



SHARED PARENTAL LEAVE AND PAY **POLICY AND PROCEDURES**

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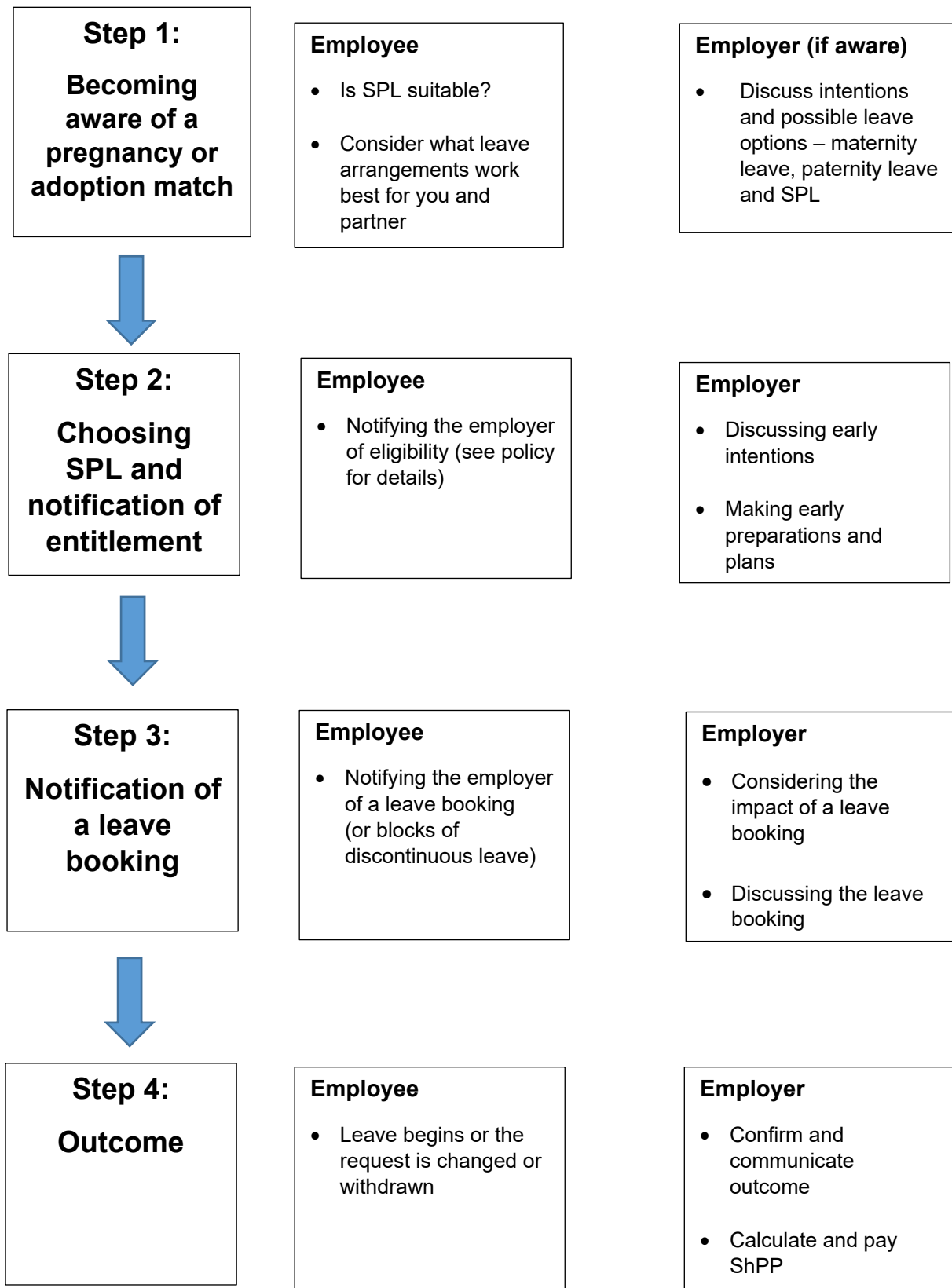
<u>Contents</u>	<u>Page No</u>
1. Position statement	4
2. Purpose	4
3. This applies to	4
4. Roles and responsibilities	4
5. Principles	5
6. Definitions	5
7. Procedure	5
8. Review and Amendment	14

Equality Impact Assessment

Shared Parental Leave and Pay process

SPL – Shared Parental Leave

ShPP – Shared Parental Pay



1. Position Statement

Southampton City Council complies with the Shared Parental Leave Regulations 2014, which provides a statutory right for an employee to take Shared Parental Leave (SPL) in connection with the birth of a child due to be born or placed for adoption on or after 5th April 2015. This policy should be read in conjunction with the associated Maternity Procedures, Paternity Leave and Adoption Leave policies.

This policy incorporates the council's statutory responsibility to consider requests for shared parental leave to enable employees to care for children.

2. Purpose

This policy sets out the statutory rights and responsibilities of employees who wish 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.

Eligible mothers or main adopters will be able to volunteer to end their maternity leave and/or pay (or adoption leave and pay) early to create shared parental leave and pay which they can share with the child's father or their partner. This will give families more choice over how they look after their children in the first year.

SPL gives employees with caring responsibilities for babies or newly adopted children the opportunity to share up to 52 weeks' leave should they wish to do so. Parents taking SPL can take leave in separate blocks, returning to work in between blocks, and can be on leave at the same time

3. This Policy applies to:

This policy relates to all employees who meet the eligibility criteria (shown later in the document) directly employed by the council, including school based employees, where the Governing Body has adopted this policy.

4. Roles and Responsibilities

Managers:

- Ask the employee to read this policy in conjunction with the Maternity and Paternity and Adoption policies (as relevant)
- Encourage the employee to follow the process
- Hold relevant discussions and follow the process

Employees:

- Follow the application process set out in this document,
- Understand that there will need to be discussions around the application to agree the proposed periods of leave.

HR Pay / HR Provider:

- Process the relevant documents to ensure that the employee is paid appropriately

5. Principles

Shared Parental Leave may be taken at any time within the period which begins on the date the child is born/date of the adoption placement and ends 52 weeks after that date.

An employee is entitled to submit three separate notices to book leave. Leave must be taken in complete weeks and may be taken either in a continuous period (which an employer cannot refuse), or in a discontinuous period (which the employer can refuse). If a request for discontinuous leave is refused then the total amount of leave requested in the notice will automatically become a continuous block, unless the notice is withdrawn.

Because it can be shared, partners can have time off together or there will be cases where eligible mothers or the main adopter will return to work early because their partner or co-adopter is taking leave in their place. As the SPL can be taken in discontinuous blocks, it means that eligible parents will also be able to request to mix work with leave in the first year of the child's life and return to work between periods of leave if they wish (subject to agreement).

6. Definitions

Shared Parental Pay (ShPP) payable for up to a maximum of 37 weeks at the same rate as Statutory Maternity Pay or 90% of an employee's average weekly earnings whichever is lower. It is dependent on eligibility and the length of maternity / adoption leave already taken.

Shared Parental Leave (SPL) up to a maximum of 50 weeks, dependent on eligibility and reduced by the length of maternity or adoption leave already taken.

Shared Parental Leave in Touch (SPLiT) Days similar to maternity Keeping in Touch (KIT) days – each parent can work up to 20 SPLiT days, paid at their normal rate for the hours they work on each day.

Mother – in some examples the word 'mother' will also apply to 'main adopter'

7. Procedure

Employees and managers should, where possible, have an informal discussion prior to employees giving formal notification of intention to take shared parental leave (SPL). The employee can then propose the pattern of the leave they wish to take and it gives the opportunity to discuss statutory (and contractual) entitlements to other types of leave and pay, and to ensure that any plans for the periods of leave can be considered as early as possible. All forms and letters referred to below are available on the HR Pay intranet.

Main Elements of Shared Parental Leave & Pay

Employed mothers will continue to be entitled to 52 weeks of maternity leave. The mother can switch part of her statutory maternity leave and pay into Shared Parental Leave (SPL) and Shared Parental Pay (SPP).

- In the 52 week period there will be two weeks' compulsory maternity leave which the mother must take. Mothers with partners will then be able to end their maternity leave and pay and share the remaining balances as SPL and ShPP
- Eligible partners (who must also meet the qualifying conditions shown later in the policy) will then be able to share the remaining maternity leave and pay.
- Fathers will still be entitled to two weeks basic paternity leave (see separate Paternity Leave policy).
- The provisions allow adoptive parents to share leave and pay.
- SPL may be taken in a single continuous block, or may be taken in smaller blocks of leave (a minimum of one week at a time), interspersed with time at work.
- Employees who have taken SPL have the right to return to the same job if the total leave taken is 26 weeks or less in total, even if the leave is taken in discontinuous blocks. Any subsequent leave will attract the right to return to the same job, or if that is not reasonably practicable, a similar job.

Entitlement to SPL

To be entitled to SPL you must:

- Be the mother, biological father, 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.
- **NB** only the mother/main adopter and one 'parent' can share the parental leave.

In addition, the other parent must:

- Have at least 26 weeks' employment (not necessarily continuous) out of the 66 weeks prior to the relevant week (employed or self-employed).
- Have average earnings of at least £30 per week during at least 13 of the 66 weeks period to the relevant week (not necessarily continuously).
- The work can be anywhere in the European Economic Area (EEA).
- The council are not required by law to check whether the partner is eligible to take SPL. They must declare their eligibility and notify their employer.

The statutory notification and information requirements detailed below must be followed.

Sometimes only one parent in a couple will be eligible to get SPL and Shared Parental Pay (ShPP). This means that they can't share the leave but the eligible parent may be entitled to the whole SPL period.

False Declarations

Any false declarations may mean that the individual is subject to the Disciplinary Policy and Procedure.

Amount and timing of SPL

SPL must be taken in blocks of at least one week and within a one year period beginning with the date of the baby's birth or the child's placement for adoption. You may request a pattern of discontinuous leave but the Council does not have to agree to any pattern of discontinuous leave.

Depending on additional contractual maternity pay or any contractual adoption pay, there could be scenarios where it may be financially advantageous to stay longer on maternity leave / adoption leave before changing to SPL.

SPL is in addition to the statutory right to two weeks' paternity leave for fathers and partners. If you wish to take paternity leave you must do so before you take any SPL.

Example: If the father or partner was planning to take the first block of 4 weeks' SPL they might take that straight after the 2 weeks' paternity leave – so a block of 6 weeks at that time (providing that the mother had given notice to end her maternity leave and go onto SPL 2 weeks after the birth).

Entitlement to Shared Parental Pay (ShPP)

You will qualify for Shared Parental pay (ShPP) if you meet the requirements to Statutory Maternity Pay (SMP) (see the Maternity Policy and Procedure), Statutory Adoption Pay (SAP) (see the Adoption Leave and Pay Policy) or you qualify for Paternity Pay (see the Paternity Leave and Pay Policy) or have a partner that qualifies for SMP, SAP or the Maternity Allowance.

A maximum of 37 weeks' ShPP is payable, and this 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 (the same rate as Statutory Maternity Pay (SMP) which is set by the government annually) or 90% of the employee's normal weekly earnings (if this is lower).

Example: if the mother has used up 15 weeks' SMP then 24 weeks of ShPP is available to share between the couple and 37 weeks of SPL.

Notification Requirements

SPL can only be used after the mother has:

- Already returned to work, **or**
- Given notice to their employer that reduces their maternity/adoption leave, confirming when their maternity/adoption leave will come to an end. Notice is binding and so cannot be withdrawn.

The notification requirements for SPL and ShPP are very specific and detailed. Please use the “Notice of Entitlement and Intention to take Shared Parental Leave (SPL” form available on the HR Pay intranet to provide the required information declarations.

You must give at least 8 weeks’ notice of any leave you wish to take. If the child is born more than 8 weeks early, this notice period can be shorter.

Notice of entitlement and intention to take SPL and ShPP

You must notify SCC, or your employer in writing at least 8 weeks before the start date of the first period of SPL being requested. The written notice must contain the following information as detailed on the notice of entitlement and intention form:

- Your name and the other parent’s name.
- The start and end dates of the mother’s or main adopter’s maternity/adoption leave (or the start and end dates of the statutory maternity/adoption pay or maternity allowance period if the mother/main adopter is not entitled to statutory leave i.e. where her employment has ended).
- The expected date of the birth/placement and the actual date of birth/placement if the written notice is given after the birth/placement.
- The amount of SPL and ShPP available and an indication of how much each parent intends to take (this may be varied by subsequent written notice signed by both parents).
- An indication of the start and end dates of the periods of SPL and ShPP that you would like to take (subject to agreement). This indication is not binding and can be amended at a later date (providing 8 weeks’ notice of the change is given).
- A declaration that you meet the conditions for entitlement to SPL, the information provided is accurate and that you will notify the council immediately if you cease to meet the conditions for entitlement.
- A declaration from the other parent containing his or her name, address, address of employer and National Insurance number, confirmation that they meet the employment and earnings conditions, consents to the amount of leave the employee intends to take and an undertaking to immediately inform the Council if they cease to satisfy the employment and earnings conditions.

On receipt of the form the manager will send the “Acknowledging notice of entitlement and intention to take SPL” letter to the employee. The 8 weeks’ notice commences on receipt of the notification. Once eligibility has been checked, the line manager needs to send the “Confirmation of eligibility for SPL” letter. If the employee is not eligible to receive SPL and ShPP then the letter “Explaining ineligibility for SPL” needs to be sent.

Notice of curtailment of statutory maternity/adoption leave and payments

At the same time that a “Notice of Entitlement and Intention to Take SPL” form is submitted, the mother/main adopter must give his or her employer a leave and pay curtailment notice giving at least eight weeks’ notice of the date on which maternity/adoption leave and pay is to end. This is included within the form.

If the mother is not entitled to statutory maternity pay (SMP) through their employer then they may be entitled to maternity allowance, so her notice of curtailment must be submitted to Jobcentre Plus. Her maternity allowance cannot be reinstated, so she is in effect giving consent for her partner to take all of any ShPP entitlement.

Notice of curtailment is usually binding, but may be revoked in the following circumstances:

- 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.

If one person is ineligible, but their partner is entitled to SPL and ShPP, then the employee needs to complete the “Maternity/Adoption Leave Curtailment Form – no entitlement” to end their leave before their partner’s SPL can commence.

Evidence Requirements

A copy of the child’s birth certificate and the name and address of the other parent’s/adopter’s employer will be requested following receipt of the notification form. This information should be provided as soon as possible and at the latest within 14 days of the request in order that eligibility for SPL and SHPP can be confirmed as swiftly as possible.

In the case of adoption, the following evidence will be requested:

- The name and address of the adoption agency.
- The date that the main adopter was notified of having being matched for adoption with the child.
- The date on which the adoption agency expects to place the child.

Any such request will be made by the manager within 14 days of receiving your notice of entitlement and intention to take SPL and ShPP.

If a birth certificate has not yet been issued, you must sign a declaration stating that fact along with the date and location of the child’s birth. If the other parent has no employer, this must also be declared.

Notice to take a specific period of SPL and ShPP

In practice, at least the first period of SPL will be identified in the initial notice of entitlement and intention to take SPL. You are entitled to submit a maximum of a further 2 notice to take a period of SPL notices. Each notice must be given at least 8 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 “Notice to Take a Period of SPL” is given prior to the birth of the child, the notice may express the start date in relation to the expected date of birth or placement for adoption.

Example: It might say that the SPL would start 2 weeks after the baby is born, for a period of 4 weeks.

Please use form “Notice to Cancel or Vary a Period of SPL” form to cancel or change a period of SPL that was originally indicated on the initial notification form or the “Notice to Take a Period of SPL” form.

Confirmation of SPL and ShPP

If one continuous period of leave is requested in the period of leave notice, you will be entitled to take that period of leave and this will be confirmed by the line manager sending the “Confirmation of a Period of SPL” letter.

If more than one period of leave is requested in a period of leave notice, your manager will seek to accommodate the request but this cannot be guaranteed due to operational requirements. Your manager will discuss the request with you to determine if it can be accommodated. If it cannot be accommodated, there may be an alternative pattern of leave which can be agreed, or the request may be refused. The manager’s decision will be confirmed in writing (using the “Confirmation of a Period of SPL” letter or the “Declining a Period of SPL” letter).

If no agreement is reached within 2 weeks of the period of leave notice being submitted you can:

- Take the discontinuous periods of leave requested in one continuous block, beginning on the original start date.
- Take the continuous block starting on a new date, as long as the new date is later than the original start date, and you notify SCC, or your employer, of the new date within 5 days of the 2 weeks of the period of leave being submitted
- 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 your 3 requests.

Varying a period of leave

You are entitled to submit a request to vary a period of leave in the following ways:

- Vary the start or end date as long as the variation is requested at least 8 weeks before the original start date and also the new start date.
- Vary or cancel the amount of leave requested at least 8 weeks before the original start date.
- Request that a single period of leave become a discontinuous period of leave, or vice versa.

A variation will count as one of your 3 period of leave notices unless:

- It is made as a result of the child being born or being placed earlier or later than the expected week of childbirth/ expected adoption date.
- SCC have requested the variation.
- SCC have agreed to accept more than 3 period of leave notices.

The usual 8-week notice requirement may be modified if your 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 or placement of the child.

Please use the “Notice to Cancel or Vary a Period of SPL” form.

Reasonable contact

The Council reserves the right to maintain reasonable contact with the employee from time to time during their SPL. Shortly before the period of SPL starts, your line manager will discuss the arrangements for how best to keep in touch during the leave. This may be to discuss the plans for return to work, to discuss any special arrangements to be made or training to be given to ease the return to work, or simply to update on developments at work during the absence.

Keeping in touch during SPL

Each parent can choose to work for up to 20 days during their SPL without bringing SPL to an end. These days are known as Shared Parental Leave in Touch (SPLiT) days.

SPLiT days can be used to keep up to date with what has been happening in the workplace whilst the employee has been on SPL, to attend a training course or staff meeting, to complete a specific piece of work or project, or simply to help the employee settle back into work gradually at the end of their SPL. If and how SPLiT days will be used is decided between the employee and their manager.

The employee will not lose any statutory shared parental or adoption pay (where they are still in receipt of it) for working up to 20 SPLiT days. Working even for part of a day will count as one day in terms of SPLiT days (i.e. deducting from a total of the permitted 20 days).

The employee will receive payment for the actual hours they worked on a SPLiT day, at their contractual rate of pay. The Council's expectation is that an employee will come into work for their normal contractual hours when undertaking a SPLiT day, but where the length of the working day is shorter, the individual will only receive pay for the hours they actually worked.

Employees may request to receive time off in lieu rather than payment for the hours worked. Any time off granted must be taken within 3 months of their return to work. It is important that the manager and employee discuss the use of SPLiT days and pay arrangements before maternity leave commences.

The 20 SPLiT days available during SPL are in addition to the 10 KIT days applicable under the maternity and adoption policies.

Annual Leave

The employee should, if possible, take any outstanding leave before the start of the SPL period. If this is not possible you may in exceptional circumstances agree with your manager to carry it forward. If this is done the employee must either add it at the end of the SPL or agree with the manager when they will take it. The employee will continue to accrue annual leave during their period of SPL, whether paid or unpaid.

If the employee seeks to return to work on different contractual terms (e.g. to work part-time) they should ideally clear any leave carried forward and any leave accrued during SPL before starting on new terms. However, with agreement of their

manager, the employee may carry the leave forward into the new contract and, if this is the case, the leave will not be pro-rated to reflect any reduction in working hours.

As holiday entitlement continues to accrue during SPL, the Council reserves the right to require an employee to take the accrued holiday entitlement immediately after SPL ends. Alternatively, SCC may agree that the outstanding holiday entitlement can be taken at a suitable time after they return to work.

Where an employee takes annual leave immediately following a period of SPL, the return to work date is the first day of annual leave. It is important that the line manager advises HR Pay or the Payroll provider of this date in order that normal pay is reinstated from this date.

Wherever operationally possible, SCC closes offices over the Christmas to New Year period. If your work place is closed and you are on SPL at this time, you will not be expected to use your additional leave to cover these days.

Public Holidays

Upon the return to work, the employee will be 'credited' with any public holidays that fell during the period of SPL. In effect, these days will be added to the annual leave entitlement.

Pension

Employees who are members of the Local Government Pension Scheme (LGPS) or the Teachers' Pension Scheme (TPS) will continue to have contributions deducted on all payments during paid parental leave when in receipt of ShPP. Your pension for this period will be based on your assumed pensionable pay.

During any unpaid periods of parental leave (when ShPP has ended) you will be retained in the scheme but the period will not count towards your pension unless you arrange for additional contributions to be paid, this is called a Shared Cost APC and more details are available on the Hampshire Pensions website (Teachers pensions). These contributions are based on your assumed pensionable pay and not on your normal contractual pay. These arrangements must be made **within 30 days** of returning to work. Employees should contact the HR Pay team or your pay provider in the first instance.

If you are a member of the NHS Pension Scheme, please see <http://www.nhsbsa.nhs.uk/pensions> and contact them direct.

Returning from SPL and terms and conditions during SPL

You will continue to receive your usual contractual benefits during your SPL period – in line with maternity/paternity policies (apart from remuneration).

If you wish to return early from SPL, or extend the period of your SPL, you must notify the Council at least 8 weeks before both the original end date and the new end date.

If you return to work immediately after a period of SPL which (together with any statutory maternity/adoption leave you have taken to care for the same child) was 25 weeks or less, you will return to work in the same job that you left.

If you return to work from a period of SPL (together with any maternity/adoption leave you may have taken to care for the same child) which was 26 weeks or more you will normally be entitled to return to the job in which you were employed before your absence. If that is not reasonably practicable, then you will return to another job which is both suitable and appropriate in the circumstances.

The right to return means that you return on terms and conditions no less favourable than those that would have applied if you had not been absent and with the same level of seniority, pension rights and other similar rights.

If you are unable to return to work at the end of SPL due to illness, your usual sickness scheme and reporting rules will apply.

7. Review & Amendment

This Policy does not form part of the employee's contract of employment and the Council retains the right to review and change the Policy at any time, ensuring that it complies with current employment legislation and the requirements of the Council. The recognised Trade Unions will be consulted with a view to reaching an agreement on any changes prior to publication.

Equality and Safety Impact Assessment

The **public sector Equality Duty** (Section 149 of the Equality Act) requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people carrying out their activities.

The Equality Duty supports good decision making – it encourages public bodies to be more efficient and effective by understanding how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people’s needs. The Council’s Equality and Safety Impact Assessment (ESIA) includes an assessment of the community safety impact assessment to comply with section 17 of the Crime and Disorder Act and will enable the council to better understand the potential impact of the budget proposals and consider mitigating action.

Name or Brief Description of Proposal	Shared Parental Leave Policy
Brief Service Profile (including number of customers)	To outline to managers and employees the circumstances where a Shared Parental Leave application may be considered, and the council’s approval process.
Summary of Impact and Issues	Low impact – review in 3 years Eligibility is based on service and salary requirements positive impact for work-life balance
Potential Positive Impacts	Scheme can improve work-life balance of staff
Responsible Service Manager	Jo Francis
Date	04/02/15
Approved by Senior Manager	Mike Watts
Signature	Mike Watts
Date	04/02/15