



St Helens Borough Council

Shared Parental Leave Guidance

and Procedure for Staff

Introduction

This guidance has been developed to provide further information about the Council's entitlement to Shared Parental Leave and Pay. It applies to all employees of St Helens Council. It outlines the statutory right to take Shared Parental Leave (SPL) to care for a child due to be born or placed for adoption on or after 5th April 2015. It also outlines notification requirements before a period of SPL and entitlement to pay during SPL.

SPL gives employees with caring responsibilities for babies or newly adopted children the opportunity to share up to 52 weeks of leave with their partner should they wish to do so by committing to end maternity or adoption leave and pay early and opt into the Shared Parental Leave Scheme. The untaken balance of leave and pay can then be taken as SPL. Parents taking SPL can take leave in separate blocks, returning to work in between blocks, and both parents can be on leave at the same time. Eligible employees are entitled to submit up to three notices to take a 'Period of Leave' and are entitled to take SPL on those dates if a continuous period of leave is requested.

SPL will replace the existing entitlements of additional paternity leave and pay. For parents with a baby due on or before 4 April 2015, the entitlement to additional paternity leave and additional statutory paternity pay will remain in place.

These rights also apply to partnerships of the same sex and intended parents in a surrogacy arrangement.

Our Vision and Values

The Council has co-designed a clear vision for workplace culture and worked together with employees to identify values and behaviours for everyone. These will be at the core of how we work together to deliver our services. Employees will be empowered to deliver new ways of thinking and new ways of working, encouraging innovation and creativity in a learning environment.

Our vision, values and behaviours are underpinned by our Bonds for Working Together at St Helens which outline what employees can expect from working at the Council and what is expected of them.

[Our Culture, vision, values, behaviours and Bonds for Working Together at St Helens](#)



Entitlements

Qualifying for Shared Parental Leave

To be entitled to SPL, you must:

- be the mother, father, or main adopter of the child, or the partner of the mother or main adopter;
- have, or share with the other parent, the main responsibility for the care of the child;
- have at least 26 weeks' continuous service at the 15th week before the expected week of birth or at the week in which the main adopter was notified of having been matched for adoption with the child, known as the 'relevant week';

- still be in continuous employment until the week before any SPL is taken;
- comply with the relevant notice and evidence requirements.

In addition, the other parent must:

- have at least 26 weeks' employment (employed or self-employed) out of the 66 weeks prior to the relevant week;
- have average weekly earnings of at least £30 during at least 13 of the 66 weeks prior to the relevant week.

The mother or main adopter must be entitled to statutory maternity or adoption leave to be entitled to SPL. For the partner to be entitled to SPL, the mother or main adopter must be entitled to statutory maternity or adoption leave **or** pay or maternity allowance.

If one parent meets these conditions, but does not qualify for SPL, the other parent may be entitled to the whole SPL period.

You must also follow the statutory notification and information requirements detailed in this policy.

Amount and Timing of Shared Parental Leave

SPL must be taken in weekly blocks and within a one year period beginning with the date of the baby's birth or the child's placement for adoption.

The maximum of 52 weeks of SPL will be reduced by the number of weeks of maternity or adoption leave that have already been taken by the mother or main adopter, or by the number of weeks of statutory maternity/adoption pay or maternity allowance already taken if the mother or main adopter is not entitled to statutory maternity/adoption leave.

After the birth of a child it is compulsory for the mother to take two weeks of maternity leave, therefore in the majority of cases working parents will have the opportunity to split 50 weeks of SPL.

SPL is in addition to the statutory right to two weeks of paternity leave for fathers and partners. Paternity leave must be taken in advance of any SPL. Further information can be found in the Council's Paternity Leave, Maternity Support Leave and Adoption Support Leave Guidance and Procedure.

Rights During Shared Parental Leave

During SPL, as an employees you are entitled to receive and accrue all of the normal terms and conditions of the contract of employment, including annual leave entitlement, with the exception of normal pay. Salary will be replaced by statutory shared parental pay. Further details regarding statutory shared parental pay can be found at Section 2.4 of this Policy.

Annual Leave Entitlement

You should aim to use your annual leave within the leave year it has been accrued.

Your annual leave cannot be taken simultaneously with SPL. Annual leave should therefore be taken before any periods of SPL commence, or at the end of all SPL periods taken. Normal approval procedures apply.

During the period of SPL you will continue to accrue annual leave and bank holidays in line with your contractual provisions. Where a period of SPL spans two leave years, you should aim to take the leave entitlement from the first leave year prior to commencing SPL. Leave entitlement from the second leave year will be available for you to use upon return from SPL.

Where you carry over leave from one leave year to the next as a result of a period of SPL, you will be required to use the carried over amount of leave within 3 months of your return from SPL, in line with Section 10.2 of the Council's Working Time Policy Statement.

Pension

Pension contributions will continue to be made by the Council during the period when you are in receipt of pay, including Statutory Shared Parental Pay (ShPP), but not during any period of unpaid shared parental leave.

You will be able to continue to make their own individual pension contributions during periods of SPL.

Further details regarding pension payments during shared parental leave are available from the Human Resources Section.

Flexible Working Requests

Full consideration will be given to requests should you wish to change your working pattern. You should submit your requests as far in advance of your desired start date as practicable, to allow adequate time for the request to be fully considered and, where appropriate, the necessary arrangements put in place.

Further information about the right to request flexible working and the process involved can be found in the Council's Flexible Working Arrangements Guide available [via this link](#).

Childcare Vouchers

From 4 October 2018, childcare voucher schemes closed to new applicants. You may be able to get tax-free childcare instead.

You can keep getting vouchers if you've joined a scheme and your salary has been adjusted before the scheme closes in October 2018, as long as:

- you stay with the same employer and they continue to run the scheme
- you do not take an unpaid career break of longer than a year

Shared Parental Pay

In addition to the requirements regarding entitlement to leave outlined above, if you wish to claim Shared Parental Pay (ShPP), average weekly earnings must be equal to or above the Lower Earnings Limit (LEL) over the eight week period ending with the relevant week.

A maximum of 39 weeks' ShPP is payable, and this will be reduced by the number of weeks of Statutory Maternity/Adoption Pay or Maternity Allowance that have already been taken by the mother or main adopter. ShPP is a standard weekly rate set by the government each tax year, or 90% of normal weekly earnings if this figure is lower than the standard weekly rate.

You must follow the statutory notification and information requirements detailed below under Notice of Entitlement and Intention to take SPL and ShPP.

Contact During Shared Parental Leave

The Council is entitled to make reasonable contact with you during SPL. This may be to discuss your plans to return to work, or perhaps any changes in the workplace. You are also entitled to make reasonable contact with the Council, for example, to discuss any arrangements for the return to work.

You may work for up to 20 days without bringing the period of SPL to an end, but work during SPL will not have the effect of extending the SPL period. These days are referred to as 'Shared Parental Leave In Touch' (SPLIT) days. If you undertake any work whilst on a SPLIT day, payment will be received at the normal rate of pay for the day, inclusive of any Statutory Shared Parental Pay due for that day. You are under no obligation to work during SPL, and the Council is under no obligation to offer work.

The 20 SPLIT days available during SPL are in addition to the 10 'Keeping In Touch' (KIT) days available during Maternity and Adoption Leave.

Fraudulent Claims

If the Council suspects that fraudulent information may have been provided or where the Council has been informed by the HMRC that a fraudulent claim was made, the Council will use the Disciplinary Policy and Procedure to investigate the matter further, which could lead to action up to and including dismissal.

Change in Employee Circumstances

It is possible that a parent's circumstances may change after periods of SPL have been agreed. This could prove difficult for the Council if the change is advised at short notice and arrangements to cover the post are already in place. In such circumstances, the Council will hold you to the agreed arrangements.

Where the Council is advised of your change in circumstances when you are on a period of shared parental leave, the period of leave that the Council will require you to take will start on the date that the Council is informed of the change in circumstances. The period of shared parental leave will end as soon as it is reasonably practicable for the Council to accommodate the change in circumstances and, in any event, no later than the earlier of:

- the date on which the period of shared parental leave was due to end; or
- eight weeks after the Council is informed of the change in circumstances.

Procedure

Notification and Evidentiary Requirements

You and your manager should, where possible, have an informal discussion as soon as possible prior to you giving formal notification of your intention to take SPL, for example, when you know maternity/adoption leave is going to be taken. This will allow sufficient time for discussions about statutory entitlements to other types of leave and pay and should also ensure that plans for any discontinuous periods of leave can be considered as early as possible.

As the SPL provisions are complex, if you wish to take SPL, the relevant procedures can be clarified with People Management to ensure that they are followed correctly. If you wish to have an informal discussion to understand this guidance and procedure in more detail, you should contact People Management HR to arrange this. Any informal discussions should also ideally include your line manager, to ensure that all relevant parties have as much knowledge and understanding of SPL as possible.

Notice of Entitlement and Intention to take SPL and ShPP

You must notify the Council in writing at least eight weeks before the start date of the first period of SPL. The written notice must contain the following information:

- your name and the other parent's name;
- the start and end dates of the mother's or main adopter's maternity/adoption leave, or the start and end dates of the Statutory Maternity/Adoption Pay or Maternity Allowance period if the mother/main adopter is not entitled to statutory leave;
- the expected date of birth/placement and the actual date of birth/placement if the written notice is given after the birth/placement;
- the amount of SPL and ShPP available and an indication of how much each parent intends to take, which may be varied by a subsequent written notice signed by both parents;
- an indication of the start and end dates of the periods of SPL and ShPP intended to be taken. This indication is not binding and can be amended at a later date;
- a signed declaration that you meet the conditions for entitlement to SPL, that the information provided is accurate and that you will notify the Council immediately if you cease to meet the conditions for entitlement, such as no longer caring for the child;
- a signed declaration from the other parent containing:
 - their name, address and National Insurance number;
 - confirmation that they meet the employment and earnings conditions;
 - confirmation that they are the father/mother or partner of the father/mother of the child or civil partner or spouse of the employee;
 - confirmation that, at the time of the birth/placement, they will share the main responsibility for the care of the child;
 - their consent to the amount of leave the employee intends to take;
 - confirmation that they will immediately inform the Council if they cease to satisfy the employment and earnings conditions;
 - consent for the employer to process the information in the partner's declaration.

Notice to End Statutory Maternity/Adoption Leave and Payments

At the same time that a 'Notice of Entitlement and Intention' to take SPL is submitted, the mother/main adopter must give the Council a notice to end maternity/adoption leave and pay, giving at least eight weeks' notice of the date on which the leave and pay is to end, or the date on which pay is to end if the mother/main adopter is not entitled to leave.

If the mother is only entitled to Maternity Allowance (and not maternity leave) her notice of curtailment must be submitted to Jobcentre Plus. Her Maternity Allowance cannot be reinstated, so she is in effect giving consent for her partner to take the whole of any ShPP entitlement.

A notice to end maternity/adoption leave and pay is usually binding, but may be revoked in writing in the following circumstances:

- Within 8 weeks of the date on which the mother/main adopter submitted the maternity/adoption leave curtailment notice, if it becomes apparent that neither parent is entitled to SPL or ShPP; or
- if the other parent dies.

In addition to the above, and in relation to maternity leave only, a written revocation notice can also be submitted in the following circumstances:

- if the notice to end leave/pay was given before the birth and is revoked up to six weeks following the birth. In this situation, the mother can submit a further notice to curtail her maternity leave at a later date.

Formal Notice Requesting a 'Period of Leave'

The first period of SPL may be identified and formally requested in the initial notice of entitlement and intention to take SPL. You are entitled to submit a maximum of three formal notices to take a 'Period of Leave'.

Each notice requesting a 'Period of Leave' must be given at least eight weeks before the start of a 'Period of Leave', stating the dates of the leave and the dates on which ShPP will be claimed, if applicable.

If the first notice requesting a 'Period of Leave' is given prior to the birth of a child, the notice may express the start date in relation to the date of birth, for example "starting two weeks after the baby is born for a period of four weeks".

Confirmation of SPL and ShPP

If a continuous period of leave is requested in a notice for a 'Period of Leave', you will be entitled to take that 'Period of Leave' and this will be confirmed in writing.

If more than one 'Period of Leave' is requested in a notice, i.e., discontinuous periods of leave, the Council will seek to accommodate the request but this cannot be guaranteed. The Head of Service or Headteacher will discuss the request with you within a two-week discussion period to determine if it can be accommodated. The Service Manager, in consultation with the relevant Executive Director, will have to consider operational factors in making a decision on such a request, for example, if the post has already been temporarily filled as a result of the period of maternity/adoption leave.

If a specific request cannot be accommodated, there may be an alternative pattern of leave which can be agreed with you, or the request may be refused. The Council's decision will be confirmed in writing.

If no agreement is reached within 14 calendar days of receipt of the notice requesting the 'Periods of Leave' being submitted you can:

- take the discontinuous periods of leave requested in one continuous block, beginning on the original start date; or
- withdraw the request within 15 calendar days of the request being submitted. If the request is withdrawn in these circumstances it will not count as one of the three formal requests; or

- take the continuous block starting on a new date, as long as the new date is later than the original start date, and the Council is notified of the new date within 19 calendar days of receipt of the original request being submitted i.e. within 5 days after the end of the two-week discussion period.

Varying a Booked 'Period of Leave'

If you wish to vary or cancel a booked period of SPL, you are entitled to submit a request providing you provide written notice of at least eight weeks before any period of leave is due to commence. You may:

- vary the start and/or end date, or cancel the leave; or
- vary or cancel the amount of leave requested; or
- request that a single period of leave becomes a discontinuous period of leave, or vice versa.

A variation will count as one of the three formal notices requesting a 'Period of Leave', apart from circumstances such as the baby being born early or the Council requesting the dates to be amended.

Evidence Requirements

The Council may request a copy of the child's birth certificate and the name and address of the other parent's employer.

In the case of adoption, the Council may request the name and address of the other parent's employer, along with evidence confirming the following:

- the name and address of the adoption agency;
- the date that the main adopter was notified of having been matched for adoption with the child;
- the date on which the adoption agency expects to place the child with the family.

Any such request will be made by the Council within 14 days of receiving the 'Notice of Entitlement and Intention' to take SPL and ShPP. You must respond to the request for evidence within 14 days, or within 14 days of the birth of the child if the request was made before the child was born.

If a birth certificate has not yet been issued, you must sign a declaration stating that fact along with the date and location of the child's birth. If the other parent has no employer, this must also be declared.

Returning from Shared Parental Leave

If you wish to return early from SPL, or extend the period of the SPL, the Council must be notified at least 8 weeks before both the original end date and the new end date.

If you return to work immediately after a period of SPL, which together with any statutory maternity/adoption leave taken to care for the same child, was 26 weeks or less, you will return to work in the same job.

If you return to work from a period of SPL, which together with any maternity/ adoption leave taken to care for the same child, was more than 26 weeks, you will normally be entitled to return to the job in which you were employed before the absence. If that is not reasonably practicable, a similar role will be offered on no less favourable terms and conditions.

In the event that you are unable to return to work at the end of the SPL due to ill health, the Council's normal sickness absence rules, procedures and payments will apply. For further information, employees should refer to the Council's Attendance Management Policy and Procedure.

Employment Rights In A Redundancy Situation

Please refer to the Council's Organisational Change and Transformation Policy for further information regarding employment rights in a redundancy situation.

Associated Guidance and Procedures

The following guidance and procedures also provide relevant information to employees:-

- Maternity Leave Guidance and Procedure
- Adoption Leave Guidance and Procedure
- Paternity Leave, Maternity Support Leave and Adoption Support Leave Guidance
- (Unpaid) Parental Leave – parental right to unpaid time away from work for up to maximum of 18 weeks to care for a child under the age of 18 years
- St Helens Council Local Conditions of Service

Further Information

Any questions relating to this Guidance or Procedure, or further guidance on issues connected with SPL can be obtained from People Management.

Review of Guidance and Procedure

This guidance will be reviewed three years following implementation, or earlier in the event of further changes in legislation.