

Nottinghamshire County Council – Shared Parental Leave Policy

D43: Shared Parental Leave

1. Scope of the Policy

This policy is applicable to all centrally employed County Council employees with the exception of workers supplied through an employment agency and those employees covered by the School Teachers Pay and Conditions (STPC) document. For those covered by the STPC document Governors of individual schools will approve their own school policy. This policy should be read in conjunction with the Shared Parental Leave guidance for managers and employees [Word].

Shared Parental Leave will supplement the current provisions for maternity leave, paternity leave and adoption leave that Nottinghamshire County Council currently provides. This policy applies to employees in same-sex and heterosexual relationships. This policy applies to children born or placed for adoption after the 5th April 2015. From this date there will no longer be an entitlement to request Additional Paternity Leave and Pay.

2. Principles of the Policy

Shared Parental Leave is a form of leave that gives parents more flexibility in caring for their child. A pregnant employee can elect to opt out of the maternity leave scheme - see Appendix 1 - Maternity/Adoption Leave Curtailment Notice [Word], and they and their partner may opt into the Shared Parental Leave scheme -

see Appendix 2 - Notice of Entitlement and Intention to Take Shared Parental Leave [Word]. A partner for the purposes of this policy is defined as a spouse, civil partner, joint adopter or someone living in a family relationship who will share the main responsibility for the child's upbringing.

The Shared Parental Leave scheme creates a pool of leave and pay that both parents may draw from. Statutory leave is up to a maximum of 52 weeks leave and statutory pay (ShPP) is up to a maximum of 39 weeks' pay. These amounts are reduced by the number of weeks that the child's bearing parent has been on maternity leave or in receipt of Statutory Maternity Pay (SMP) or Maternity Allowance (MA) if not entitled to maternity leave.

Providing that both parents meet the eligibility criteria see Appendix 3 - Declaration Form [Word], then shared parental leave can be utilised to share the care of the child during the first year of birth or adoption. Parents can decide to be absent from work at the same time or at different times and may be able to take leave in more than one block.

Shared parental leave can be taken any time after the first 2 weeks of compulsory maternity leave for the bearing parent and from the time of the birth for the partner - see Appendix 4 - Period of Leave Notice of Shared Parental Leave [Word]. Once shared parental leave has commenced the right to take paternity leave/maternity leave is lost.

Further guidance on this policy is provided in the document and by contacting the HR Duty Desk on 0115 9774433.

3. Eligibility Criteria for Shared Parental Leave

To qualify for shared parental leave both parents need to meet certain eligibility criteria. These are outlined below.

Employee's eligibility

- share the care of the child with either their spouse, civil partner, joint adopter, the child's other parent or their partner
- 26 weeks continuous service at the end of the 15th week before the expected week of childbirth (the "qualifying week") or when the employee is notified as being matched with a child in adoption cases (this is known as the Continuity of Employment test)
- be employed in the week before the shared parental leave is starting
- correctly notify NCC of their entitlement and have provided the necessary declarations and evidence.

In addition, the bearing parent, whether employed by Nottinghamshire County Council or not:

- should be entitled to either maternity/adoption leave or to statutory maternity/adoption pay or to maternity allowance
- must have ended their maternity leave by either returning to work or curtailing their maternity leave from a future date.

Partner's eligibility

In addition to their partner sharing the care of the child they must meet the 'Employment and Earnings Test' for the employee to qualify for shared parental leave even though they may not work for Nottinghamshire County Council. For further information please read Shared Parental Leave guidance for managers and employees [Word].

4. Eligibility for Shared Parental Pay (ShPP)

Employees will qualify for ShPP if one of the following applies:

- a. They qualify for Statutory Maternity Pay (SMP) or Statutory Adoption Pay (SAP), or;
- b. They qualify for Statutory Paternity Pay and their partner qualifies for SMP or Maternity Allowance or SAP.

ShPP is paid at the same rate as SMP or at 90% of the employee's average weekly earnings, whichever is lower.

The current Statutory Maternity Pay rates are available

at: <http://www.direct.gov.uk/en/Employment/index.htm> or employees can contact the HR-Pay Section, Business Support Centre for further information.

5. Applying for Shared Parental Leave

In order to apply for Shared Parental Leave/Shared Parental Pay, the bearing parent of the child must have returned to work from maternity leave/adoption leave, ended their maternity pay/allowance or given notice to their employer in writing of their decision to 'Curtail their maternity entitlement' at a future date. If they have given notice to curtail their maternity leave this is a binding notice and must be given at least 8 weeks prior to commencing Shared Parental Leave. This notice can only be revoked in writing under specific circumstances:

- a. Neither the bearing parent or the other parent are eligible for SPL or ShPP – this can be done up to 8 weeks from when the notice to curtail was given

- b. If the curtailment notice was given prior to the child's birth – this can be revoked in writing up to 6 weeks after the birth (under these circumstances the bearing parent can change their mind later and serve another leave curtailment notice).
- c. The other parent is deceased.

To access shared parental leave the bearing parent and partner must also provide to their respective employers:

- d. A notice of entitlement and intention to take SPL which indicates the total amount of shared parental leave and pay that is available and how much they and their partner intend to take and a non-binding indication of when the employee expects to take the leave (and claim ShPP). It is possible to submit a new 'notice of entitlement and intention to take SPL' if circumstances change provided that that it is at least eight weeks before the start of the SPL. There is no limit on the number of times that the bearing parent /partner can amend the 'notice of entitlement and intention to take SPL'.
- e. A declaration of consent and entitlement whereby the partner confirms they meet the eligibility criteria.

Managers reserve the right to check the eligibility of entitlement within 14 days of receiving the notices above by requesting a copy of the child's birth certificate (or evidence of adoption) and/or the contact details of the partner's employer. This must be provided by the employee within 14 days of being requested or the right to SPL will be lost.

6. Booking SPL dates

To confirm the preferred dates or add further leave the employee should submit a 'period of leave notice' (up to a maximum of 3 notices are permitted). Eight weeks' notice is required before the start of the first leave date.

The blocks of leave can either be as a period of continuous leave or as discontinuous blocks of leave but must be booked as complete weeks. In the case of a discontinuous leave application, managers should meet with the employee within two weeks of receiving the application to discuss the request. If the line manager cannot approve a request for the discontinuous leave and an alternative cannot be agreed the employee may:

- a. Withdraw the discontinuous leave request within 15 days of making the request (if this occurs the request to take the leave won't count as one of the 3 permissible notifications to take SPL)
- b. Take the leave as a continuous block starting on either the original date requested or if within 19 days of the original request the employee may propose an alternative start date. The alternative start date must be at least 8 weeks from the start date originally requested.

If the employee wishes to cancel or vary the dates of a period of leave then they should write to their line manager to advise them of this variation. This will count as one of the three submissions allowed and will need to be provided at least 8 weeks before the start of the new SPL date. However, this will not count as one of the employee's "notices" if the change is because the child has been born early or a change has been agreed after a request for a period of discontinuous leave has been refused.

7. Terms and Conditions of Employment

The contract of employment will continue unchanged for the duration that SPL is taken with the exception of the employees pay. Pension contributions will continue to be paid whilst the employee is in receipt of ShPP and the employee's right to accrue annual leave will continue. All periods of leave will be counted for the purpose of Local Government Continuous Service.

8. Contact during Shared Parental leave

By agreement the employee may book up to 20 Shared Parental Leave In Touch (SPLIT) days during the period of SPL and taking one or more SPLIT days will not cause a period of SPL to cease. SPLIT days may be used for the purpose of returning to work for a day (or more). The employee will receive their daily pay for a SPLIT day.

9. Returning to work

The employee has a right to return to the job they were employed in prior to taking SPL. However, should the total block of SPL (in addition to any Maternity/paternity/adoption leave prior to the SPL) be more than 26 weeks and it is not reasonably practicable for them to return to the same job then an alternative job which is both suitable and appropriate may be provided.

Reviewed: 30/10/18

Next review: Nov 2021