

# Worcester City Council

## SHARED PARENTAL LEAVE & PAY POLICY

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Author	Sarah Hopwood
Sponsor	Alison Darbyshire
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## Commonly Used Abbreviations

Expected week of childbirth/confinement	EWC
Maternity Allowance	MA
Shared Parental Leave	SPL
Shared Parental Leave Keep in Touch Days	SPLIT
Statutory Adoption Pay	SAP
Statutory Maternity Pay	SMP
Statutory Paternity Pay	SPP
Statutory Shared Parental Pay	ShPP

## **1. What is Shared Parental Leave and Pay?**

Shared Parental Leave enables eligible parents to share the care of your child during the first year of birth or adoption. You are also eligible if you obtain a parental order following a surrogacy to have a baby or if you are fostering a child who you planning to adopt. You both may also be entitled to some Shared Parental Pay.

Shared Parental Leave can only be used by two people:

- The birth parent/primary adopter **and**
- The partner of the child's birth parent/primary adopter.

## **2. Scope**

Eligibility for SPL is different to eligibility for ShPP. To qualify for SPL you must both be employees and meet the eligibility criteria. "Workers" e.g. casual staff, are not able to claim SPL but may be able to claim ShPP subject to meeting the eligibility criteria.

ShPP is the same amount even if the parents have more than one baby e.g. twins or more than one child in the same adoption placement.

Both parents are required to meet eligibility criteria, the parent taking the SPL must pass the 'continuity of employment test' and the partner must pass the 'employment and earning test'. Section 3 details these for each scenario.

## **3. Do I qualify for Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP)?**

### **3.1 Eligibility for both birth parents.**

Both parents must:

- share responsibility for your child at birth
- meet work and pay criteria – this will depend on which parent wants to use the SPL and ShPP.

### **3.2 Eligibility for both parents to share SPL and ShPP**

Both parents must meet the same eligibility criteria:

- you will have continuous employment with the Council for at least 26 weeks at the end of the 15th week before the due date.
- remain employed by the Council during each period of SPL.
- to be eligible for SPL you must be employees, not "workers".

Note you are not eligible if you start the sharing responsibility after the child is born. If either of you is a "worker" you may be able to Share ShPP but not SPL if you each earn on average at least £123 a week.

### **3.3 Eligibility for the birth parents' partner to take SPL and ShPP.**

The birth parent must:

- have been working for at least 26 weeks (they don't need to be in a row) out of the 66 weeks before the baby's due date.
- have earned at least £390 in total, in 13 of the 66 weeks (add up the highest paying weeks, they don't need to be in a row).

The partner of the birth parent must:

- have been employed continuously by the same employer to at least 26 weeks by the end of the 15<sup>th</sup> week before the due date
- stay with the same employer until they start their SPL
- to be eligible for SPL you must be an employee, not "workers".
- to be eligible for ShPP you can be a worker but must earn on average at least £123 a week.

### **3.4 Eligibility for the birth parent to take SPL and ShPP**

The birth parents' partner must:

- have been working for at least 26 weeks (they don't need to be in a row) out of the 66 weeks before the baby's due date.
- have earned at least £390 in total, in 13 of the 66 weeks (add up the highest paying weeks, they don't need to be in a row).

The birth parent must:

- have been employed continuously by the same employer to at least 26 weeks by the end of the 15<sup>th</sup> week before the due date
- stay with the same employer until they start their SPL
- to be eligible for SPL you must be an employee, not a "worker".
- to be eligible for ShPP you can be a worker but must earn on average at least £123 a week.

### **3.5 Eligibility for adopters or parents using a surrogate.**

Both adoptive parents or both parents using a surrogate must share responsibility for the child from the:

- child's due date or birth date if you are using a surrogate
- date the child is placed with you if you are adopting or fostering to adopt.
- meet work and earnings criteria – this will depend on which parent wants to use the SPL and ShPP.

To check if you can get SPL and ShPP you will need to know:

- your child's due date or birth date if you're using a surrogate, or the match date if you're adopting or fostering to adopt
- your and your partner's employment status and earnings
- if you and your partner can get Statutory Adoption Pay or Statutory Paternity Pay

Use the site <https://www.check-shared-parental-leave.service.gov.uk/>

### **3.6 Eligibility if both parents want to share SPL and ShPP (when you are adopting/fostering to adopt/using a surrogate).**

Both parents must meet the same eligibility criteria:

- remain employed by the Council until you start SPL.
- you will have continuous employment with the Council for at least 26 weeks by either

- the end of the 15<sup>th</sup> week before the due date if you are using a surrogate.
- the end of the week you or your partner are matched with a child you are adopting
- to be eligible for SPL you must be employees, not “workers”.
- to Share ShPP if either of you is a “worker” you must each earn on average at least £123 a week.

### **3.7 Eligibility if only one of the parents want to take SPL and ShPP (when you are adopting/fostering to adopt/using a surrogate).**

The parent who wants to take the leave and pay must:

- stay with the Council until they start SPL
- you will have continuous employment with the Council for at least 26 weeks by either
  - the end of the 15<sup>th</sup> week before the due date if you are using a surrogate.
  - the end of the week you or your partner are matched with a child you are adopting
- to be eligible for SPL you must be an employee, not a “worker”.
- to Share ShPP if you are a “worker” you must earn on average at least £123 a week.

The other partner must:

- have been working for at least 26 weeks (they don’t need to be in a row) out of the 66 weeks before the week the child was placed with you.
- have earned at least £390 in total, in 13 of the 66 weeks (add up the highest paying weeks, they don’t need to be in a row).

## **4. What are my entitlements and how to start claiming**

If you qualify, and you or your partner end maternity or adoption leave and SMP, SAP or MA pay early, then you can:

- take the balance (i.e. 50 weeks or less) of the 52 weeks of maternity or adoption leave as Shared Parental Leave (SPL)
- take the rest of the 37 weeks of maternity or adoption pay (or Maternity Allowance) as Statutory Shared Parental Pay (ShPP)

You can only start SPL or ShPP once the child has been born or placed with your family for adoption.

### **4.1 Claiming Shared Parental Leave (SPL)**

The birth parent must take the compulsory 2 weeks of maternity leave following the birth. The primary adopter must take at least the first 2 weeks of adoption leave.

The birth parent/primary adopter must either:

- return to work, which ends any maternity or adoption leave
- give the Council ‘binding notice’ of the date when you plan to end their leave (you can’t normally change the date you give in binding notice)
- or if you do not get leave, you must end any maternity pay, adoption pay or Maternity Allowance so that you or your partner can get SPL.

You can start SPL while your partner is still on maternity or adoption leave as long as they have given binding notice to end it. You can give binding notice and say when you plan to take your SPL at the same time.

## **4.2 Claiming Statutory Shared Parental Pay (ShPP)**

Statutory Shared Parental Pay (ShPP) is paid at the rate of £172.48 a week or 90% of your average weekly earnings, whichever is lower.

Proposed increase in ShPP - the Government proposed to increase key statutory rates. Shared parental pay is set to increase from £172.48 to £184.03 per week from April 2024. The Government could amend the proposals, although this is highly unlikely, confirmation is awaited.

The birth parent/primary adopter must end maternity/adoption leave by returning to work or give the Council binding notice of the date when you plan to end any maternity or adoption pay.

If you get Maternity Allowance, you must give notice to the Jobcentre Plus.

You cannot restart SMP, SAP or MA once it has ended.

You can start ShPP while your partner is still on SMP, SAP or MA as long as they've given binding notice to end it. You can give binding notice and say when you plan to take your ShPP at the same time.

## **4.3 How do I apply for Shared Parental Leave and Pay?**

To get Shared Parental Leave (SPL) or Shared Parental Pay (ShPP) you must:

- follow the procedure for starting SPL and ShPP
- give the Council at least 8 weeks' written notice of your leave dates

You can do both at the same time using the Council Shared Parental Leave & Pay Application forms.

You can change your mind later about how much SPL or ShPP you plan to take and when you want to take it. You must give notice of any changes at least 8 weeks before the start of any leave. You might not get SPL or ShPP if you don't include all the required information. Your partner must apply to their own employer if they also want SPL or ShPP.

## **5. Can I cancel the decision to end my maternity or adoption leave?**

You may be able to change your decision to end maternity or adoption leave early. The employer will consider this if both:

- the planned end date hasn't passed and
- you haven't already returned to work

One of the following must also apply:

- it's discovered during the 8-week notice period that neither of you is eligible for SPL or ShPP
- the employee's partner has died
- you tell the Council less than 6 weeks after the birth (and you gave notice before the birth)

## **6. What other information might I need to provide?**

The Council can ask you for more information within 14 days of you applying for SPL or ShPP. The Council can ask for:

- a copy of the birth certificate
- a declaration of the place and date of birth (if the birth hasn't been registered yet)
- the name and address of your partner's employer or a declaration that your partner has no employer

If you're adopting or fostering a child you are planning to adopt, the Council can ask for the:

- name and address of the adoption agency or local authority
- date you were matched with the child
- date the child will be start to live with you
- name and address of your partner's employer or a declaration that your partner has no employer

You must give this information within 14 days of being asked for it.

## **7. How do I book shared parental leave?**

You can book up to 3 separate blocks of Shared Parental Leave (SPL) instead of taking it all in one go, even if you aren't sharing the leave with your partner. If your partner is also eligible for SPL, you can take up to 3 blocks of leave each. You can take leave at different times or both at the same time.

You must tell the Council about your plans for leave when you apply for SPL. You can change these plans later but you must give your employer at least 8 weeks' notice before you want to begin a block of leave.

You can request to split the 3 blocks into shorter periods of at least a week, called discontinuous leave. Discontinuous leave should be discussed with your manager.

The Council can refuse notice to take discontinuous leave. The Council and the employee should come to an agreement within 14 days of the employees notice to take leave. If an agreement is not reached, the employee can either

- withdraw their notice
- take continuous leave instead.

## **8. Can I change the dates of Shared Parental Leave?**

Eligible parents can change the amount of SPL each of them takes.

Each eligible parent has up to 3 times to either:

- change the dates of booked SPL (called 'notice to vary leave')
- book a block of SPL (called 'notice to book leave')



When changing or cancelling dates, the employee must give the Council a notice to vary leave with a minimum of 8 weeks' notice. Both parents must sign each other's notices when requesting variations.

Each time the employee changes or cancels booked SPL it counts as a notice to vary leave, unless the Council agrees.

### **8.1 What happens if the baby is born early?**

If the baby is born more than 8 weeks early the employee does not need to give the usual 8 weeks' notice to book or change SPL dates. Notice to take leave should be given by the employee as soon as they can.

In this instance when an employee requests to change dates of SPL already booked, it will not count as one of their 3 notices to vary SPL.

### **8.2 What happens if the child dies.**

The parents can take the SPL they have already booked. They can also either:

- decide to take less SPL
- change discontinuous leave into one block of continuous leave

Parents cannot apply for or book new blocks of SPL after the death of a child.

The Council may ask for 8 weeks' notice before the employee returns to work.

### **8.3 What happens if a parent dies.**

If one of the eligible parents dies the remaining parent can:

- still take SPL as planned
- transfer and use any SPL due to be taken by the parent who died
- make one more change to their leave even if they have already made 3 notices to book or vary leave.

When giving notice to book or change SPL the employee does not need to give 8 weeks' notice, but should tell the Council as soon as possible.

## **9. What are Shared Parental Leave in touch (SPLIT) days?**

You and your partner can each work up to 20 days while you're taking SPL without bringing it to an end. These are called 'Shared Parental Leave in touch' (or SPLIT) days.

These days are in addition to the 10 'keeping in touch' (or KIT) days available to those on maternity or adoption leave. KIT and SPLIT days are optional - both you and your employer must agree to them.

## **10. Should the Council and I maintain contact during Shared Parental Leave?**

Yes, there should be 'reasonable contact' between yourself and the Council whilst you are on SPL, which can be agreed in advance. The organisation reserves the right to maintain reasonable contact during SPL which may include discussing the employee's plans to return to work and training requirements,

possible promotion opportunities or simply to update on any key developments during their absence. All job opportunities can also be accessed on [www.wmjobs.co.uk](http://www.wmjobs.co.uk) or our own website [www.worcester.gov.uk](http://www.worcester.gov.uk)

## **11. What is my contractual status whilst on SPL and on return to work?**

Your employment terms and conditions are protected during Shared Parental Leave and you are entitled to any pay rises and improvements in terms and conditions awarded during the leave. You should not enter into any other form of contractual employment (paid or otherwise) during this time. You may however, undertake training courses.

You will have been formally advised in writing by the Council of the end date of any period of SPL. You are expected to return on the next working day after this date. If you are unable to attend work due to sickness or injury, the Council's normal arrangements for sickness absence will apply.

If you return to work after taking 26 weeks or less of maternity / paternity / adoption leave / SPL in aggregate, you are entitled to return to the same job on the same terms and conditions as if they had not been absent, unless a redundancy situation has arisen.

If your maternity / paternity / adoption leave / SPL amounts to 26 weeks or more in aggregate, you are entitled to return to the same job you held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

If you decide not to return to work after your shared parental leave you must give the Council the notice of termination required by your contract of employment.

### **11.1 What happens in a redundancy situation?**

For shared parental leave ending on or after 6 April 2024, the Council will be required to offer employees who have returned to work from shared parental leave, a suitable alternative vacancy during a redundancy exercise for 18 months after birth/adoption.

## **12. What about my pension?**

Whilst on Shared Parental Leave, the amount of LGPS pension you build up will not be affected. This means that if you have a period of reduced contractual pay during SPL, your pension is still worked out using an average of your usual pensionable pay (before the reduction in pay took place). You will only pay your contributions on any pay that you receive.

If you decide to take a period of unpaid SPL, you will not build up pension benefits. You can elect to cover the period of pension "lost" by taking out an Additional Pension Contribution (APC) contract. Where an APC contract is taken out to cover the pension "lost" during a period of unpaid SPL, the cost is shared 1/3rd to the employee and 2/3rds to the employer, provided that you make an

election to buy the "lost" pension within 30 days of returning to work. For more information please speak to Human Resources or contact your pension provider.

### **13. What about the subscriptions I pay through my salary?**

Salary deductions, including Childcare Vouchers, Trade Union subscriptions and the Cycle to Work Scheme, will continue as long as you are receiving pay and it is enough to cover the deductions. After this time you should make arrangements directly with the appropriate organisations to ensure correct payment.

### **14. What annual leave am I entitled to?**

Annual leave will continue to accrue during all of your periods of Shared Parental Leave. You will also be granted the appropriate number of days off in lieu of any public / bank holidays that occur during your SPL. You are advised to discuss arrangements for taking this accrued leave with your manager before you return to work. Wherever possible the employee should try to take their leave entitlement in the year in which it was accrued.

### **15. Am I eligible for Tax Credits?**

If you return to work you may be eligible for Working Tax Credits. To review, please visit [www.gov.uk](http://www.gov.uk)

### **16. What if I am unhappy with a decision on Shared Parental Leave?**

If you are dissatisfied with any decision made in respect of SPL rights, you should firstly highlight it to your manager, or speak to Human Resources. You are also able to raise your concern via the Council's formal grievance procedure, which is found on the Intranet.

### **17. Our other Family Friendly Policies.**

Family Friendly Employment  
Maternity Leave  
Parental Leave  
Parental Bereavement Leave  
Maternity and Adoption Support Leave