks before the start date of the first period of leave you are requesting.

5.9 Notice for SPL at the time of the birth or adoption

5.10 If you are giving notice for a period of SPL just after the expected birth or adoption, then the notice must contain a start date that is on the birth/adoption of the child or that is expressed as a number of days following the birth or adoption, and an end date expressed as a number of days following the birth or adoption.

5.11 Notice of a continuous period of leave

5.12 If you give us notice of a continuous period of SPL (eg, to take one month of SPL in one go) you will be entitled to take that leave.

5.13 Notice of a discontinuous period of leave

5.14 If you request discontinuous periods of SPL (eg, you ask to take every other week off over a period of eight weeks), then we will consider your request and give you a decision within two weeks of receiving it. We may agree to the leave, propose alternative dates to you or refuse the request. Your manager will usually want to meet with you to discuss your request if we do not think we can agree to it.

5.15 If we agree to the requested SPL dates or we agree alternative dates with you within that two weeks, then the agreement is binding and you are entitled to take that leave.

5.16 If we cannot reach agreement within the two weeks, then you may choose to take the total amount of SPL requested in one continuous block. Where this is the case, you must choose a start date of SPL which cannot be sooner than eight weeks after your original notice was given. You must give us your new start date within five days of the end of the two-week original notice.

5.17 You may, if you wish, decide to withdraw a request for discontinuous SPL. Provided you do so before we have agreed a period of leave with you, and within 14 days of giving us notice of your request, this request will not count towards the three blocks of leave that you can request.

5.18 Requesting a variation to leave

5.19 If you wish to request a variation to either a period of continuous or discontinuous leave, you must set out your request in writing. Your request should set out the SPL periods you are entitled to (ie, what has already been agreed) and then you may:

- Vary the start or end of any period of SPL (Provided you give at least eight weeks' notice)
- Ask for a single period of leave to become discontinuous or vice versa
- Cancel completely or vary the amount of leave requested (provided you give at least eight weeks' notice)

#### 5.20 Total number of notices

5.21 You may only give a maximum three notices to take SPL. The following do not count towards this maximum:

- Any notices withdrawn at our request because the request is for discontinuous leave.
- Any notice that varies an earlier notice because the child is born earlier or later than expected.
- Any notice where you change your mind giving at least eight weeks' notice before the original start date.

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

5.23 In certain circumstances the mother or adopter may be able to change the decision to end maternity or adoption leave early provided the planned end date has not already passed and she has not already returned to work.

5.24 These circumstances are where:

- You find out during the eight week notice period that neither partner is eligible for SPL or ShPP
- The mother or adopter's partner has died, or
- The mother gave notice before the birth and then tells her employer less than six weeks after the birth.
- Exceptional circumstances that can be discussed and agreed with the mother or adopter and the employer.

### 6. **Shared Parental Leave In Touch (SPLIT) Days**

6.1 You and your partner can work for up to 20 days each during SPL. These days are known as SPLIT days.

6.2 Whilst on maternity or adoption leave, you continue to be entitled to your 10 Keeping in Touch (KIT) days.

6.3 There is no obligation for you to work, or for us to offer you any SPLIT days, but, where such days are agreed, payment will be agreed in advance and provided you do not work more than the maximum, your entitlement to ShPP will be unaffected.

## 7. **Pension**

7.1 The employee may wish to talk to the Pensions team regarding their pension contributions if taking unpaid leave SPL.

7.2 Information can be found on the Suffolk LGPS web site.  
<http://www.suffolkpensionfund.org/>

## 8. **Annual Leave**

8.1 Annual leave will be accrued during the SPL period.

## 9. **Flexible Working**

9.1 Employees have the right to request flexible working. Information on flexible working can be found on the intranet, request should be made as early as possible.

## 10. **Questions about SPL**

10.1 The eligibility criteria and the notification requirements for SPL are complex. If you are considering taking SPL you are encouraged to talk to your manager about the sort of arrangements you might like as discussion may mean you can reach agreement and then formalise the arrangement through the notification process.

FAQ's are also available. If after reading the policy and FAQ's you require further advice, please contact the HR team.



## **Shared Parental Leave: Frequently Asked Questions**

### **Q: What is Shared Parental leave (SPL)?**

A: SPL is a legal entitlement for eligible parents, giving the opportunity to return from maternity or adoption leave and share the unused balance of the leave with the eligible partner. It enables parents to share the caring responsibilities evenly or have one parent taking the main caring role, depending on their preferences and circumstances. Unlike maternity/adoption leave, eligible employees can stop and start their SPL and return to work between periods of leave with each eligible parent able to submit three notices booking periods of leave.

### **Q: What rate is Shared Parental Pay (ShPP) paid at?**

A: ShPP is paid at the statutory entitlement, which is Statutory Maternity Pay (SMP). SMP is paid for up to 39 weeks. You get:

- 90% of your average weekly earnings (before tax) for the first six weeks
- a rate, which is reviewed every April, or 90% of your average weekly earnings (whichever is lower) for the next 33 weeks.

Information on the current rates is available on: [www.gov.uk/maternity-paternity-calculator](http://www.gov.uk/maternity-paternity-calculator).

### **Q: Who pays for Shared Parental Pay (ShPP)?**

A: If both parents qualify for ShPP they must decide who will receive it, or how it will be divided, and they must each inform their employer of their entitlement. It is paid by the employer of the employee, ie, if the parents decide to share ShPP their employer pays.

### **Q: When do I have to use my SPL by?**

A: SPL and ShPP must be taken between the baby's birth and first birthday (or within one year of adoption).

### **Q: The policy refers to three separate notices, is a request of discontinuous leave logged as one notice?**

A: Yes. An employee is entitled to submit three separate notices to book leave. Leave must be taken in complete weeks and may be taken either in a continuous period, or in a discontinuous period.

### **Q: Can a request of discontinuous leave be refused?**

A: Yes. A continuous period of leave cannot be refused. However, a discontinuous period can be refused by the employer. If a request for discontinuous leave is refused then the total amount of leave request in the notice will automatically become a continuous block, unless it is withdrawn or an alternative can be agreed.

### **Q: How do I calculate my entitlement?**

A: There is a calculator available as part of this guidance. Please complete the calculator to assist discussions about your entitlement and submit with your request to take SPL and ShPP.

**Q: How many SPLIT days am I entitled to?**

A: The employee is entitled to 20 Shared Parental Leave in Touch (SPLIT) days. There is no obligation on the employer to offer these days or for the employee to agree to them. SPLIT days can be used in situations where both parties feel it would be beneficial for the employee to attend a work-related activity, for example, a training session or a team meeting, or to work part of a week to help the employee return to their role in a gradual way.

These days are in addition to the 10 [‘keeping in touch’](#) (or KIT) days available to those on maternity or adoption leave.

Once you have finished your maternity leave, you cannot carry over KIT days into your SPL and add them onto your SPLIT days.

**Q: Where can I find the Family and Flexible Working Policies?**

A: They are available on the intranet site, under the heading of ‘HR Policies and Guidance’.

**Q: What is Parental Leave?**

A: Parental Leave is different to shared parental leave. Parental Leave is for employees to take time off work to look after a child’s welfare. This leave is normally unpaid, and is available for each child up to their 18th birthday. Information on Parental Leave can, also, be found on the [acas.org.uk](http://acas.org.uk) website.

**Q: Is additional Paternity Leave still available?**

A: No. Partners/fathers are still entitled to two weeks’ paternity leave straight after a child’s birth. However, Shared Parental Leave has replaced the additional Paternity Leave entitlement.

**Q: What notice does my partner need to give?**

A: Please refer to the **‘Notification Requirements’** section within this guidance, which is based on statutory notice requirements. Please note, your partner must apply to their own employer if they, also, want SPL or ShPP, and their requirements may vary.

**Q: What does my partner need to do to notify their employer?**

A: Your partner must apply to their own employer if they, also, want SPL or ShPP. If their employer does not have any guidance or forms, then they can agree with their employer to use the information and forms available on the [acas.org.uk](http://acas.org.uk) website.

The legislation on SPL is very complex and the information required confirming eligibility, entitlement and details of the request are very specific. Therefore, using the forms available on the [acas](http://www.acas.org.uk) website may be helpful for both your partner and their employer. The ACAS form is titled “Notification that Partner is intending to take SPL (for Partner’s Employer)”  
<http://www.acas.org.uk/index.aspx?articleid=4911>

Your partner must notify their employer of their entitlement as early as possible or at least eight weeks before the start of any Shared Parental Leave starts.

**Q: Where can I find more information on SPL?**

A: You can find more information on the ACAS website <http://www.acas.org.uk> and/or the government website <https://www.gov.uk>. In addition, you can discuss with your manager and HR team.

**Visions**

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