

GUIDE TO SHARED PARENTAL LEAVE AND PAY

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1 Definitions

The following definitions are used in this guide:

"Mother" means the mother or expectant mother of the child.

"Partner" means 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/primary carer. This includes someone, of either sex, 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.

"Primary Carer" means someone who is adopting as an individual, or has been nominated as the *primary carer* from a couple adopting jointly (it is up to the couple which of them takes the role).

"Expected week of childbirth" means the week, starting on a Sunday, during which the mother's doctor or midwife expects her to give birth.

2 Scope of Shared Parental Leave and Pay Guide

All employees of the Council are able to seek to take shared parental leave, subject to meeting the eligibility criteria detailed below. If it is the mother/primary carer who is employed by the Council, their partner must (where relevant) submit any notifications to take shared parental leave set out in this guide to his/her own employer, which may have its own shared parental leave policy in place, if he/she wants to take a period of shared parental leave. Similarly, if it is the partner who is employed by the Council, the mother/primary carer must (where relevant) submit any notifications to take shared parental leave to his/her own employer.

The mother/primary carer and the partner should ensure that they are each liaising with their own employer to ensure that requests for shared parental leave are handled as smoothly as possible.

3 Adoption and Surrogacy

Shared parental leave will also apply 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, they must meet the eligibility criteria as described below, and be entitled to statutory adoption leave. Parents must provide a similar notice of entitlement to their employers, identifying the nominated primary carer and in addition 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 the parents; 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 this case will be copies of documents issued by the adoption agency confirming the date the parents were matched with the child.

For surrogacy arrangements, if the intended parents have applied, or intend to apply, for a 'parental order' then, subject to meeting qualifying conditions, the nominated 'primary' adopter will be entitled to take adoption leave and pay and to end their adoption leave early and move onto shared parental leave.

4 Eligibility for Shared Parental Leave

For employees to be eligible to take shared parental leave, both parents must meet certain eligibility requirements.

Mother or Primary Carer's eligibility for shared parental leave

The mother or primary carer is eligible for shared parental leave if they:

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the Council until the week before any period of shared parental leave taken;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- are entitled to statutory maternity leave in respect of the child; and
- comply with the relevant maternity/adoption leave curtailment requirements (or has returned to work before the end of statutory maternity/adoption leave), and shared parental leave notice and evidence requirements.

In addition, for the mother or primary carer 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 or placement;
- have average weekly earnings of at least the maternity/adoption allowance threshold (currently £30) for any 13 of those 66 weeks; and
- have, at the date of the child's birth or placement, the main responsibility, apart from the mother/primary carer, for the care of the child.

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 or placement and remains in continuous employment with the Council until the week before any period of shared parental leave that he/she takes;
- has, at the date of the child's birth or placement, the main responsibility, apart from the mother/primary carer, 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/primary carer 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 or placement;
- have average weekly earnings of at least the maternity/adoption allowance threshold (currently £30) for any 13 of those 66 weeks;
- have, at the date of the child's birth or placement, the main responsibility, apart from the partner, for the care of the child;
- be entitled to statutory maternity/adoption leave, statutory maternity/adoption pay or maternity allowance in respect of the child; and
- comply with the relevant maternity/adoption leave or pay curtailment requirements (or have returned to work before the end of statutory maternity/adoption leave).

5 Eligibility for Statutory Shared Parental Pay

Only statutory pay is payable to either party for the duration of the shared parental leave period.

Statutory shared parental pay is available for eligible parents to share between them while on shared parental leave. The number of weeks' statutory shared parental pay available to the parents will depend on how much statutory maternity pay or maternity allowance the mother has been paid when her maternity leave or pay period ends.

A total of 39 weeks' statutory maternity pay or maternity allowance is available to the mother. As there is a compulsory maternity leave period of two weeks, this means that a mother who ends her maternity leave at the earliest opportunity could share up to 37 weeks' statutory shared parental pay with her partner (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).

It is up to the parents to decide who is paid the statutory shared parental pay and how it is apportioned between them.

Statutory shared parental leave is paid for up to 37 weeks at either the current statutory prescribed rate or 90% of the relevant parent's normal weekly earnings (subject to the lower earnings limit) whichever is the lower. The remaining 13 weeks of shared parental leave are unpaid.

This means that statutory shared parental pay is paid at the lower (statutory) level throughout the leave period. Unlike occupational maternity pay, there is no provision for the first six weeks to be paid at 90% of the parent's actual weekly earnings. This is the case even if the mother returns from maternity leave after only two weeks, during the period where the higher (occupational) level of maternity would have been available to her.

Eligibility for statutory shared parental pay

For employees to be eligible for statutory shared parental pay, both parents must meet certain eligibility requirements.

Mother/primary carer's eligibility for statutory shared parental pay

Having demonstrated eligibility for shared parental leave, the mother/primary carer will be eligible for statutory shared parental pay if, in addition, they:

- have normal weekly earnings for a period of eight weeks ending with the 15th week before the expected week of childbirth/placement of at least the lower earnings limit for National Insurance contribution purposes;
- are absent from work and intend to care for the child during each week in which he/she receives statutory shared parental pay; and
- are entitled to statutory maternity/adoption pay in respect of the child, but the maternity/adoption pay period has been reduced.

Partner's eligibility for statutory shared parental pay

Having demonstrated eligibility for shared parental leave, the partner will be eligible for statutory shared parental leave pay if, in addition, they:

- have normal weekly earnings for eight weeks ending with the 15th week before the expected week of childbirth/placement of at least the lower earnings limit for national insurance contribution purposes;
- are absent from work and intend to care for the child during each week in which he/she receives statutory shared parental pay.

6 Application for Shared Parental Leave

Notification terminology

The provisions and legislation for Shared Parental Leave include unique terminology which refers to the notices an employee must submit to their employer prior to Shared Parental Leave and Pay being honoured. To endeavour to make the procedure as straightforward as possible, forms which contain all of the required information, have been developed for employees to complete and submit. The terminology used within the regulations and the corresponding form is explained below:

Maternity/adoption leave curtailment notice

This is notice from the mother or primary carer setting out the proposed end date to their maternity or adoption leave. (Form SPL-A)

Notice of entitlement and intention

This is notice from the employee giving an initial, non-binding indication of each period of shared parental leave that he/she is requesting. (Form SPL-A and Form SPL-B)

Period of leave notice

This is notice from the employee setting out the start and end dates of each period of shared parental leave that he/she is requesting. (Form SPL-A and Form SPL-B)

Application forms

The forms set out below must be completed and returned to the Employment and Payroll Services Team at least 8 weeks before starting a period of Shared Parental Leave and/or Shared Parental Pay. Further information on the application process can be found within the “Shared Parental Leave and Pay Advisory Note”.

As the Maternity/Adoption Leave Curtailment Notice, Notice of Entitlement and Intention and the Period of Leave Notice have been combined into Form SPL-A and Form SPL-B, there is no need to create individual notices unless this is specifically requested.

Form SPL-C has been designed to collect information from the mother, father, primary carer, secondary carer or partner that is not employed by Perth & Kinross Council. Form SPL-C does not contain the terminology included within Form SPL-A and Form SPL-B.

Relationship to Child		Employed by Perth & Kinross Council	Not Employed by Perth & Kinross Council
Mother or Primary Carer		FORM SPL-A	FORM SPL-C
Father, Secondary Carer or Partner		FORM SPL-B	FORM SPL-C
Form SPL-A	To be completed if the mother or primary carer is employed by Perth & Kinross Council. This form allows the employee to provide notice to curtail leave, provide notice of entitlement & intention and provide notice of intended leave.		
Form SPL-B	To be completed if the father, secondary carer or partner is employed by Perth & Kinross Council. This form allows the employee to provide notice of entitlement & intention and provide notice of intended leave.		
Form SPL-C	To be completed by the mother, primary carer, father, secondary carer or partner not employed by Perth & Kinross Council. This form allows the individual to provide notice of entitlement & intention and to provide their details.		
<u>Application Form</u>			

Notification requirements

Applications for shared parental leave and/or shared parental pay must be received by the Employment and Payroll Services Team at least 8 weeks before any period of shared parental leave and/or shared parental pay begins. Applications submitted with less than 8 weeks’ notice may not be authorised for the requested leave dates. It is advised that you consult the Employment and Payroll Services Team and your Line Manager before you submit an application.

Withdrawal of maternity/adoption leave curtailment notice (Form SPL-A)

In limited circumstances, the mother/primary carer can withdraw the notice curtailing maternity/adoption leave. The withdrawal of a maternity/adoption leave curtailment notice only is given if the mother/primary carer has not returned to work. The maternity/adoption leave curtailment notice can only be revoked if:

- it is discovered that neither the mother/primary carer nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother/primary carer withdraws the maternity/adoption leave curtailment notice within eight weeks of the date on which the notice was given;
- the maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth or the adoption leave curtailment notice was given before the placement of the child and the nominated primary carer withdraws the adoption leave curtailment notice within six weeks of the child's placement; or
- the partner has died.

The employee must contact the Employment and Payroll Services Team to withdraw a maternity/adoption leave curtailment notice (Form SPL-A).

Variation or cancellation of notice of entitlement and intention (Form SPL-A and Form SPL-B)

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a notice of entitlement and intention, provided that he/she provides the Council with the following information:

- an indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave);
- details of any periods of shared parental leave that have been notified through a period of leave notice;
- details of any periods of statutory shared parental pay that have been notified in relation to periods where shared parental leave was not to be taken; and
- a declaration signed by the mother and the partner that they agree to the variation.

Any indication of leave intended to be taken that the employee provides in a variation of notice of entitlement and intention is non-binding until he/she provides a period of leave notice in relation to that period of leave. There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

The employee must contact the Employment and Payroll Services Team to withdraw a maternity/adoption leave curtailment notice (Form SPL-A and Form SPL-B).

Variation or cancellation of period of leave notice (Form SPL-A and Form SPL-B)

The employee can vary or cancel his/her proposed shared parental leave dates, provided that he/she provides notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The following information must be given:

- the start date or the end date of any period of shared parental leave or cancel a request for leave;

- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

The employee must contact the Employment and Payroll Services Team to vary or cancel a period of leave notice (Form SPL-A and Form SPL-B).

Limit on number of requests for leave

The employee can provide a combined total of up to three 'period of leave' notices or variations of 'period of leave' (including the original request) (Form SPL-A and Form SPL-B).

7 *Continuous and Discontinuous Periods of Leave*

Continuous period of shared parental leave

If the employee submits an application requesting one continuous period of leave, he/she will be entitled to take that period of leave (Form SPL-A and Form SPL-B).

Discontinuous periods of shared parental leave

The employee may submit an application requesting discontinuous periods of leave. For example, the mother and partner could request a pattern of leave from their respective employers that allows them to alternate childcare responsibilities.

In order to maximise the flexibility available to the parents and operational benefit for all parties, employers are strongly encouraged to allow shared parental leave to be taken in blocks of at least four weeks.

If the employee submits a period of leave notice (Form SPL-A and Form SPL-B) requesting discontinuous periods of leave, the Council, in the two weeks beginning with the date the period of leave notice was given, can:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested. If the decision is taken to refuse the leave, the employer must provide clear reasons for this to the employee.

If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, the employee is entitled to take the leave as one continuous period of leave. In that event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the period of leave notice was originally given. The employee must notify the Council of that date within five days of the end of the two-week discussion period. If the employee does not choose a start date within five days

of the end of the two-week discussion period, the period of continuous leave will start on the date of the first period of leave requested in the period of leave notice.

Alternatively, if the Council has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw a period of leave notice requesting discontinuous periods of leave. The employee can withdraw a period of leave notice at any time on or before the 15th day after the period of leave notice was given. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make.

8 Contact During Shared Parental Leave

The Council reserves the right to maintain reasonable contact with employees during shared parental leave. This may be to discuss employees' plans for their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

An employee can agree to work for the Council (or to attend training) for up to 20 days during shared parental leave without that work bringing the period of his/her shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days.

The Council has no right to require employees to carry out any work and employees have no right to undertake any work during their shared parental leave. Any work undertaken on SPLIT days, is entirely a matter for agreement between employees and the Council. An employee will be paid the equivalent of their normal pay for time worked on a SPLIT day which will be inclusive of Statutory Shared Parental Pay.

Shared Parental Leave in Touch days

Parents taking shared parental leave can each work up to 20 SPLIT (shared parental leave in touch) days without bringing the shared parental leave to an end. These will be in addition to the 10 keeping in touch (KIT) days already available for women on statutory maternity leave.

9 Effect on Employment Terms & Conditions

During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory shared parental pay if the employee is eligible for it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue.

This section only applies to Perth & Kinross Council employees. Partners must refer to their own employer's policy on Shared Parental Leave.

Pension

Please note that Local Government Pension Scheme payments will not be made if you are on a period of authorised unpaid leave. If you are in the 50/50 section of the LGPS and you go onto authorised unpaid leave, you will be placed in the main section of the LGPS from the beginning of the next pay period.

If your authorised unpaid leave lasts less than 31 days, your member contributions will be deducted as normal from your salary in that calendar month and the relevant employer's contributions will be paid. There is no need for you to complete any paperwork.

If your authorised unpaid leave lasts more than 30 days, you have the option to buy back any lost pension when you return to work. You must submit a signed [Election form](#) and send it to Employment & Payroll Services in Human Resources. If you complete this process within 30 calendar days of your 'return to work' date, Perth & Kinross Council will contribute to the cost of missed pension contributions, with the split being 1/3rd employee, 2/3^{rds} employer. Your 'return to work' date for this purpose is the first working day after the period of unpaid leave so it is important that you act early to benefit from the cost sharing provision. To start this process, please read the [guidance notes](#) and send the completed [Additional Pension Contribution form](#) to Employment & Payroll Services.

It is possible to complete this process outwith the 30-calendar day period, however no contribution will be made by Perth & Kinross Council, resulting in you being liable for the full amount.

10 Returning to Work Following Shared Parental Leave

The employee has the right to return to the same job when returning to work from shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory maternity leave or statutory paternity leave taken by the employee in relation to the same child, is 26 weeks or less.

If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks when added to any other period of shared parental leave, statutory maternity or paternity leave taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional maternity leave, the employee has the right to return to the same job unless this is not reasonably practicable. In these circumstances, if it is not reasonably practicable for the Council to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for him/her.