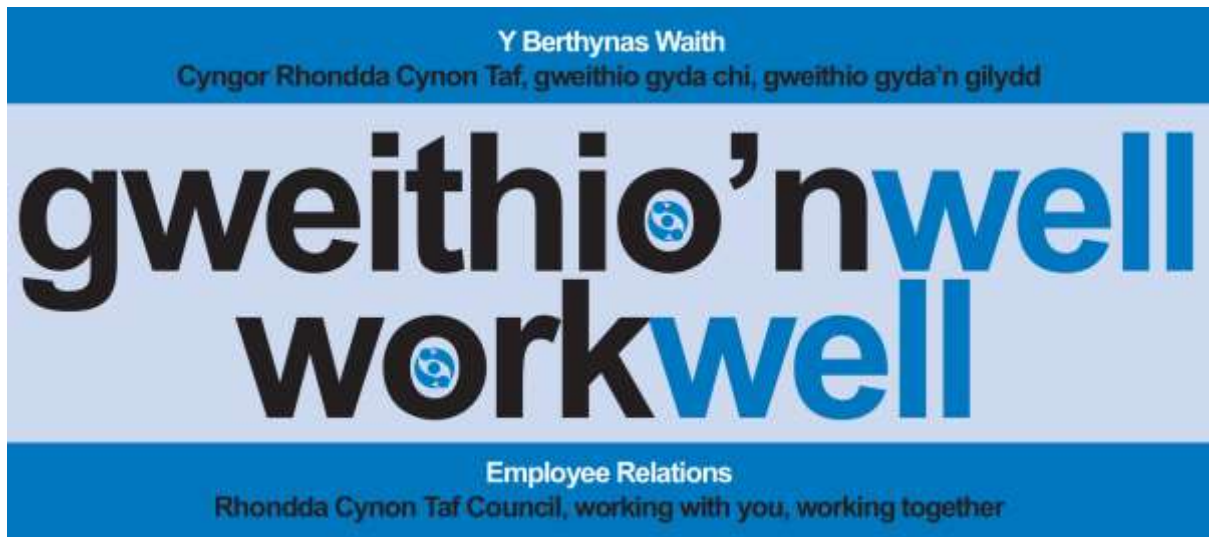


Version	EN3
Last Revision Date	September 2020



## Shared Parental Leave **Scheme**

This document is available in Welsh please see Cynllun Rhannu Cyfnodau o Absenoldebau Rhieni

<b>DOCUMENT CONTROL</b>	
<b>POLICY NAME</b>	<b>Shared Parental Leave <a href="#">Scheme</a></b>
Department	Human Resources
Telephone Number	01443 444503
Initial Policy Launch Date	March 2015
Reviewing Officer	Policy Review Group
Review Date	September 2016
Date of Equality Impact Assessment	September 2016
<b>REVISION HISTORY</b>	
Date	Revised By
September 2016	Policy Review Group
September 2020	HR Welsh Language Standards Group
<b>DOCUMENT APPROVAL</b>	
This document has received approval from:	Date of Approval
HR Senior Management Team	September 2016
Corporate Management Team	
Cabinet	

This document is available in Welsh or English and other formats are available on request

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## 1. **INTRODUCTION**

This policy 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 the arrangements and notification requirements before a period of SPL and the entitlement to pay during SPL.

Normally SPL allows employees with caring responsibilities for babies or newly adopted children the opportunity to share up to 50 weeks leave should they wish to do so.

Surrogate parents have the same rights as adoptive parents, therefore, where reference is made to adoption leave/pay or adoptive parents this also applies to parents having a child via a surrogacy arrangement.

## 2. **ELIGIBILITY CRITERIA**

To be entitled to SPL an employee must:

- be the mother, father, or main adopter of the child, or the partner of the mother or main adopter (each will be referred to in this policy as a parent)
- 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.

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 of confinement
- have average weekly earnings of at least the equivalent to the Maternity Allowance Threshold (MAT) during at least 13 of the 66 weeks prior to the relevant week. Further information on MAT can be found at [www.gov.uk](http://www.gov.uk)  
Further advice can be obtained from Human Resources.

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

In all cases the statutory notification and information requirements must be followed.

### **3. ENTITLEMENT TO SHARED PARENTAL PAY**

In addition to the requirements regarding entitlement to leave as outlined above, if an employee wishes to claim shared parental pay (ShPP) they must have an average weekly earnings equal to or above the Lower Earnings Limit over the eight-week period ending with the relevant week.

Information on the Lower Earnings Limit can be found at [www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions](http://www.gov.uk/government/publications/rates-and-allowances-national-insurance-contributions). Further advice can be obtained from Human Resources.

A maximum of 37 weeks ShPP is normally payable, which will be reduced by the number of weeks statutory maternity/adoption pay or maternity allowance already taken by the mother or main adopter. ShPP is a standard weekly rate (or 90% of the employee's normal weekly earnings if this is lower). Any ShPP due will be paid at the rate set by the Government for the relevant tax year

In all cases the statutory notification and information requirements must be followed.

There is no provision for employees to be paid 90% of earnings for the first 6 weeks of the shared parental pay period where this is higher than the statutory rate as is the case for statutory maternity/adoption pay.

If both parents qualify for ShPP they must decide who will receive it or how it will be divided and inform their respective employers.

### **4. SHARED PARENTAL LEAVE OPTIONS**

SPL can:

- Start on any day of the week
- Only be taken in complete weeks (e.g. starts on Tuesday and finishes following Monday)
- Be taken in up to three separate blocks of leave
- Be taken by both parents/partners at the same time as long as the combined leave does not exceed a total of 52 weeks, taking into account the need for the mother/main adopter/intended parent to take a minimum of 2 weeks
- Be taken at separate times by the parents.

Employees and managers should, where possible, have an informal discussion prior to employees giving formal notification of intention to take SPL so that statutory (and contractual) entitlements to other types of leave and pay can be discussed, and to ensure that plans for any discontinuous periods of leave can be considered as early as possible (see 7).

## 5. **SHARED PARENTAL LEAVE CONDITIONS**

A parent has the option to choose SPL at any time whilst they are eligible (within a year of the birth/adoption) as long as they can meet the notification requirements of at least eight weeks before the start date.

Up to three separate notifications can be given for SPL.

Parents do not have to be working for the same employer to be eligible.

A mother/main adopter can only share parental leave with **one** other person.

It should be noted that SPL can only be used by the mother/main adopter after they have either returned to work, or given notice that reduces their maternity/adoption leave, confirming when the maternity/adoption leave will come to an end in the form of a 'maternity curtailment notice'. This Notice is binding and cannot be withdrawn except in the following circumstances:

- If it becomes apparent that neither parent is entitled to SPL or ShPP
- If the curtailment notice was given before the birth and is revoked within 6 weeks of the birth (in this case another curtailment notice can be submitted)
- If the other parent dies

## 6. **NOTICE OF ENTITLEMENT AND INTENTION**

The notification requirements for SPL and ShPP are very specific and detailed. Employees will need to complete the form at Appendix 1, available in Welsh and English, as fully as possible which has been designed to assist employees to provide the required information and declarations.

Employees should return the form to their line manager.

The minimum requirements by law are:

- 'A maternity curtailment notice' (if appropriate)
- Notice of entitlement and intention
- A period of leave notice

In practice, at least the first period of SPL will be identified in the initial notice of entitlement and intention to take SPL. Employees are entitled to submit a maximum of a further two 'periods of leave' notices. Each notice 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 'period of leave' notice 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'.

## **7. PATTERN OF SHARED PARENTAL LEAVE**

SPL can be taken as either a 'continuous' block or multiple 'discontinuous' blocks.

### ***Continuous Block***

This is an unbroken period of leave, e.g. for a period of six weeks leave. Eligible employees have a statutory right to take SPL in this way.

If a continuous period of leave is requested in each period of leave notice, an employee will be entitled to take that period of leave and this will be confirmed in writing.

### ***Discontinuous Block***

This is a period of leave but with breaks in between the leave where the employee returns to work, e.g. 3 weeks leave, followed by a return to work for 6 weeks, followed by another period of leave.

Discontinuous leave can only be taken with the Council's agreement, and once a request for discontinuous leave has been made the request must be discussed by the employee and their line manager in a period of 14 calendar days.

Managers will discuss requests received with the employee to determine whether the request

- i. can be accommodated and the leave approved
- ii. propose an alternative pattern of leave which can be agreed,
- iii. or the request can be refused.

The manager's decision will be confirmed in writing.

If no agreement is reached within two weeks of the period of leave notice being submitted the employee can:

- take the leave requested in one continuous block, beginning on the original start date
- take a continuous block of leave 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 five days of the two-week period referred to above
- withdraw the request at any time up to the 15th day after it was originally made. If the request is withdrawn in these circumstances it will not count as one of the three requests allowed

## **8. VARYING A PERIOD OF LEAVE**

An employee can submit a request to vary a period of leave in the following ways:

- i. vary the start or end date as long as the variation is requested at least eight weeks before the original start date and the new start date
- ii. vary or cancel the amount of leave requested at least eight weeks before the original start date
- iii. 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 period of leave notice requests (see 6) unless:

- It is made as a result of the child being born earlier or later than the expected week of childbirth. The usual eight week notice requirement may be modified if the child is born early and the new start date for the period of leave is the same length of time following the birth as in the original notice. In this case notice to vary the start date should be given as soon as reasonably practicable after the birth of the child
- the Council has requested the variation



**9. SHARED PARENTAL LEAVE - KEEPING IN TOUCH DAYS (SPLIT DAYS)**

The Council has the right to ask an employee to attend work on occasional days during the SPL period. These days could be for training, to attend department meetings, or just for keeping in touch in line with same principle as KIT days for maternity leave.

There are 20 SPLIT days available during SPL which are in addition to the 10 KIT days available during maternity and adoption leave. (Any work carried out on a day or part of a day shall constitute a day's work for these purposes)

An employee may work for up to these 20 days without bringing the SPL to an end. Work during SPL will not extend the SPL period. If an employee does work s/he will be paid at the normal rate of pay inclusive of any ShPP entitlements.

There is no obligation on an employee to work during SPL and there is no obligation on the Council to offer work.

**10. TERMS AND CONDITIONS DURING SPL**

The employee's contract of employment continues in force during the period of SPL and they are entitled to receive all their contractual benefits, except for salary.

**11. PENSION CONTRIBUTIONS**

Pension contributions will continue to be made during any period when the employee is receiving Shared Parental Pay (ShPP) but not during any period of unpaid SPL. Employee contributions will be based on actual pay whilst the Council's contributions will be based on the salary that the employee would have received had they not been taking SPL.

As there are no earnings during periods of unpaid shared parental leave, the pension is 'lost'. An employee can however, choose to buy back the pension on any periods of unpaid shared parental leave by paying Additional Pension Contributions (APCS) and further information is available from the payroll section.

**12. ANNUAL LEAVE AND BANK HOLIDAYS**

An employee will continue to accrue annual leave entitlement during periods of SPL.

**13. SALARY SACRIFICE**

Arrangements will be made with the employee to ensure that any salary sacrifice schemes continue during the period of Shared Parental Leave as part of their continuing contractual benefits and in line with similar arrangements for Maternity and Adoption leave.

**14. REDUNDANCY**

If an employee's post becomes redundant during her/his SPL period, s/he must be treated as any other employee.

**15. RETURNING FROM SPL**

An employee wishing to return early from SPL must notify the Council at least eight weeks before both the original end date and the new end date.

An employee returning to work immediately after a period of SPL which (together with any statutory maternity/adoption leave taken to care for the same child) of 26 weeks or less will return to the same job.

An employee returning to work immediately after a period of SPL which (together with any statutory maternity/adoption leave taken to care for the same child) of 26 weeks or more will normally be entitled to return to the same job unless that is not reasonably practicable in which case the employee will return to another job which is suitable and appropriate under the circumstances.

An employee's right to return means that s/he will return on terms and conditions that are no less favorable than those that would have been applied had s/he not been absent. The return will be at the same level of seniority, pension rights and other similar rights.

**16. PROTECTION FROM DETRIMENT AND DISMISSAL**

Employees will be protected from suffering detriment or unfair dismissal for reasons related to taking, or seeking to take SPL.

## **17. FRAUDULENT CLAIMS**

The Council can, where there is a suspicion that fraudulent information may have been provided or where the organisation has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual Council investigation and disciplinary procedures, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

## **18. SPECIAL CIRCUMSTANCES AND FURTHER INFORMATION**

In certain situations, an employee's rights and requirements regarding SPL and ShPP may change. In these circumstances the council will abide by any statutory obligations and an employee should refer to the documents listed below and /or clarify any issues or queries with HR.

Law relating to this document:

- The Shared Parental Leave Regulations 2014
- The Shared Parental Pay (General) Regulations 2014
- The Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014
- Employment Rights Act 1996
- Child and Families Act 2014
- Equality Act 2010

**Notice of entitlement and intention to take shared parental leave form**

Employees with a child due to be born or placed for adoption on or after 5th April 2015 who wish to take shared parental leave (SPL) to share the main caring responsibilities with the other parent/partner must submit this form to their line manager at least eight weeks before the start date of the first period of SPL.

To be entitled to SPL you must:

- be the mother, father or main adopter/intended parent of the child, or partner of the mother or main adopter/intended parent (referred to in this form as parent)
- 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 as 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.

The other parent must have at least 26 weeks employment (employed or self-employed) out of the 66 weeks prior to the relevant week and have average weekly earnings of at least £30 during at least 13 of those weeks.

Please refer to the Shared Parental Leave Policy before completing this form.

## Section 1 - Basic Details

Employee Name	
Child's expected date of birth/date of placement for adoption	
Child's actual date of birth/date of placement for adoption (if known)	
Start date of mother/main adopter's/intended parent's maternity/adoption/surrogacy leave	
End date of mother/main adopter's/intended parent's maternity/adoption/surrogacy leave	

\* the start and end dates of the statutory maternity/adoption/surrogacy pay or maternity allowance period of the mother/main adopter/intended parent is not entitled to statutory leave

## Section 2 - Shared Parental Leave Details

The total amount available is 52 weeks minus the number of weeks leave/pay already taken by the mother/main adopter/intended parent according to the dates given in Section 1.

Total number of weeks SPL available				
Number of weeks SPL you intend to take				
Number of weeks SPL the other parent intends to take				
<p>Indication of start and end dates of SPL that you intend to take</p> <p><i>This indication is non-binding. You must submit a formal period of leave notice for each period of SPL you wish to request for it to be binding.</i></p> <p><i>Complete the section below if you wish your request for any/all of these periods of leave to be treated as a period of leave notice</i></p>				
<p>Do you wish the dates indicated for the period/s of leave to constitute a formal (binding) period of leave notice?</p> <p>Delete as applicable</p>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
	Yes for the following dates only:			

### Section 3 - Shared Parental Pay Details

The total amount of shared parental pay (ShPP) which may be available is 39 weeks minus the number of weeks pay already taken by the mother/main adopter/intended parent according to the dates given in Section 1.

Total number of weeks ShPP available	
Number of weeks ShPP you intend to claim	
Number of weeks ShPP the other parent intends to claim	
Indication of start and end dates of your ShPP periods	

### Section 4 - Employee notice of curtailment of maternity/adoption/surrogacy leave

Complete this section if you are the employee named in this notice and you are the mother or main adopter or intended parent. You must give at least eight weeks notice of your curtailment date. If you are entitled to maternity leave the curtailment date must be at least two weeks after the birth of your child (four weeks if you work in a factory).

I wish my maternity leave to end on                      (insert date)



## Section 5 - Employee Declaration

I confirm that I meet the following conditions:

- I am the mother, father or main adopter or intended parent of the child, or the partner of the mother or main adopter
- I have (or share with the other parent) the main responsibility for the care of the child and am taking SPL in order to care for the child
- I 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)
- I intend to be in continuous employment until the week before any SPL is taken
- If I am claiming shared parental pay I have average weekly earnings equal to or above the Lower Earnings Limit over the eight-week period ending with the relevant week
- I agree to inform the Council immediately if I cease to meet the conditions for entitlement to SPL or ShPP

If you are the mother or main adopter or intended parent:

- I have submitted a curtailment of maternity/adoption/surrogacy leave notice by completing Section 4 above

Signature:

Date:

## Section 6 Declaration of Other Parent

<b>Name</b>	
<b>Address</b>	
<b>National Insurance Number</b>	

I confirm that I meet the following conditions:

- I have at least 26 weeks employment (employed or self-employed) out of the 66 weeks prior to the 15th week before the expected date of birth or at the week in which the main adopter was notified as having been matched for adoption with the child (known as the relevant week)
- I have average weekly earnings of at least £30 during at least 13 weeks of the 66 weeks prior to the relevant week
- I agree to inform your employee immediately if I cease to meet the two conditions above
- I consent to your employee taking SLP and ShPP as set out in Sections 2 and 3 above

If you are the mother/main adopter/intended parent:

- I have curtailed my maternity leave and pay/adoption/surrogacy leave and pay/maternity allowance or will have done so by the time your employee starts SPL

I consent to you processing the information contained within the declaration.

Signed:

Date: