

HR & OD POLICIES

human resources and organisational development



Shared Parental Leave Guidelines

Teachers and Associated
Professionals

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1. INTRODUCTION

Shared Parental Leave (SPL) is a statutory entitlement available to eligible parents of babies due, or children placed for adoption on or after 5 April 2015. It allows parents to choose how to share the care of their child during the first year of birth or adoption. Information on eligibility to access SPL can be found on [GOV.UK](#) . A set of [FAQs](#) has been developed which gives further information and guidance on this category of leave.

This guidance outlines the rights, obligations and entitlements including pay and leave provisions for Teachers and Associated Professionals further information can be found in the [SNCT Handbook Part 2 Section 7, Family Leave](#). The amount of leave available as Shared Parental Leave is calculated using the mothers entitlement to maternity/adoption leave, which allows them to take up to 52 weeks leave. If the mother reduces her maternity/adoption leave entitlement then she and/or her partner may opt-in to the Shared Parental Leave process and take any remaining weeks as Shared Parental Leave.

Shared Parental Leave should not be confused with ordinary parental leave, which is unaffected by shared parental leave. Ordinary parental leave is the entitlement to up to 18 weeks unpaid leave. For further information on this see [Parental Leave](#).

2. INFORMATION FOR ADOPTIVE PARENTS

Shared Parental leave also applies to parents who are adopting a child due to be placed on or after 5 April 2015 via an adoption agency. In order for adoptive parents to take shared parental leave in respect of a child they must satisfy the eligibility criteria as detailed in this procedure and be entitled to statutory adoption leave. Parents must provide a similar notice of entitlement to their line manager however the notice must also confirm the date the parents were notified as having been matched with the child, the date the child is expected to be placed with them and a declaration which includes the parents national insurance numbers and consent to the amount of time the other parent intends to take. Evidence of eligibility in the case of parents adopting a child will be copies of documents issued by the adoption agency confirming the date the parents were matched with the child.

3. ELIGIBILITY FOR SHARED PARENTAL LEAVE

For employees to be eligible to take shared parental leave, both partners must meet certain eligibility requirements. A partner is defined as: The father of the child, or the

person who, at the date of the child's birth, is married to, the civil partner of, or the partner of the mother. A partner may be someone of either gender, who lives with the mother and the child in an enduring family relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

4. MOTHER'S ELIGIBILITY FOR SHARED PARENTAL LEAVE

The mother is eligible for shared parental leave if she:

- has at least 26 weeks' *continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the organisation until the week before any period of shared parental leave that she takes;

* Any previous employment (including probationary periods) with councils, employers listed in the Redundancy Payment (Local Government) (Modification) Order 1990 (as amended) and any other employment deemed by the council to be relevant, should be counted as continuous service (as defined in the Employment Rights Act 1996) subject to a gap in employment not exceeding one working week.

- has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is entitled to statutory maternity leave in respect of the child; and
- complies with the relevant maternity leave curtailment requirements (or has returned to work before the end of statutory maternity leave), and shared parental leave notice and evidence requirements.

In addition, for the mother to be eligible for shared parental leave, the partner must:

- have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks; and
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child.

5. PARTNER'S ELIGIBILITY FOR SHARED PARENTAL LEAVE

The partner is eligible for shared parental leave if he/she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with that employer until the week before any period of shared parental leave that he/she takes;
- has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- complies with the relevant shared parental leave notice and evidence requirements.

In addition, for the partner to be eligible for shared parental leave, the mother must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and
- comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave).

6. NOTIFICATION FOR SHARED PARENTAL LEAVE

Before either parent can take shared parental leave the mother must give the Council:

- A [leave curtailment notice](#) which sets out the date on which she intends to bring her maternity leave to an end.
- A declaration stating that her partner has given his or her [notice of entitlement](#) and intention to take shared parental leave and that she consents to her partner taking that amount of leave.
- A notice of entitlement and intention to take shared parental leave. This notice should set out how much shared parental leave the parents or partners each intend to take.

The mother must provide the leave curtailment notice and the declaration no less than 8 weeks before the start of the first period of shared parental leave. This can be waived in event of premature birth.

The employee, whether the mother or her partner, must give the employer a notice of entitlement and intention to take shared parental leave no less than 8 weeks before the start of her or his period of shared parental leave. The mother must take two weeks maternity leave after the birth of a child. This 2 weeks cannot be transferred.

The Council, on receiving notice from an employee that he or she intends to share parental leave, may request (i) a copy of the child's birth certificate and the name and address of the employee's partner's employer or (ii) a notification of adoption or (iii) a copy of the surrogacy certificate.

The Council can only contact the partner's employer to check whether the partner is entitled to shared parental leave with the express consent of the employer's partner. If only one partner is eligible for Shared Parental Leave that person is entitled to use discontinuous leave in separate blocks provided the other partner meets certain criteria, based on the same test as maternity allowance, viz

- Must have worked in an employed or self-employed capacity in at least 26 of the 66 weeks immediately before EWC.
- Earned an average of at least £30 per week based on any of the 13 weeks (prescribed average weekly earnings).

[Discontinuous leave](#) can be requested for shared parental leave. The minimum block of time for a teacher or associated professional is normally 4 weeks and the employee should set out the pattern of discontinuous leave requested. The Council should have a stated procedure for considering requests and should arrange a meeting within 10 working days to discuss any requests received. The Council can decline to agree a discontinuous leave request however they should arrange for any challenge to discontinuous leave being declined to be dealt with timeously through an appeals procedure in keeping with the appeals mechanism which applies locally to deal with [flexible working appeals](#).

Once a mother has given notice to curtail maternity/adoption leave and either parent has informed their employer of their entitlement to take ShPL then the notice to end maternity leave is binding and cannot be withdrawn unless;

- Within eight weeks of the mother submitting notice to end their maternity/adoption leave it transpires neither parent qualifies for Shared Parental Leave or Shared Parental Pay; or

- When notice was given before birth, it may be withdrawn without a reason up to six weeks following the birth; or
- The mother's partner dies.

In the circumstances above it is open to the mother to formally revoke the curtailment of leave. This must be in writing and can be given only if the mother has not returned to work.

It is open to partners to vary the leave allocation between them at any stage. To vary an agreed allocation, each partner must notify her/his employer in writing of the following:

- Details of the original agreed allocation of leave
- A formal request to change the allocation and to vary any booked leave
- Details of the proposed allocation

Both partners must sign the variation and present notice of variation to each employer. A partner may choose to start a period of parental leave on the day of the child's birth or adoption or when the mother is on maternity or adoption leave. In these circumstances, however, the leave curtailment notice must still be provided, indicating the distribution of leave between the partners.

Employees can make a maximum of three requests for leave or to vary leave per pregnancy, adoption placement or surrogacy arrangement

7. SHARED PARENTAL PAY

A partner who has previously taken a period of Shared Parental Leave (ShPL) in respect of a child will not be entitled to take ordinary Paternity Leave (PL).

A mother who would otherwise qualify for occupational maternity pay, in accordance with [SNCT Handbook Part 2 Section 7 Family Leave paragraph 7.2.5](#) will be entitled to the same allowance as maternity pay allowance, subject to:

- The first two weeks of OMP is not transferable
- The entitlement to 11 week OMP and SMP equal to the mother's normal pay is not transferable

- A partner will be entitled to share SMP (as Shared Parental Pay) and has no entitlement to OMP

8. KEEPING IN TOUCH

During ShPL any employee is entitled to take SPLIT days (Shared Parental Leave in Touch Days) up to a maximum of 20 days for each parent. The number of days available shall be in consultation with the employer. SPLIT days will not bring any period of Shared Parental Leave to an end. These days do not have to be consecutive and can be used for training or any other activity that enables the employee to maintain reasonable contact with the place of work and shall be organised in accordance with [SNCT Handbook Appendix 2.10](#).

SPLIT days are separate and additional to any KIT days provided for women on maternity leave as set out in [SNCT Handbook Part 2 Section 7 Family Leave paragraph 7.1.3](#). SPLIT days, taken by Council employees, shall be paid at the normal contractual daily rate.

9. GENERAL INFORMATION

Pension

The employer shall continue to make full pension contributions during the period of paid shared parental leave or annual leave.

Annual Leave

Annual leave shall accrue during the period of shared parental leave. A teacher or music instructor will accrue annual leave, in accordance with [SNCT Section 5, paragraphs 5.3 to 5.5](#), during the period of shared parental leave.

An education support officer, quality improvement officer or educational psychologist will accrue annual leave, in accordance with [SNCT Section 5, paragraphs 5.12 to 5.15](#), during the period of shared parental leave.

Shared parental leave shall either fall within one leave year or span two leave years. Statutory leave must be provided by the council and must be taken by the employee for each leave year spanned by the period of shared parental leave. An employee on shared parental leave which spans two leave years shall receive at the end of the first leave year a statement which notifies: the leave taken to the commencement of the shared parental leave period and the leave accrued during the shared parental leave period in that leave year (contractual entitlement minus leave taken). The balance will be carried forward into the next leave year.

When an employee has notified the council of the intended date of return, the council will issue a statement of the employee's annual leave entitlement effective at that date, including any balance of statutory leave which will require to be taken.

On return from shared parental leave the employee shall take any remaining statutory leave in that leave year. Where it is not practicable to take that leave in full or in part any balance will be carried forward into the next leave year but must be taken as leave. The timing of this leave shall take account of the needs of the service and:

- In the case of teachers and music instructors, should normally be taken in the term in which the return to work takes place, or within the following term; or
- In the case of education support officers, quality improvement officers and educational psychologists should normally be taken as soon as possible following the return to work.

The balance of annual leave, in excess of statutory leave, accrued during the period of shared parental leave shall be taken following the end of the shared parental leave period. The timing of this leave is subject to the overriding needs of the service and,

- In the case of teachers and music instructors, the accrued leave can be directed to be taken during the days of school closure, with payment to be arranged based on the teacher's current daily rate of pay. Any remaining leave is to be taken in the term in which the return to work takes place, or within the following term; or
- In the case of education support officers, quality improvement officers and educational psychologists should normally be taken as soon as possible following the return to work.

Where an employee gives written notice to the council that they do not intend to return to work at the end of the shared parental leave period, the council will make a payment in lieu of leave accrued during the shared parental leave period.

Annual leave days are set as follows:

October vacation:	First 7 days
December vacation:	First 7 days
April vacation:	First 6 days
Summer vacation:	First 20 days

The remaining days are defined as school closure.

Continuous Service

All periods of shared parental leave count towards continuous service.

Pay Awards and Incremental Progression

Periods of shared parental leave count in full as credited service in the determination of placement on the Main Grade Salary Scale in accordance with the salary placement regulations.

GTC Registration

As you may be aware, each April you pay a registration fee to the GTC that is deducted automatically from your salary. Should April fall within your unpaid maternity leave period then this deduction cannot be made from your salary. It is your responsibility therefore to ensure that your registration fee is paid immediately. The GTCS will send you an account, which you can settle direct with them. Should you wish to contact the GTCS their telephone number is 0131 314 6000.

Changes to Statutory Shared Parental Pay Rates

The lower rate is reviewed each April. If payment of your ShPP starts before and continues after the lower rate is changed, you will receive the new rate from the start of the week in which the change occurs.

Income Tax and National Insurance Contributions

Income tax and national insurance contributions will be deducted from your shared parental pay as appropriate.

Essential Car User Allowance/Telephone Allowance

If you are currently in receipt of an essential car user allowance or telephone allowance, you will accrue your full entitlement during the first 52 weeks of your shared parental leave (50 weeks of SPL + 2 weeks of ML) regardless of whether you will be returning to work or not.

More than One Job

If you have more than one job with the Council and if each job has a different payroll (employee) reference number then each job is calculated separately with regard to your average earnings. If they are on the same pay/ employee reference number

then your pay for both jobs will be totalled. For all other entitlements and notification requirements each job will be treated separately.

Fixed Term Appointments

Teachers on fixed term contracts will be treated the same as permanent teachers with regards to their entitlement to shared parental leave and pay.

Fixed term contracts should not be ended due to pregnancy or shared parental leave. If a fixed term contract is due to be extended, this should be offered regardless of the pregnancy or shared parental leave. If however, the contract end date falls within the period of shared parental leave and it is not due to be extended, teachers will not be required to return to work.

If a teacher on a fixed term contract is still receiving shared parental pay when the contract ends they will remain on payroll until they have exhausted their shared parental pay. This is for administrative purposes only and the teacher will not accrue annual leave or continuous service past the date their contract ended.

Acting Up Arrangements

If you are currently in an Acting Up Position, then you will continue in that position until such time as you receive notice of a return to your substantive post (which should be no earlier than if you had of been in work).

If you are currently claiming by the Temporary Responsibility Payments form and you are entitled to Shared Parental Pay (ShPP) you should continue to claim for the 11 weeks you receive *OMP* or the earlier of your return to your substantive post.

If you are paid your acting up payments automatically, you will continue to be paid this until the earlier of your return to your substantive post or 11 weeks shared parental leave.

Sickness

Where an employee is absent before the start of the maternity leave period due to illness, the absence will be treated as sickness absence except when the paragraph below applies. This includes absence due to miscarriage (i.e prior to the 24th week of pregnancy).

If an employee is absent because of a pregnancy related illness and there are fewer than four weeks before her baby is due, she will be deemed to have commenced maternity leave.

Where an employee is unable to return to work after the SPL period has ended, or on the date previously notified, due to sickness, the normal sickness notification and certification procedures as set out in [SNCT Section 6](#) (Sickness Allowances and Notification Arrangements) apply.

Health and Safety-Breast Feeding Arrangements

Please advise your line manager at least four weeks before your return to work if you intend to continue breast feeding in order that any necessary arrangements and facilities can be put in place if possible. You will be allowed time off to breast feed your baby depending on the location or to express breast milk during working hours. Under the Management of Health and Safety at Work Regulations 1999 the Council has a responsibility to ensure that employees who have returned to work within 6 months of giving birth or breast-feeding mothers are not exposed to any risks that could damage their health and safety. Please advise your Line Manager if you have any concerns on your return to work in order that they can arrange for a risk assessment to be carried out. Further support is also available from the Occupational Health Advisor on 01224 664166.

Right to Return to Work

An employee has the right to return from the periods of leave described in these guidelines to the post in which they were employed. This will be under the original contract of employment and on terms and conditions not less favourable than those which would have been applicable to them had they not been on shared parental leave.

Where it is not practicable by reason of redundancy for the council to permit the employee to return to work in their post the employee is entitled to be offered a suitable alternative vacancy where one exists. Suitable alternative employment may also be offered in exceptional circumstances other than redundancy (e.g. a general reorganisation) which would have occurred if the employee had not been on shared parental leave, and where these circumstances necessitate a change in the post in which they were employed prior to their leave commencing.

A temporary employee will not have the right to return to work where their contract would have expired during the leave period but will be entitled to all other provisions in these guidelines provided they meet the criteria where these are stated.

Options for Returning to Work

If you are unable to or do not wish to return to work on a full time basis, the Council has adopted a number of policy initiatives, which will hopefully assist you.

Job Share Scheme

If you wish to return to work on a job share basis please refer to the approved Job Share Fact Sheet for Teachers.

Extension to Leave

Options are available for parents that may be considering an extension to the leave they have taken to care for their children, which can commence directly after the date shared parental leave is due to end.

Career Break

A Career Break is an opportunity for employees to request a period of extended unpaid leave from a minimum of 6 months to a maximum period of 5 years. Further information and details of how to apply for this leave can be found within the [SNCT Handbook Part 2 Appendix 2.15 Eligibility 2.3.](#)

10. CHILDCARE

One of the key factors in returning to work following maternity leave is arranging child care to meet your requirements. Aberdeenshire Family Information Service provides free advice and information on child care options.

Details of registered child minders and day care facilities in your area of Aberdeenshire, as well as impartial guidance on choosing child care, can be obtained from:

[Aberdeenshire Family Information Service](#)

Craigearn Business Park

Morrison Way

Kintore

AB51 0TH

Telephone: 01467 628579

Advice Line: 0800 298 3330

If you live in the Aberdeen area, information can be obtained from:

Aberdeen City Council, Children's Services
Information Service

Telephone: 01224 443344

Email: <mailto:csis@aberdeencity.gov.uk>

For further advice and guidance on any of the above please contact [HR&OD](#)

Shared Parental Leave Guidelines

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Procedure

Revision Date	Previous Revision Date	Summary of Changes
05-04-2015	-	Creation of all Documents
06-07-2018	05-04-2015	SNCT/18/65 Reckonable Service (Probationers)
29-03-2019	06-07-2018	Removal of Aberdeenshire Council Childcare Voucher Scheme