

LEDBURY TOWN COUNCIL

SHARED PARENTAL LEAVE POLICY

Introduction

This policy sets out the statutory rights and responsibilities of employees who wish to take Shared Parental Leave (SPL)

Ledbury Town Council recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. It is Ledbury Town Council's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the provisions are complex, employees should clarify the relevant procedures with their line manager to ensure that they are followed.

Shared Parental Leave

Eligible employees may be entitled to take up to 50 weeks SPL within the first year of their child's life provided that the mother has either returned to work or given written notice to end her maternity leave on a specified date.

SPL is also available to adoptive parents within the first year after the child's placement for adoption, provided that the child's adopter who elected to take adoption leave (the "primary adopter") has either returned to work or given written notice to end their adoption leave on a specified date.

SPL can commence as soon as the child is born or placed for adoption for the mother's partner or an adopter (biological mothers are legally required to take at least 2 weeks of Statutory Maternity Leave immediately following the birth of the child) and it must end no later than 1 year after that date.

SPL will generally commence on the employee's chosen start date specified in their leave notice, or in any subsequent variation notice (see "Notification of shared parental leave" below).

During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all of their contractual benefits, except salary. In particular, any benefits in kind (such as life assurance, private medical insurance, permanent health insurance, private medical insurance, permanent health insurance, mobile phone etc.) will continue and contractual annual leave entitlement will continue to accrue.

If the employee is eligible to receive it, salary may be replaced by Shared Parental Pay (ShPP) for some, or all, of the SPL period.

Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the organisation's contributions will be based on the

salary that the employee would have received had they not gone on SPL.

SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday must be taken in the year that it is earned and therefore, if the holiday year is due to end the employee should take their outstanding entitlement rather than using their SPL.

Eligibility for Shared Parental Leave

To be eligible for SPL an employee must satisfy each of the following criteria: -

- The mother must be entitled to maternity leave, statutory maternity pay or maternity allowance and must have ended or given notice to end her Maternity Leave on a date no later than the end of the 51st week.
- The employee must have at the date of the birth or placement for adoption, the main responsibility for caring for the child along with their partner.
- The employee must be the mother or father of the child or married to, the civil partner of, or the partner of, the child's mother. In the case of adoption, they must have been matched with the child for adoption or married to, the civil partner of, or the partner of, the primary adopter. In both cases, they must be taking the leave to care for the child.
- The employee must have a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is to be born or, in respect of an adopted child, as at the week in which they were notified of having been matched for adoption with the child.
- They must still be working for the organisation at the start of each period of shared parental leave.
- The employee's partner must meet the work and earnings test.
- The employee must have correctly notified entitlement and provided the necessary evidence.

Notifying employer of the entitlement to Share Parental Leave

Where an employee wishes to take SPL, they must give their line manager at least eight weeks' written notice before taking any SPL of their entitlement and intention to take SPL.

The notification must be in writing and specify: -

- The name of the other parent.
- The start and end dates of any maternity leave, or adoption leave taken in respect of the child, the total amount of SPL available.
- The date on which the child was expected to be born or the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption.
- The amount of SPL the employee and their partner each intend to take, and a non-binding indication of when the employee expects to take the leave. In both cases, the notice must also specify the employee's name.

The employee must also provide the organisation a signed declaration stating: -

- That they meet or will meet the criteria for and is entitled to shared parental leave.
- That the information they have given is accurate
- That should they cease to be eligible they will immediately inform their employer.

At the same time, the employee must provide the organisation a signed declaration from their partner stating: -

- Their name, address, and national insurance number (or a declaration that they do not have a national insurance number)
- That they are the father or mother of the child, or partner of the employee seeking to take SPL.
- Confirmation that they satisfy the employment and earnings test and had at the date of the child's birth or placement for adoption, the main responsibility for the child, along with the employee.
- That he or she consents to Ledbury Town Council processing the information contained in the declaration form
- In the case whether the partner is the mother, that she will immediately inform her partner should they cease to satisfy the eligibility conditions.

If requested by the organisation within 14 days of the notice of SPL entitlement being given, the employee must produce within 14 days the name and business address of the partner's employer and a copy of the child's birth certificate where one has been issued, or a declaration as to the time and place of the birth. In the case of an adopted child, the employee has 14 days in which to provide documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption.

Upon receiving a notification of entitlement to take SPL the line manager may seek to arrange an informal meeting with the employee to discuss their intentions and how they currently expect to use their SPL entitlement.

Booking Sharing Parental Leave

Shared Parental Leave can only be taken in complete weeks. The employee has the right to submit 3 notifications specifying leave periods they are seeking to take.

The employee must notify the organisation of periods of SPL at least eight weeks before the date on which they wish to start the leave and, if applicable, ShPP to commence.

An employee has the right to take the number of weeks specified in a single notice in a continuous block. Where a notice includes weeks of discontinuous leave, the employer must agree to this. An employee may withdraw a request for discontinuous leave without detriment on or before the fifteenth day after the leave request was made.

Meeting to discuss a Shared Parental Leave request

Once the line manager receives the notice to take leave (the booking notice), it will be dealt with as soon as possible, but not later than the fourteenth day after the leave request was made. The line manager will usually arrange a meeting to deal with the notice. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can without further discussion be approved in the terms stated in the employee's written request, a meeting will not be necessary.

(An employee should be given the right to be accompanied by a work colleague at any shared parental leave meeting) The meeting should take place in a private meeting room so that the discussion is kept away from other employees. The aim of the meeting is to discuss in detail the leave proposed and, where it is a request for discontinuous leave, whether or how it might be approved.

Responding to a Shared Parental Leave request

All notices for continuous leave will be confirmed in writing.

All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the employee and to the organisation against any adverse impact to the business.

Each request will be considered on a case-by-case basis; agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

The employee will be informed in writing of the decision as soon as is reasonably practicable, **but no later than the fourteenth day** after the leave request was made. The request may be granted in full or in part: for example, the organisation may propose a modified version of the request.

If a request is rejected, then the employee may withdraw the request without detriment on or before the **fifteenth day** after the leave request was made or may take the total amount of leave made in the request within the leave period previously proposed. If the line manager's decision is that the leave must be taken in a single continuous block, the employee has **5 days** from the end of the two-week period after submitting the notice to choose when they want the leave period to begin. If no response is given, then the leave will begin on the first date stated in the original request.

Variation of Shared Parental Leave

The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the employer in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Any variation or cancellation request will count as a new notification thereby reducing their right to make three notifications by one unless it is as a result of the child being born earlier or later than expected or because it was in a response to a request from the employer.

Statutory Shared Parental Pay (ShPP)

ShPP may be payable during some or all of SPL, depending on the length and timing of the leave. An employee is entitled to ShPP if:

- The mother or adopter was entitled to statutory maternity or adoption pay or maternity allowance.
- The mother has reduced the maternity or adoption pay period of maternity allowance period.
- They are the mother or father of the child or married to, the civil partner of, or the partner of, the child's mother. In the case of adoption, they must have been matched with the child for adoption or married to, the civil partner of, or the partner of, the primary adopter. In either case they must intend to care for the child during the ShPP period.
- They must have a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is due to be born, or in respect of an adopted child, as at the end of the 15th week before the week in which they were notified of having been matched with the child.
- They remain in continuous employment until the week before each ShPP period begins
- Their average weekly earnings for the period of eight weeks ending with the relevant week are not less than the lower earnings limit for national insurance contributions.
- Their partner meets the work and earnings test.
- Their partner has provided a written declaration confirming their agreement to the employee claiming ShPP with the number of weeks specified.
- They give proper notification in accordance with the rules set out above.

Any ShPP due will be paid at a rate set by the Government for the tax year.

ShPP is payable whether or not the employee intends to return to work after their SPL.

Contact during Shared Parental Leave

Before an employee's SPL begins, the organisation will discuss the arrangements for them to keep in touch during their leave, should they wish to do so. Ledbury Town Council reserves the right in any event to maintain reasonable contact with the

employee from time to time during their SPL. This may be to discuss the employee's plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

Shared Parental Leave in Touch Days

An employee can agree to work for the employer (or to attend training) for up to 20 days during the SPL without that work bringing the period of their SPL and ShPP to an end. These are known as "Shared Parental Leave in Touch" or "SPLIT" days. Any work carried out on a day shall constitute a day's work for these purposes.

The organisation has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during their SPL. Any work undertaken, including the amount of salary paid for any work done on SPLIT days, is entirely a matter for agreement between the employer and the employee. Any "SPLIT" days worked do not extend the period of SPL.

An employee, with the agreement of the organisation, may use SPLIT days to work part-time during SPL. The organisation and the employee may want to use SPLIT days to affect a gradual return to work by the employee towards the end of a long period of SPL.

Returning to work after Shared Parental Leave

The employee will have been formally advised in writing by the employer of the end date of any period of SPL. The employee is expected to return on the next working day after this date unless they notify the organisation otherwise. If they are unable to attend work due to sickness or injury, the organisation's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the organisation at least eight weeks' notice of their date of early return. This will count as one of the employee's 3 notifications. If they have already used 3 opportunities to book/or vary leave then the employer may consider the request but it is not required to accept it.

Rights during Shared Parental Leave and on Returning to Work

All terms and conditions of the employee's contract, except remuneration will continue during SPL.

On resuming work after SPL, if the employee's total statutory maternity or paternity or adoption leave and SPL amounts to 26 weeks or less, they are entitled to return to the same job as they occupied before commencing maternity/paternity/adoption leave and SPL, on the same terms and conditions of employment as if they had not been absent. If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, they are entitled to return to either the same job they held before

commencing the last period of leave, or if this is not reasonably practicable, to another suitable job that is on terms and conditions no less favourable.

A period of 4 weeks or less of unpaid parental leave is disregarded for the purposes of returning to the same job. If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee has the right to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another suitable job that is on terms and conditions no less favourable.

Further Information

Law relating to this document Employment Rights Act 1996
Child and Families Act 2014
Shared Parental Leave Regulations 2014

Date Adopted by Council: XXXX
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