

**The Cabinet**

**1<sup>st</sup> April, 2015 at 3.00 pm**  
**at the Sandwell Council House, Oldbury**

**Present:** Councillor Cooper (Chair);  
Councillors Crompton, Y Davies, Eling and  
Hackett.

**Apologies:** Councillor Moore;  
Councillors Khatun, Sandars and J Underhill.

**Observers:** Councillors P Hughes and S Jones.

65/15

**Minutes**

In response to a query from the Chair of the Housing, Jobs and Economy Scrutiny Board in relation to Minute No. 63/15 (Restructure of Extra Care Housing Support (Key Decision Ref. No. ASC062)), the Cabinet Member for Adult Social Care clarified that reference to consult “other stakeholders” did include residents of the extra care housing schemes and their relatives and carers.

**Resolved** that the minutes of the meeting held on 18<sup>th</sup> March, 2015 be confirmed as a correct record.

**Strategic Matters**

66/15

**Local Transport Settlement 2015/16 to 2017/18 – Sandwell Allocation (Key Decision Ref. No. JE135)**

The Deputy Leader and Cabinet Member for Strategic Resources sought approval to the programme of minor works, bridge and highway maintenance works for 2015/16.

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The details of the local transport resources allocated to the Council for 2015/16 to 2017/18 along with indicative allocations for the period 2018/19 to 2020/21 were reported.

Nationally, the amount of Integrated Transport Block funding allocated to local authorities had reduced from £320m in 2013/14 to £258m for 2015/16 and subsequent years. Local Enterprise Partnerships could bid for the funds through their growth deal negotiations thus introducing a competitive element to funding that had previously been entirely based on formula.

The allocation to the West Midlands metropolitan area for the forthcoming year was £33,913,000. Of this sum, £17,618,000 had been allocated for Integrated Transport and £16,295,000 for Highway and Bridge Maintenance.

Due to no local changes to the current allocations formula, the revised needs-based formula funding allocation for Sandwell for 2015/16 was £3,209,000. Sandwell's allocations for 2015/16, including additional allocations for maintenance, were as follows compared to the previous four years' allocations:-

<b>Sandwell's Allocation</b>	<b>2011/12 £000s</b>	<b>2012/13 £000s</b>	<b>2013/14 £000s</b>	<b>2014/15 £000s</b>	<b>2015/16 £000s</b>
Integrated Transport	1,572	1,694	1,768	2,499	1,484
Maintenance	3,489	3,480	3,400	3,080	3,209
Additional Maintenance Allocation	N/A	N/A	620	859	N/A

On 19<sup>th</sup> November 2014, the West Midlands Integrated Transport Authority for the District approved allocations for Integrated Transport and Joint Initiatives work. Further approval was given on 28<sup>th</sup> January 2015 for the allocations from the Maintenance Block.

The Deputy Leader and Cabinet Member for Strategic Resources recommended the proposals to the Cabinet.

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### **Resolved:-**

- (1) that the details of the allocation of resources, as approved by the West Midlands Integrated Transport Authority for Integrated Transport and Joint Initiatives work, and Structural Maintenance of Carriageways and Bridges, be received;
- (2) that the following programme of minor works, bridge and highway maintenance works for 2015/16 be approved:-

#### **Minor Works Programme**

**Funds**  
**2015/16**  
**£'000s**

Major Schemes - design and land in advance	84
Local Area Safety Schemes	115
Local Safety Schemes	150
Safer Routes to School	125
Vulnerable Users	250
Demand Management	100
Traffic Calming	100
Major Route Signing	60
Named Schemes Over £250k	500
<b><u>Total</u></b>	<b>1484</b>

#### **Bridge Maintenance Programme**

Principal Inspections	60
General Inspections	20
Bridge Assessments	20
General Structures Maintenance	200
<b><u>Total</u></b>	<b>300</b>

#### **Highway Maintenance Programme**

Carriageway maintenance - Maintenance Block	1859
Carriageway maintenance - Additional allocation	Bid Dependant
Street Lighting Programme	1050
<b><u>Total</u></b>	<b>2909</b>

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67/15

### Redress Scheme for Lettings Agency Work and Property Management Work (Key Decision Ref. No. JE137)

The Deputy Leader and Cabinet Member for Strategic Resources sought approval to amend the scheme of delegations to officers to enable the Director – Homes and Communities to take action where letting agents and property managers failed to join an approved redress scheme.

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 was established as a result of the Enterprise Regulatory Reform Act 2013 which made it a legal requirement for all lettings agents and property managers in England to join an approved redress scheme.

In accordance with the scheme, tenants and landlords with agents in the private rented sector and leaseholders and freeholders that dealt with residential property managers would now be able to complain to an independent person about the service they had received. The enforcement authority would then be able to impose a fine of up to £5,000 where it was satisfied, on the balance of probability, that someone was engaged in letting or management work and was required to be a member of a redress scheme, but had not joined.

The cost of joining a redress scheme was small compared to the potential fine. It was therefore envisaged that any income generated from potential fines would be small.

An equality impact assessment was not required for this proposal.

The Deputy Leader and Cabinet Member for Strategic Resources recommended the proposals to the Cabinet.

In response to a number of queries from the Chair of the Housing, Jobs and Economy Scrutiny Board, the Deputy Leader and Cabinet Member for Strategic Resources confirmed that:-

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- the Council was able to identify whether agents with large stockholdings within Sandwell, but based outside of the Borough, had registered to the Redress Scheme. The Council worked in liaison with other local authorities to enforce registration to the scheme and would take action, as necessary, against those that had not registered;
- where landlords/agents had failed to register, the Council was able to impose a fine of up to £5,000. Whilst the Council had identified four agents in Sandwell that had failed to register to the scheme, pending the outcome of proceedings against those agents, the Council was not in a position to publically name them.

### **Resolved:-**

- (1) that the Scheme of Delegations to Officers, as set out in Part 3 (Responsibility of Functions) of the Council's Constitution, be amended to include the following delegation to the Director - Homes and Communities:-

#### **Letting agents and property managers - approved redress scheme**

To act and authorise others to act on his/her behalf under the provisions of the Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 in connection with taking action against letting agents and property managers who have not joined a redress scheme when required to do so;

- (2) that, subject to resolution (1) above, the Director - Governance be authorised to amend the Scheme of Delegations to Officers in accordance with article 7.06 of the Council's Constitution;
- (3) that the monetary penalty of £5,000 for non-compliance with The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 be endorsed except when the local authority is satisfied that there are extenuating circumstances for non-compliance with the scheme.

68/15

**Shared Parental Leave**

The Leader of the Council presented proposals to implement a Shared Parental Leave scheme as a result of Shared Parental Leave and Pay legislation, for employees who would be parents of babies born on or after 5<sup>th</sup> April 2015.

Shared Parental Leave would give both parents an opportunity to consider the best arrangements to care for their child during its first year. In future, whilst a mother would still be able to take maternity leave, she would now be able to choose to reduce the maximum amount of maternity leave available to her (i.e. 52 weeks) and instead opt in to Shared Parental Leave which would facilitate the sharing of the child care with her partner. Eligible employees could stop and start their Shared Parental Leave and return to work between periods of leave with each eligible parent able to submit three notices of booking periods of leave.

Due to the complexities of the legislation, it was anticipated that amendments to the scheme may need to be made in the future. These would be discussed with trade unions in appropriate fora prior to implementation.

Additional policies had also been developed for employees who had adopted, or who were planning to adopt, a child and who wished to take Shared Parental Leave and for school-based employees.

**Resolved:-**

- (1) that the Shared Parental Leave scheme, as set out in Appendix 1 (forms HR116 and HR117), be approved to come into effect on 5<sup>th</sup> April 2015;
- (2) that the Assistant Chief Executive submit those Shared Parental Leave policies applicable for schools, as set out in Appendix 2 (forms HR118 and HR119) to Governing Bodies with a recommendation that they adopt these policies in their particular establishments;

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- (3) that in connection with resolution (1) above, any minor alterations that are subsequently identified as being necessary to any of the four Shared Parental Leave policies (as detailed in HR116, HR117, HR118 and HR119) be agreed and implemented by the Assistant Chief Executive following consultation with trades unions.

69/15

### Job Promise

The Leader of the Council sought approval to introduce a Job Promise of employment stability for employees for the period April 2015 to March 2017. The Council also sought to make a commitment to not make any compulsory redundancies during this period.

Whilst it was acknowledged that many challenges lay ahead, the Council had reached a point where there was a level of confidence about its financial position for the next two years. The Job Promise initiative was a way to reward the commitment shown by employees.

The traditional approach to restructuring involved reorganising the workforce by downsizing, often including redundancy from posts no longer needed followed by recruitment to job roles requiring different skills. To move away from this cycle, the Council had worked constructively with trades unions, who had entered into an agreement with the Council to save money by investing in people.

The Council's approach to recruitment would therefore change, resulting in a reduction in external recruitment. The Job Promise would be achieved by using proactive redeployment and flexible working to ensure staffing resource met demand. By making these changes, the Council believed it could offer greater job security to existing employees by promising that there was a job for the next two years, for those that wanted to remain and were willing to be flexible in their employment.

The Council was committed to investing in its workforce to enhance current skill levels, where required, or where necessary, to enable the job promise to succeed.

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Investment in both transferable and specialist skills would result in Sandwell benefiting from a better skilled, motivated, engaged and flexible workforce, more able to meet the challenges of the future.

In order to protect routes into employment for apprentices and those looking to reskill, the Council would continue to maintain its apprenticeship programmes.

The proposals would form the basis of a two year local collective agreement between the Council and trades unions. Consultation on the proposals had been undertaken with trades unions.

The Leader of the Council welcomed the proposal and confirmed that he believed the Council was the first local authority in the country to implement such a scheme. The Council sought to offer stability for the next two years to all staff, particularly after a period of significant public sector cuts. Whilst most of the Council's expenditure related to staffing cost, the Council aimed to save a significant amount of money by avoiding redundancy costs over the next two years and thus redirecting resources for services that the residents of Sandwell required.

Following a query from the Chair of Adult Social Care Scrutiny Board, the Assistant Chief Executive confirmed that, over the last five years, it had cost the authority in excess of £1m in redundancy costs. The Council now sought to avoid this. Under Job Promise, if a member of staff was designated to different duties which had a different rate of pay, a period of salary protection would be applied after which, the member of staff would be paid at the appropriate market rate. Where possible, the Council would aim to redeploy employees into similar roles.

In response to a query from the Chair of the Housing, Jobs and Economy Scrutiny Board relating to whether those work areas that were likely to have losses in the future could be identified early on so that members of staff could be moved into similar work roles elsewhere within the Council, the Leader confirmed that the Council had been undertaking workforce profiling since he had become Leader of the Council in 2009. Workforce profiling was a continual process used to align the needs and priorities of the Council with those of its workforce to ensure it could meet its objectives.



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**Resolved** that the Job Promise initiative which offers employment stability for employees, for the period April 2015 to March 2017, and the Council's commitment to not make any compulsory redundancies during this period, be approved.

70/15 **Decisions taken by the Leader of the Council held on 9<sup>th</sup> March 2015**

The decisions taken by the Leader of the Council held on 9<sup>th</sup> March, 2015 were received.

71/15 **Minutes of the Meeting of the Cabinet Petitions Committee held on 18<sup>th</sup> March, 2015**

The minutes of the meeting of the Cabinet Petitions Committee held on 18<sup>th</sup> March, 2015 were received.

72/15 **Exclusion of the Public**

**Resolved** that the public and press be excluded from the rest of the proceedings to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006 relating to the financial or business affairs of any particular person (including the authority holding that information)).

### **Strategic Matters**

73/15 **Social Care Business System for Adult and Children's Services – Update and Procurement Strategy (Key Decision Ref. No. SR257)**

The Deputy Leader and Cabinet Member for Strategic Resources reported that on 10<sup>th</sup> December 2014, the Cabinet gave approval to engage with the market to identify solutions for the replacement of the Social Care Business System.

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The Social Care Business System held client information for both the Adult and Children's Services and was the primary source of information for each service. In seeking to replace its current Social Care Business System, the Council sought to:-

- improve the customer journey through better use and reporting of client based information;
- share information with partner agencies;
- support good social work practice;
- improve performance reporting;
- improve system user experience;
- administer the system in a more timely manner.

Consideration was now given to the findings from the soft market testing exercise undertaken with a number of leading Social Care Business System Information Communication Technology (ICT) suppliers and potential implementation and change partners and to the proposed approach to source a replacement Social Care Business System for both Adult and Children's Services.

Soft market testing had identified the following four procurement options available with the aim of procuring a contractual arrangement which would most effectively deliver the required outcomes:-

- Option 1 - Procure an ICT Implementation and Change Partner and ICT software provider under one contract using the accelerated negotiated procedure;
- Option 2 - Procure an ICT Implementation and Change Partner and ICT software provider separately using a pre-procured framework;
- Option 3 - Procure an ICT Implementation and Change Partner first (via a framework or the accelerated negotiated procedure) and work collaboratively with them to procure the ICT software provider separately;
- Option 4 - Procure the ICT software provider (via a pre-procured framework or the accelerated procedure) and work collaboratively with them to procure the ICT Implementation and Change Partner.

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Following an appraisal of each of the four procurement options, the preferred procurement route had identified Option 1 on the basis that it created a single contractual arrangement where the Implementation and Change Partner and the ICT Software provider shared objectives, risk, reward and would work together more effectively than compared to an arrangement with two separate contracts.

The contract would have three lots; two of which were mandatory (Implementation and Change and ICT Software) and one was optional (Hardware). Lot 3 (Hardware) was included as optional to enable agile/flexible working through giving staff the right equipment (e.g. handheld devices).

The Council would only exercise this option if it offered better value for money than current hardware procurement arrangements.

In order to expedite the procurement, a notice of intention to procure was issued to the Official Journal of the European Union (OJEU) on 25<sup>th</sup> February 2015.

It was now proposed to issue the Pre-Qualification Questionnaire to potential providers that had expressed an interest in response to the OJEU notice. The Pre-Qualification Questionnaire stage would ensure that any potential provider registering an interest was of sound financial standing and had the relevant experience.

The indicative timeline for the procurement, subject to contract, was:

- Pre-Qualification Questionnaire stage – April 2015;
- Invitation to Negotiate stage – May 2015;
- Best and Final Offer stage – August 2015;
- Award contract – September 2015;
- Contract commencement – October 2015.

A further report detailing the outcome of the procurement and the findings of Strategic Finance's appraisal would be considered by the Cabinet prior to the award of contract.

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The Chair of the Housing, Jobs and Economy Scrutiny Board sought clarification on whether the Council had considered partnering with other local authorities who were going through a similar procurement exercise, in order to save costs and to meet the requirements of the new Care Act 2014.

In response, the Deputy Leader and Cabinet Member for Strategic Resources confirmed that the requirements of the Care Act were unlikely to have an impact on the timescale for implementing the new social care system. The software provider that was eventually procured would need to build in the requirements of the new Care Act as many aspects of the Act would come into effect next year.

Whilst the Council had considered using existing frameworks to carry out this work, it was not found to meet the business objectives of the Council. The Deputy Leader emphasised that the delivery of change and the Council focussing on delivering core outcomes was imperative and was therefore of the view that Option 1 would deliver Sandwell's core objectives.

### **Resolved:-**

- (1) that the approach to procuring a Social Care Business System for Adult and Children's Services, as set out in Option 1 (Implementation and Change Partner and Information Communication Technology Software Supplier), with an additional and optional third Lot (Hardware), as now reported, be approved;
- (2) that subject to resolution (1) above, the use of the Accelerated Negotiated Procedure and the issue of the Pre-Qualification Questionnaire be approved;
- (3) that in connection with resolution (1) and (2) above, the Assistant Chief Executive, in consultation with the Cabinet Member for Strategic Resources, as necessary, proceed with the selection process to identify a preferred supplier for the Social Care Business System for Adult and Children's Services and that, in accordance with the Council's Procurement and Contract Procedure Rules, a further report be submitted to the Cabinet to award the contract to the preferred supplier confirming:-

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- the outcome of a full financial appraisal to include capital and ongoing revenue costs, including any costs associated with the termination of the existing contract;
- whether funding is available to meet both the capital and revenue costs of the project and that the timing of the expenditure and funding are aligned;
- a procurement process has been carried out in accordance with public procurement regulations, the Council's Procurement and Contract Procedure Rules and financial regulations to assure value for money for the Council.

74/15

### Award of Framework Agreements for Information Communication Technology Procurement (Key Decision Ref. No. SR270)

The Deputy Leader and Cabinet Member for Strategic Resources sought approval to award the following Information Communication Technology contracts that were novated from BT in April 2014 and were due to expire on or before 1<sup>st</sup> October 2015:-

<b>Contract Title</b>	<b>Savings to be made</b>
Wider Area Network Services (Local Area Network (LAN) and Wider Area Network (WAN) connectivity as well as related services including gateways, encryption, key management, consultancy and service integration)	Total of £448,000 over the full 7 year term
Telephony Voice and Data (a multi-supplier pan-government framework agreement for the purchase of telephony service)	Total of £530,000 over the full 3 year term
Print Services (The Design and Print unit offered its services both internally and external to the Council)	Total of £302,000 over the full 2 year term

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Oracle E-Business Suite (The Council had an on-going requirement for Licences pertaining to the Oracle E- Business Suite)	No savings or cost increases to be considered for this procurement
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It was proposed that the contract in the sum of £448,000 be awarded to Oracle to supply the necessary Oracle E-Business Suite Licences for a one year period from 9<sup>th</sup> April 2015 to 8<sup>th</sup> April 2016. However, an exemption from Procurement and Contract Procedure Rules was required for the purchase of the Oracle Licences. The exemption had received prior written approval from the Cabinet Member for Strategic Resources in accordance with Procurement and Contract Procedure Rules.

Since 1<sup>st</sup> April 2014, there had been greater opportunity to undertake further due diligence on all major contracts in order to ensure that they delivered value for money and were in line with the new Corporate ICT Strategy. A total saving of £1.2m would be achieved over the individual contract terms.

### **Resolved:-**

- (1) that the Assistant Chief Executive award the following Information Technology Communication Framework Agreements to the following suppliers:-
  - a) Wider Area Network Service, in the sum of £391,000 per annum, be awarded to Virgin Media Business under Crown Commercial Services Framework Agreement RM860, for a five year period from 9<sup>th</sup> April 2015 to 31<sup>st</sup> March 2020 with the option to extend for two further one year periods from 9<sup>th</sup> April 2020 to 8<sup>th</sup> April 2021 then from 9<sup>th</sup> April 2021 to 8<sup>th</sup> April 2022;
  - b) Telephony Voice and Data Services, in the sum of £162,000 per annum, be awarded to Virgin Media Business under Crown Commercial Services Framework Agreement RM1035, for a one year period from 9<sup>th</sup> April 2015 to 8<sup>th</sup> April 2016 with the option to extend for two further one year periods from 9<sup>th</sup> April 2016 to 8<sup>th</sup> April 2017 then from 9<sup>th</sup> April 2017 to 8<sup>th</sup> April 2018;

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- c) Print Services, in the sum of £105,000 per annum, be awarded to Xerox, under Crown Commercial Services Framework Agreement RM1599, for a two year period from 9<sup>th</sup> April 2015 to 8<sup>th</sup> April 2017;
  - d) Oracle E-Business Suite Licences, in the sum of £448,000, be awarded to Oracle Business Services, for a one year period from 9<sup>th</sup> April 2015 to 8<sup>th</sup> April 2016;
- (2) that in connection with resolution (1)(d) above, any exemptions be made to the Council's Procurement and Contract Procedure Rules to enable the procurement of Oracle E-Business Suite Licences to proceed;
- (3) that subject to resolution (1) and (2) above, the Director - Governance enter into appropriate framework agreements for Information Communication Technology services.

75/15

### **Disposal of Land at Bescot, Friar Park, Wednesbury (Key Decision Ref. No. AML092)**

The Deputy Leader and Cabinet Member for Strategic Resources sought approval to dispose of the freehold interest in the Council's ownership of 2.47 ha land at Friar Park, Bescot, Wednesbury.

On 21<sup>st</sup> November 2012, the Asset Management and Land Disposal Cabinet Committee gave approval to open negotiations with a company on the equalisation of costs surrounding the reclamation of land at Friar Park (see Minute No. 66/12).

Since 2012, considerable progress had been made on the proposed development for the former Wednesbury sewage works. Of the combined site that would lead to the delivery of additional dwellings, it was proposed that a number of the dwellings would be affordable housing. However, the actual costs of reclamation of the site was difficult to estimate at this stage.

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As part of the comprehensive redevelopment of the land for residential development, the master plan allocated part of the site for new educational provision to support the unprecedented rise in the birth rate. In addition, the reclamation works would create an area of open space to provide a buffer between the new housing and the adjacent rail sidings. This area would not be maintained by the Council, and no liabilities would remain with the Council.

It was anticipated that an outline planning application would be submitted in the spring of 2015 by Severn Trent's agents for the residential development and associated remediation measures. The site would then be placed on the open market as a joint venture with Midlands Land and Portfolio Limited supported by a development brief and master plan.

It was proposed to include in the scheme a smaller site fronting Friar Park Road, as shown on the plan which was approved for development by the former Cabinet Member for Regeneration and Transport at the meeting on 18<sup>th</sup> February 2010 (see Decision No. 5/10). Despite extensive negotiations over a number of years with the appointed developers, it was now considered to be in the best interests of the Council to withdraw from this scheme and incorporate the site into the larger proposal.

An equality impact assessment was not required for this proposal.

The Chair of the Housing, Jobs and Economy Scrutiny Board sought clarification on:-

- whether within the 10% of the properties being proposed for affordable housing could social housing provision be included;
- whether the “new educational provision” could be primary or secondary and whether it had to be an academy under current rules;
- whether there would be a loss of business to a recreational facility who would be relocated as a result of the development;
- whether there would be compensation for this recreational facility as a result of the relocation;
- whether the replacement leisure facility could be replaced by another provider;
- the timescale for the project.



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The Deputy Leader and Cabinet Member for Strategic Resources confirmed that:-

- the difference between affordable homes and social housing was that social housing would entail the Council commissioning the works. The provision of either affordable housing or social housing would not take away the Council's commitment to the development;
- in order to meet demand, both primary and secondary schools were needed in the Borough. At this stage, however, the details were yet to be determined;
- proposals in relation to the development of the site were still in their early stages. Proposals on relocating the recreational facility or its future were not yet known;
- the development of the site would take at least two years with remedial and infrastructure works to be carried out.

The Deputy Leader welcomed the proposals and reiterated that the proposed development would offer a positive use for quality housing.

### **Resolved:-**

- (1) that Decision No. 5/10 taken on 18<sup>th</sup> February 2010 by the former Cabinet Member for Regeneration and Transport to dispose of the land at Friar Park, Bescot, Wednesbury as shown on Plan No. SAM/18880/003, to Leiferzeit Limited, for residential redevelopment purposes, be not proceeded with;
- (2) that 2.47 ha of land at Friar Park, Bescot, Wednesbury as shown on Plan No. SAM/18880/009, be declared surplus to the Council's requirements;
- (3) that the Director – Governance be authorised to dispose of the freehold interest in the Council's ownership of land at Friar Park, Bescot, Wednesbury, as shown on Plan No. SAM/18880/009, on terms and conditions to be agreed by the Director – Regeneration and Economy;

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- (4) that the Director - Governance be authorised to enter or execute under seal, if necessary, any other related documentation in connection with the disposal of land referred to in resolution (2) and (3) above, including any legal agreement with Midlands Land Portfolio Limited on terms and conditions to be agreed by the Director - Regeneration and Economy.

(Meeting ended at 3.44 pm)

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## Sandwell MBC

### Shared Parental Leave

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#### Notes:

References to “days” in this document means “calendar days”

#### Abbreviations used in this policy

SPL	Shared Parental Leave
ShPP	Shared Parental Pay
SPLiT	Shared Parental Leave in Touch
KiT	Keeping in Touch
EWC	Expected Week of Childbirth

#### What is Shared Parental Leave?

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Shared Parental Leave is a statutory entitlement that, from 5 April 2015, enables eligible parents to choose how to share the care of their child during the first year following birth. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child. All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. This policy sets out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).

The council recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. A list of FAQ's can be found on HR116.1. If you have any further queries please contact the HR Services Frontline on 0121-569 3300.

### **Scope**

This document applies to all employees of the council except those based in schools and unattached/non-school-based teachers. Such employees should refer to forms in the HR118 and HR119 series.

Non-school-based employees who are considering adopting a child should refer to forms in the HR117 series.

### **Who is eligible for Shared Parental Leave?**

SPL can only be used by two people:

- The mother **and**
- One of the following:
  - the father of the child or
  - the spouse, civil partner or partner of the child's mother.

Both parents must share the main responsibility for the care of the child at the time of the birth.

Additionally an employee seeking to take SPL must satisfy each of the following criteria:

- the mother of the child must be/have been entitled to Statutory Maternity Leave or if not entitled to Statutory Maternity Leave they must be/have been entitled to Statutory Maternity Pay or Maternity Allowance and must have ended or given notice to reduce any maternity entitlements;
- the employee must still be working for the council at the start of each period of SPL;
- the employee must pass the '**continuity of employment test**' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date;
- the employee's partner must meet the '**employment and earnings test**' requiring them in the 66 weeks leading up to the child's expected due date have worked for at least 26 weeks and earned an average of at least £30 a week (correct as of 2015, but may change annually) in any 13 of those weeks;
- the employee must correctly notify the council of their entitlement and provide evidence as required.

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### **The Shared Parental Leave entitlement**

Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using the mother's entitlement to maternity leave, which allows for up to 52 weeks' leave. If she curtails her maternity leave entitlement then the mother and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.

A mother may reduce their entitlement to maternity leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their maternity leave at a specified future date.

If the mother is not entitled to maternity leave but is entitled to Statutory Maternity Pay (SMP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP or MA taken by the mother.

SPL can be taken as follows:

- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
- The father/partner/spouse can take SPL immediately following the birth, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take Paternity Leave or pay once they have taken any SPL or ShPP).

Where a mother gives notice, from a future date, to curtail their maternity entitlement, then the mother's partner can take leave while the mother is still using her maternity entitlements.

SPL will generally commence on the employee's chosen start date specified in their leave booking notice (i.e. for mothers on form HR116.2 and for partners on form HR116.3), or in any subsequent variation notice (HR116.4) (see "Booking Shared Parental Leave" and "Variations to amend an arranged period of Shared Parental Leave" below).

If the employee is eligible to receive it, Shared Parental Pay may be paid for some, or all, of the SPL period (depending on the length of SPL taken) (also see "Statutory Shared Parental Pay" below).

SPL must end no later than one year after the birth of the child. Any SPL not taken by the first birthday is lost.

### **Notifying the council of an entitlement to Shared Parental Leave**

An employee entitled and intending to take SPL must give their line manager notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL.

Part of the eligibility criteria requires the employee to provide the council with correct notification. Mothers must give the correct notification on form HR116.2 and requires each of the following:

- the name of the employee;
- the name of the other parent;

## **The Cabinet – 1<sup>st</sup> April, 2015**

- the start and end dates of any maternity leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available;
- the date on which the child is expected to be born or the actual date of birth,
- the amount of SPL the employee and their partner each intend to take
- a non-binding indication of when the employee expects to take the leave.

The employee must provide the council with a signed declaration stating:

- that they meet, or will meet, the eligibility conditions and are entitled to take SPL;
- that the information they have given is accurate;
- if they are not the mother they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother;
- that should they cease to be eligible they will immediately inform the council.

Additionally, the employee must provide the council with a signed declaration from their partner confirming:

- their name, address and National Insurance number;
- that they are the mother of the child or they are the father of the child or are the spouse, civil partner or partner of the mother;
- that they satisfy the 'employment and earnings test' (see "Who is eligible for Shared Parental Leave?" above), and had, at the date of the child's birth the main responsibility for the child, along with the employee;
- that they consent to the amount of SPL that the employee intends to take;
- that they consent to the council processing the information contained in the declaration form.

### **Requesting further evidence of eligibility**

The council will, within 14 days of the SPL entitlement notification being given, request a copy of the child's birth certificate (or, where one has not yet been issued, a declaration as to the expected date/ place of birth).

In order to be entitled to SPL, the employee must produce this information within 14 days of the council's request.

### **Fraudulent claims**

The council can, where there is a suspicion that fraudulent information may have been provided or where the council has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual investigation and disciplinary procedures.

### **Initial discussions regarding Shared Parental Leave**

An employee considering/taking SPL is encouraged to contact their manager to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the council to support the individual. Support is available by contacting HR Services Frontline on 0121-569 3000.

## The Cabinet – 1<sup>st</sup> April, 2015

### **Formal notification**

Upon receiving a leave booking notice (i.e. form HR116.2 or HR116.3) the manager will usually arrange a meeting to discuss it. 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 notice booking leave, a meeting may not be necessary.

**A request for continuous period of leave cannot be refused by the employer.**

At the meeting the employee may, if they wish, be accompanied by a workplace colleague or recognised trade union representative.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the council, and what the outcome may be if no agreement is reached.

### **Booking Shared Parental Leave**

In addition to notifying the council of entitlement to SPL/ShPP, an employee must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.

The employee has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either:

- (a) a single unbroken block of weeks of leave known as a “**continuous period of leave**”(for example, six weeks in a row)

An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them and the council has been given at least eight weeks' notice

OR

- (b) two or more weeks of **discontinuous leave**, where the employee intends to return to work between periods of leave.

A single notification may also contain a request for two or more periods of discontinuous leave, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and works every other week for a period of three months).

Where there is concern over accommodating the notification, the council may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the council (see “Initial discussions” and “Formal notifications regarding Shared Parental Leave” above).

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The council will consider a notification for a discontinuous leave, but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw the notice within 15 days of giving it, or can take the leave in a single continuous block.

### **When can Shared Parental Leave be taken?**

SPL can only be taken in complete weeks, but may begin on any day of the week. For example, if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL the next period of SPL can start on any day of the week.

The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

### **Responding to a Shared Parental Leave notification within statutory timescales**

Once the council receives the SPL notification, it will be dealt with as soon as possible, but a response must be provided by no later than the 14<sup>th</sup> day after the request was made.

All notices for SPL will be given on form HR116.2 (for mothers) or form HR116.3 (for mother's partners).

Requests for continuous leave periods cannot be refused.

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

Each request for discontinuous leave 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 14<sup>th</sup> day after the leave notification was made. The request may be granted in full or in part: for example, the council may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee

- a) may withdraw the request without detriment on or before the 15<sup>th</sup> day after the notification was given (Failure to withdraw notices in the time period means that employees "use up" one of their maximum number of three possible notifications); or
- b) may combine the total number of weeks in the notice in a single "continuous" block. If the employee wants to take this action, they have until the 19<sup>th</sup> day from the date the original notification was given to inform the council when they want the leave period to begin. In this instance because notice to take a continuous block is being given, the leave cannot be refused, but cannot start earlier than eight weeks after the original notification was given nor sooner than the original start date requested. If the employee does not choose a start date, then the leave will begin on the first leave date requested in the original notification.



## The Cabinet – 1<sup>st</sup> April, 2015

### **Variations to amend an arranged period of Shared Parental Leave**

Arranged periods of Shared Parental Leave are not binding on the employee who is therefore permitted to vary or cancel an agreed and booked period of SPL, provided that he/she advises the council 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.

If the request to vary is for a discontinuous period then this would need to be considered by the council. A request to vary will count towards one of the three notifications that an employee can make.

A notice to vary a continuous period of leave with another request for a continuous period of leave cannot be refused by the employer.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. (i.e. A request to vary will count towards one of the three notifications that an employee can give).

However, a change as a result of a child being born early, or as a result of the council requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the council.

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

Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother reduces their maternity pay period or maternity allowance period.

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

- the mother must be/have been entitled to Statutory Maternity Pay or maternity allowance and must have reduced their maternity pay period or maternity allowance period;
- the employee must intend to care for the child during the week in which ShPP is payable;
- the employee must have earned above the Lower Earnings Limit in the eight weeks leading up to and including the 15<sup>th</sup> week before the child's due date.
- the employee must remain in continuous employment until the first week of ShPP has begun;
- the employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, this is included as part of the notice of entitlement to take SPL.

In addition to what must be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for ShPP must include:

- the start and end dates of any maternity pay or maternity allowance;
- the total number of ShPP weeks available, the amount of ShPP weeks the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;

## **The Cabinet – 1<sup>st</sup> April, 2015**

- a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the council should they cease to be eligible.

It must be accompanied by a signed declaration from the employee's partner confirming:

- their agreement to the employee claiming ShPP and for the council to process any ShPP payments to the employee.

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

### **Terms and conditions during Shared Parental Leave**

During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind will continue and contractual annual leave entitlement will continue to accrue.

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.

Any unpaid periods of SPL may affect an employee's pension benefits.

### **Annual Leave**

SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday should, wherever possible, be taken in the year that it is earned. Where an SPL period overlaps two leave years, the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of their holiday year.

### **Contact during Shared Parental Leave**

Before an employee's SPL begins, the employee's manager should discuss the arrangements for them to keep in touch during their leave. The 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 to return to work, to ensure the individual is aware of any possible job opportunities, 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 (SPLiT) days**

An employee can agree to work for the council (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave in Touch" (i.e. SPLiT) days.

The council has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's SPL. Any work undertaken is a matter for agreement between the council and the employee. Any SPLiT days worked do not extend the period of SPL.

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## The Cabinet – 1<sup>st</sup> April, 2015

An employee, with the agreement of the council, may use SPLiT days to work part of a week during SPL. The council and the employee may use SPLiT days to effect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

SPLiT days may be taken in one block or in single days.

Employees who work “SPLiT” days during their Shared Parental Leave will be paid for the number of hours they actually worked on each day. This payment will be added to any Statutory Shared Parental Pay due, but reduced if the combined amount exceeds normal pay for the day.

Employees can claim payment for working on SPLiT Days on form HR44.2.

### **Returning to work after Shared Parental Leave**

The employee is expected to return on the next working day after the date they have informed the council they will be returning to work, unless they notify their manager otherwise. If they are unable to attend work due to sickness or injury, the council'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 council at least eight weeks' notice of their date of early return. This will count as one of the employee's (maximum number of) three notifications.

If they have already used their three notifications to book and/or vary leave then the council does not have to accept the notice to return early, but may do if it is considered to be reasonably practicable to do so.

On returning to work after SPL, the employee is entitled to return to the same job if the aggregate total statutory maternity leave and SPL amounts to 26 weeks or less. For mothers this means the same job as the one they occupied immediately before commencing maternity leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

For partners, this means, this means the same job as the one they occupied immediately before the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity leave and/or SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they 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.

The details of the Shared Parental Leave policy do not affect an employee's right to apply for Unpaid Parental Leave (see form HR85) .

## **The Cabinet – 1<sup>st</sup> April, 2015**

If the employee also takes a period of (unpaid) Parental Leave of four weeks or less, this will have no effect on their right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity and SPL do not exceed 26 weeks.

If a parent takes a period of five weeks of (unpaid) Parental Leave, even if the total aggregate weeks of maternity and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

### **Further information**

Any queries or issues on Shared Parental Leave can be raised with HR Frontline on 0121-569 3300.

Acas.org.uk

[www.cipd.co.uk](http://www.cipd.co.uk)

Unison	0121 569 5996
Unite	0121 569 6143
GMB	0121-569 5990

HR117

## **Sandwell MBC**

### **Shared Parental Leave: Adoption**

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#### **Notes:**

- References to “days” in this document means “calendar days”
- “Matching week” – the week the adopter is informed that they have been matched with a child.
- “Placement” – the day when parents formally adopt a child.

## The Cabinet – 1<sup>st</sup> April, 2015

### **What is Shared Parental Leave: Adoption?**

Shared Parental Leave: Adoption is a statutory entitlement that from 5th April 2015 enables adopters to choose how to share the care of their child during the first year following adoption. The purpose of the legislation is to give adoptive parents more flexibility in considering how to best care for, and bond with, their adopted child.

All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. This policy sets out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).

The council recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. A list of FAQ's can be found on HR117.1. If you have any further queries please contact the HR Services Frontline on 0121-569 3300.

### **Scope**

This document is applicable for all employees of the council except for those based in schools and unattached teachers.

School-based employees and unattached teachers who are considering adopting a child should refer to forms in the HR119 series.

Employees who are birth parents should refer to the documents in the HR116 series or, if they are school-based employees or unattached teachers, then they should refer to documents in the HR118 series.

### **Who is eligible for Shared Parental Leave: Adoption?**

SPL: Adoption can only be taken by employees who fall into one of two categories:

- A child's adopter **and**
- the partner of the adopter.

An adopter is someone with whom the child is, or is expected to be, placed for adoption. Where two people have been matched jointly, the adopter for the purposes of the Shared Parental Leave scheme is the person who elected to take Statutory Adoption Leave. The person who, at the time of the placement, is married to, or is the civil partner or partner of the adopter may also be eligible for leave. A partner of an adopter is defined as a person who lives with the adopter and the child in an enduring family relationship but is not the adopter's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

There are a number of qualifying criteria that must be fulfilled for either adoptive parent to be able to take Shared Parental Leave.

## The Cabinet – 1<sup>st</sup> April, 2015

### Eligibility of an adopter to SPL

For an employee who is an adopter to be eligible for SPL, they must satisfy the following criteria:

- Have 26 weeks' continuous service by the end of the week that the adopter is informed that they have been matched with a child (known as the **relevant** week) and have remained in continuous employment up to the week before any SPL is taken.
- Have, at the time of the child's placement, the main responsibility of the care of the child (i.e. apart from the adopter's partner)
- Be entitled to Statutory Adoption Leave.
- Have ended their entitlement to Statutory Adoption Leave by either a) curtailing their leave or b) returning to work.
- Have a partner who satisfies the employment and earnings test and, at the time of the child's placement, have the main responsibility (apart from the adopter themselves) for caring for the child.

In addition, the adopter must also:

- Provide a notice of entitlement and intention to take SPL eight weeks before the first period of leave to be taken.
- Provide evidence, where requested in the form of one or more documents from the adoption agency of: the name and address of the adoption agency, the date the adopter was notified of being matched and the date the agency expect to place the child with the adopter.
- Provide the council with details of the their partner's employer.

### Eligibility of an adopter's partner to SPL

An employee who is an adopter's partner must satisfy the following criteria in order to be able to take SPL:

- In the 66 weeks leading up to the baby's matching date, they have worked for at least 26 weeks and earned an average of at least £30 (as of 2015) a week in any 13 weeks.
- Have, at the time of the child's placement, the main responsibility for the care of the child (along with the primary adopter)
- To have a partner who is entitled to Statutory Adoption Leave or Statutory Adoption Pay and who has curtailed their entitlement or returned to work.

In addition, the adopter's partner must

- provide a notice of entitlement and intention to take SPL eight weeks before their first period of leave,
- provide evidence in the form of one or more documents from the adoption agency of:
  - the a name and address of the adoption agency,
  - the date the adopter was notified of being matched and
  - the date the agency expect to place the child with the adopter.
- Provide the adopter's employer's details
- Have given a period of leave notice
- Satisfy the employment and earning test and at the time of the child's placement.

## **The Cabinet – 1<sup>st</sup> April, 2015**

### **The Shared Parental Leave entitlement**

This is generally 52 weeks less the amount of Statutory Adoption Leave the adopter has had or intends to take. The adopter must take two weeks' adoption leave (if eligible) before the start of a period of SPL. Therefore a maximum of 50 weeks' leave is available to be shared.

If they are not entitled to leave, they are not allowed to curtail their Statutory Adoption Pay until after the first two weeks of the adoption pay period.

An adopter may reduce their entitlement to adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

Where an adopter gives notice, from a future date, to curtail their adoption entitlement then the adopter's partner can take Shared Parental Leave while the adopter is still using their adoption entitlements.

SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave" below).

If the employee is eligible to receive it, Shared Parental Pay may be paid for some, or all, of the SPL period.

### **When can Shared Parental Leave be taken?**

Shared Parental Leave can be taken from the day the child is placed for adoption up to the day before the first anniversary of the placement. Leave must be taken in complete weeks, with a minimum of one week. It can be taken in one continuous period or in a number of discontinuous blocks.

Both parents can be on leave at the same time, e.g. an adopter could be on adoption leave and, if they have curtailed their adoption leave from a future date, the adopter's partner could be taking SPL, or they could both be on SPL.

### **Notifying the council of an entitlement to Shared Parental Leave**

If the notice is given before the child is placed for adoption, the start date of the leave must be expressed as either the day the child is placed or a certain number of days following the placement. The end date must also be expressed as a certain number of days following the placement.

An employee entitled and intending to take SPL must give their line manager notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL.



## The Cabinet – 1<sup>st</sup> April, 2015

### **Requesting further evidence of eligibility**

The council will, within 14 days of receiving the SPL notification, request:

- 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.
- The name and business address of the partner's employer (where the employee's partner is no longer employed or is self-employed their contact details must be given instead)

### **Fraudulent claims**

The council can, where there is a suspicion that fraudulent information may have been provided or where the council has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual investigation and disciplinary procedures.

### **Initial discussions regarding Shared Parental Leave**

An employee considering/taking SPL is encouraged to contact their manager to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the council to support the individual. Support from HR is available by contacting the HR Frontline on 0121-569 3000.

### **Formal notification**

Upon receiving a leave booking notice (i.e. form HR117.2 or HR117.3) the manager will usually arrange a meeting to discuss it. 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 notice booking leave, a meeting may not be necessary. **A request for continuous period of leave cannot be refused by the employer.**

At the meeting the employee may, if they wish, be accompanied by a workplace colleague or recognised trade union representative.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the council, and what the outcome may be if no agreement is reached.

### **Booking Shared Parental Leave**

In addition to notifying the council of entitlement to SPL/ShPP, an employee must also give notice to take the leave. Notice to take leave will be given at the same time as the notice of entitlement to SPL.

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The employee has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either:

- a) a single unbroken block of weeks of leave (i.e. known as a **continuous** period of leave - for example, six weeks in a row)"

An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the council has been given at least eight weeks' notice.

OR

- b) two or more weeks of **discontinuous** leave, where the employee intends to return to work between periods of leave.

A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

Where there is concern over accommodating the notification, the council may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the council (see "initial discussions/Formal notifications regarding Shared Parental Leave" above).

For requests for discontinuous periods of leave, there is a two-week discussion period beginning with the date the employer received the notice during which the employer may a) consent to the leave, b) propose alternative dates, or c) refuse the leave. If agreement cannot be reached during this two week period as to the timing of leave, the employee can take the total amount of leave requested in the notice as a continuous period of leave. If the employee chooses to do this, they have five days from the end of this two-week period to specify a date from which they will take the continuous period of leave. This date must be after the 8-week notice period required. If the employee does not choose a date, the default position is that the leave will commence on the start date of the first period of leave requested.

The council will consider a notification for a period of discontinuous leave but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

### **When can Shared Parental Leave be taken?**

SPL can only be taken in complete weeks, but may begin on any day of the week. For example, if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL the next period of SPL can start on any day of the week.

## **The Cabinet – 1<sup>st</sup> April, 2015**

The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

### **Responding to a Shared Parental Leave notification within statutory timescales**

Once the council receives the SPL notification, it will be dealt with as soon as possible, but a response will be provided by no later than the 14<sup>th</sup> day after the request was made.

All requests for Shared Parental Leave will be given on form HR117.2 (for adopters) or form HR117.3 (for adopter's partners).

All requests for continuous leave cannot be refused.

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

Each request for discontinuous leave 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 14th day after the leave notification was made. The request may be granted in full or in part: for example, the council may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee may

- a) withdraw the request without detriment on or before the 15th day after the notification was given (Failure to withdraw notices in the time period means that employees "use-up" one of their maximum number of three possible notifications); or
- b) combine the total number of weeks in the notice in a single continuous block. If the employee wants to take this action, they have until the 19th day from the date the original notification was given to inform the council when they want the leave period to begin. In this instance because notice to take a continuous block is being given, the leave cannot be refused, but cannot start earlier than eight weeks' after the original notification was given nor sooner than the original start date requested. If the employee does not choose a start date, then the leave will begin on the first leave date requested in the original notification.

### **Variations to amend an arranged period of Shared Parental Leave**

Arranged periods of Shared Parental Leave are not binding on the employee who is therefore permitted to vary or cancel an agreed and booked period of SPL, provided that he/she advises the council in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks after the date the variation is requested.

## The Cabinet – 1<sup>st</sup> April, 2015

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. (i.e. A request to vary will count towards one of the three notifications that an employee can make). However, a change as a result of a child being placed earlier than expected, or as a result of the council requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the council.

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

Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the adopter reduces their adoption pay period.

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

- the adopter must be/have been entitled to Statutory Adoption Pay and must have reduced their adoption pay period ;
- the employee must intend to care for the child during the week in which ShPP is payable;
- the employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the child's expected matching date and not less than the lower earnings limit in force for National Insurance contributions;
- the employee must remain in continuous employment until the first week of ShPP has begun;
- the employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.

In addition to what must be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for ShPP must include:

- the start and end dates of any adoption pay;
- the total number of ShPP weeks available, the amount of ShPP weeks the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
- a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the council should they cease to be eligible.

It must be accompanied by a signed declaration from the employee's partner confirming:

- their agreement to the employee claiming ShPP and for the council to process any ShPP payments to the employee;
- that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

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

## **The Cabinet – 1<sup>st</sup> April, 2015**

The number of weeks during which an adopter or an adopter's partner can receive SHPP is 39 less the number of weeks' Statutory Adoption Pay the adopter has had or will have. As the adopter must take two weeks' adoption leave or not curtail their adoption pay period until after the first two weeks, there is a maximum of 37 weeks' ShPP available to be shared.

### **Terms and conditions during Shared Parental Leave**

During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind will continue and contractual annual leave entitlement will continue to accrue.

Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL.

Any unpaid periods of SPL may affect an employee's pension benefits

### **Annual Leave**

SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's holiday year.

### **Contact during Shared Parental Leave**

Before an employee's SPL begins, the employee's manager should discuss the arrangements for them to keep in touch during their leave. The 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 to return to work, to ensure the individual is aware of any possible job opportunities, 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 (SPLiT) days**

An employee can agree to work or attend training for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave in Touch" (SPLiT) days.

The council has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's SPL. Any work undertaken is a matter for agreement between the council and the employee. Any SPLiT days worked do not extend the period of SPL.

## **The Cabinet – 1<sup>st</sup> April, 2015**

An employee, with the agreement of the council, may use SPLiT days to work part of a week during SPL. The council and the employee may use SPLiT days to effect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

Employees who work SPLiT days during their Shared Parental Leave will only be paid for the number of hours they have worked on each day and not their contracted hours.

This payment will be added to any Statutory Shared Parental Pay due but reduced if the combined amount exceeds normal pay for the day.

For working a whole SPLiT day, employees will be paid their standard day's pay. If the employee is receiving any ShPP during this time, the ShPP Pay will be increased to make up a standard day's pay.

Employees can claim for SPLiT Days on form HR44.2.

### **Returning to work after Shared Parental Leave**

The employee will have been formally advised in writing by the council 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 council otherwise. If they are unable to attend work due to sickness or injury, the council'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 council at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the council does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

On returning to work after SPL, the adopter is entitled to return to the same job if the adopter's aggregate total statutory adoption leave and SPL amounts to 26 weeks or less.

For adopters this means the same job as the one they occupied immediately before commencing adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

For partner of adopters this means the same job as the one they occupied immediately before the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

If adoption leave and/or SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they 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.

The details of the Shared Parental Leave policy do not affect an employee's right to apply for Unpaid Parental Leave.

[ILO: UNCLASSIFIED]

## The Cabinet – 1<sup>st</sup> April, 2015

If the employee also takes a period of Unpaid Parental Leave of 4 weeks or less, this will have no effect on their right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of adoption leave and SPL do not exceed 26 weeks.

If a parent takes a period of 5 weeks of Unpaid Parental Leave, even if the total aggregate weeks of adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

### **Further information**

Any queries or issues on Shared Parental Leave can be raised with the HR Frontline on 0121-569 3300.

Acas.org.uk

[www.cipd.co.uk](http://www.cipd.co.uk)

Unison	0121 569 5996
Unite	0121 569 6143
GMB	0121-569 5990

**Sandwell MBC**

HR118 (Schools)  
March 2015

**Shared Parental Leave policy –  
for school-based employees**

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**Notes**

- References to “days” in this document, means “calendar days.”
- References to “Headteacher” in this document includes an employee of the school to whom the Headteacher has delegated authority for carrying out the responsibilities identified.



## The Cabinet – 1<sup>st</sup> April, 2015

### **What is Shared Parental Leave?**

Shared Parental Leave is a statutory entitlement that, from 5 April 2015, enables eligible parents to choose how to share the care of their child during the first year following birth. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child. All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. This policy sets out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).

The Governing Body recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. A list of FAQ's can be found on HR118.2. If you have any further queries please contact your HR Services provider.

Other sources of information are listed at the end of this document.

### **Scope**

This policy applies to all school-based employees and non-school-based teachers (unattached teachers).

Teachers not working in schools should substitute 'service manager', 'line manager' or 'Director' wherever 'head' or 'head teacher' appears in this document. Similarly, the word 'school' should be replaced with 'service' or 'establishment'

### **Who is eligible for Shared Parental Leave?**

SPL can only be used by two people:

- The mother **and**
- One of the following:
  - the father of the child or
  - the spouse, civil partner or partner of the child's mother.

Both parents must share the main responsibility for the care of the child at the time of the birth.

Additionally an employee seeking to take SPL must satisfy each of the following criteria:

- the mother of the child is entitled to statutory maternity leave or, if not, they must be/have been entitled to statutory maternity pay or maternity allowance and must have ended or given notice to reduce any maternity entitlements;
- the employee must still be working for the school at the start of each period of SPL;
- the employee must pass the '**continuity of employment test**' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date;
- the employee's partner must meet the '**employment and earnings test**' requiring them in the 66 weeks leading up to the child's expected due date have worked for at least 26 weeks and earned an average of at least £30 (correct as of 2015 but may change annually) a week in any 13 of those weeks;
- the employee must correctly notify the Headteacher of their entitlement and provide evidence as required.

[ILO: UNCLASSIFIED]

## The Cabinet – 1<sup>st</sup> April, 2015

### **The Shared Parental Leave entitlement**

Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using the mother's entitlement to maternity leave, which allows for up to 52 weeks' leave. If she curtails her maternity leave entitlement then she and/or her partner may opt-in to the SPL system and take any remaining weeks as SPL.

A mother may reduce their entitlement to maternity leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail her leave at a specified future date.

If the mother is not entitled to maternity leave but is entitled to Statutory Maternity Pay (SMP) or Maternity Allowance (MA), she must reduce her entitlement to less than the 39 weeks. If she does this, her partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP or MA taken by the mother.

SPL can commence as follows:

- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
- The father/partner/spouse can take SPL immediately following the birth, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).

Where a mother gives notice, from a future date, to curtail their maternity entitlement then the mother's partner can take leave while the mother is still using her maternity entitlements.

SPL will generally commence on the employee's chosen start date specified in their leave booking notice (i.e. for mothers on form HR118.2 and for their partners on form HR118.3), or in any subsequent variation notice (i.e. on form HR118.4) (see "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave" below).

If the employee is eligible to receive it, Shared Parental Pay may be paid for some, or all, of the SPL period (depending on the length of SPL period) (also see "Shared Parental Pay" below).

SPL must end no later than one year after the birth of the child. Any SPL not taken by the first birthday is lost.

### **Notifying the school of an entitlement to Shared Parental Leave**

An employee entitled and intending to take SPL must give their Headteacher notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL.

Part of the eligibility criteria requires the employee to provide the correct notification. Mothers must give the correct notification on form HR118.2. and requires each of the following:

- the name of the employee;
- the name of the other parent;

## **The Cabinet – 1<sup>st</sup> April, 2015**

- the start and end dates of any maternity leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available;
- the date on which the child is expected to be born or the actual date of birth,
- the amount of SPL the employee and their partner each intend to take
- a non-binding indication of when the employee expects to take the leave.

The employee must provide the Headteacher with a signed declaration stating:

- that they meet, or will meet, the eligibility conditions and are entitled to take SPL;
- that the information they have given is accurate;
- if they are not the mother they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother;
- that should they cease to be eligible they will immediately inform the employer.

Additionally, the employee must provide the school with a signed declaration from their partner confirming:

- their name, address and national insurance number;
- that they are the mother of the child or they are the father of the child or are the spouse, civil partner or partner of the mother;
- that they satisfy the 'employment and earnings test' (see "Who is eligible for Shared Parental Leave?" above), and had, at the date of the child's birth the main responsibility for the child, along with the employee;
- that they consent to the amount of SPL that the employee intends to take;
- that they consent to the employer processing the information contained in the declaration form.

### **Requesting further evidence of eligibility**

The Headteacher will request a copy of the child's birth certificate or, where one has not yet been issued, a declaration as to the expected date/ place of birth within 14 days of receipt of a Notification.

In order to be entitled to SPL, the employee must produce this information within 14 days of the Headteacher's request.

### **Fraudulent claims**

The employer can, where there is a suspicion that fraudulent information may have been provided or where the employer has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual investigation and disciplinary procedures.

### **Initial discussions regarding Shared Parental Leave**

An employee considering taking SPL is encouraged to contact their Headteacher to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the school to support the individual.

## The Cabinet – 1<sup>st</sup> April, 2015

### **Formal notification**

Upon receiving a leave booking notice (i.e. form HR118.2 or HR118.3) the Headteacher will usually arrange a meeting to discuss it. 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 notice booking leave, a meeting may not be necessary.

### **A request for a continuous period of leave cannot be refused by the employer.**

At the meeting the employee may, if they wish, be accompanied by a workplace colleague or recognised trade union representative.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the Headteacher, and what the outcome may be if no agreement is reached.

### **Booking Shared Parental Leave**

In addition to notifying the Headteacher of entitlement to SPL/ShPP, an employee must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.

The employee has the right to submit three notifications specifying leave periods they are intending to take. Each one of the notifications may contain either:

- (a) a single unbroken block of weeks of leave known as “**continuous period of leave**” (for example, six weeks in a row).

An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them and the employer has been given at least eight weeks' notice.

OR

- (b) two or more weeks of **discontinuous leave**, where the employee intends to return to work between periods of leave.

A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

Where there is concern over accommodating the notification, the Headteacher may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the school (see “Initial discussions regarding Shared Parental Leave” and “Formal notification” above).

[ILO: UNCLASSIFIED]

## The Cabinet – 1<sup>st</sup> April, 2015

The Headteacher will consider a notification for discontinuous leave but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw the notification within 15 days of giving it, or alternatively, can take the leave in a single continuous block.

### **When can Shared Parental Leave be taken?**

SPL can only be taken in complete weeks, but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP

### **Responding to a Shared Parental Leave notification within statutory timescales**

Once the Headteacher receives the SPL notification it will be dealt with as soon as possible, but a response must be provided by no later than the 14<sup>th</sup> day after the request was made.

All notices for Shared Parental Leave will be given on form HR118.2 (for mothers) or form HR118.3 (for mother's partners).

Requests for continuous leave cannot be refused.

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

Each request for discontinuous leave 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 14<sup>th</sup> day after the leave notification was made. The request may be granted in full or in part: for example, the Headteacher may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee

- a) may withdraw the request on or before the 15<sup>th</sup> day after the notification was given (Failure to withdraw notices in this time period means that employees "use up" of their three notifications); or
- b) may combine the total number of weeks in the notice in a single continuous block. If the employee wants to take this action, they have until the 19<sup>th</sup> day from the date the original notification was given to inform the Headteacher when they want the leave period to begin. In this instance the leave cannot be refused, but cannot start earlier than eight weeks after the original notification was given nor sooner than the original start date requested. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

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### **Variations to amend an arranged period of Shared Parental Leave**

Arranged periods of Shared Parental Leave are not binding on the employee who is, therefore, permitted to vary or cancel an agreed and booked period of SPL, provided that s/he advises the Headteacher in writing at least eight weeks before the commencement of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

If the request to vary is for a discontinuous period then this would need to be considered by the Headteacher. A request to vary will count towards one of the three notifications that an employee can make.

A notice to vary a continuous period of leave with another request for a continuous period of leave cannot be refused by the employer.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. (i.e. a request to vary will count towards one of the three notifications that an employee can make.) However, a change as a result of a child being born early, or as a result of the Headteacher requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the Headteacher.

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

Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother reduces their maternity pay period or maternity allowance period.

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

- the mother must be/have been entitled to Statutory Maternity Pay or maternity allowance and must have reduced their maternity pay period or maternity allowance period;
- the employee must intend to care for the child during the week in which ShPP is payable;
- the employee must have earned above the Lower Earnings Limit in the eight weeks leading up to and including the 15<sup>th</sup> week before the child's due date.
- the employee must remain in continuous employment until the first week of ShPP has begun;
- the employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their Headteacher written notice advising of their entitlement to ShPP. To avoid duplication, this is included as part of the notice of entitlement to take SPL.

In addition to what must be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for ShPP must include:

- the start and end dates of any maternity pay or maternity allowance;

## **The Cabinet – 1<sup>st</sup> April, 2015**

- the total number of ShPP weeks available, the amount of ShPP weeks the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
- a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the employer should they cease to be eligible.

The form must be accompanied by a signed declaration from the employee's partner confirming:

- their agreement to the employee claiming ShPP and for the employer to process any ShPP payments to the employee.

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

### **Terms and conditions during Shared Parental Leave**

During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind will continue and contractual annual leave entitlement will continue to accrue.

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.

Any unpaid periods of SPL may affect an employee's pension benefits

### **Accrual of Annual Leave during Shared Parental Leave**

SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday should, wherever possible, be taken in the year that it is earned. Where an SPL period overlaps two leave years, the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's holiday year.

#### **Teachers**

Shared Parental Leave can commence during either term time or a school closure period as long as the criteria for commencing Shared Parental is satisfied.

On a return from Shared Parental Leave, employees will only be allowed to take outstanding leave during term time during that leave year if there are insufficient school closures to accommodate leave in that year.

#### **Non-teaching staff with non-term time working pattern**

Should a bank holiday fall within a period of Shared Parental Leave, the employee is entitled to take the equivalent paid leave which must be taken before returning to work.

#### **Non-teaching staff with term time working pattern**

Annual leave and bank holidays entitlements must be taken within the school closure periods within their leave year, either side of the Shared Parental Leave period. Where this is not possible, agreement as to when the paid leave will be taken must be reached with the employee's manager.

## The Cabinet – 1<sup>st</sup> April, 2015

### **Contact during Shared Parental Leave**

Before an employee's SPL begins, their Headteacher should discuss the arrangements for them to keep in touch during their leave. The school 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 to return to work, to ensure the individual is aware of any possible job opportunities, 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 (SPLiT) days**

An employee can agree to work or attend training for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave in Touch" (i.e. SPLiT) days.

The Headteacher has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's SPL. Any work undertaken is a matter for agreement between the Headteacher and the employee. Any SPLiT days worked do not extend the period of SPL.

An employee, with the agreement of the Headteacher, may use SPLiT days to work part of a week during SPL. The Headteacher and the employee may use SPLiT days to effect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

SPLiT days may be taken in one block, or in single days.

For working on a SPLiT day, employees will be paid their standard day's pay in line with the School Teachers Pay and Conditions Document (including any Teaching and Learning Responsibility payments). If the employee is receiving any ShPP during this time, pay will be increased to make up a standard day's pay.

Employees can claim payment for working on SPLiT Days on form HR605s.

### **Returning to work after Shared Parental Leave**

The employee is expected to return on the next working day after the date they have informed the school they will be returning to work, unless they notify the Headteacher otherwise. If they are unable to attend work due to sickness or injury, the school'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 Headteacher at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the Headteacher does not have to accept the notice to return early, but may do if it is considered to be reasonably practicable to do so.



## The Cabinet – 1<sup>st</sup> April, 2015

On returning to work after SPL, the employee is entitled to return to the same job if the employee's aggregate total of their statutory maternity leave and SPL amounts to 26 weeks or less, he or she will return to the same job. For mothers this means the same job as the one they occupied immediately before commencing maternity leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

For partners, this means the same job they occupied immediately before the most recent period of Shared Parental Leave on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they 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.

The details of the Shared Parental Leave policy do not affect an employee's right to apply for Unpaid Parental Leave (see form HR85).

If the employee also takes a period of Unpaid Parental Leave of four weeks or less, this will have no effect on the employee's right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity and SPL do not exceed 26 weeks.

If a parent takes a period of five weeks of Unpaid Parental Leave, even if the total aggregate weeks of maternity and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

### **Further information**

Any queries or issues on Shared Parental Leave can be raised with the school's HR provider.

Trade unions:	ACSL	02476 675317
	GMB	0121 569 5990
	NASUWT	0121 232 9400
	NUT	0121 567 5446
	Unison	0121 569 5996
	Unite	0121 569 6143

[www.acas.org.uk](http://www.acas.org.uk)

[www.cipd.co.uk](http://www.cipd.co.uk)

**Sandwell MBC**

**Shared Parental Leave policy:  
for school-based employees: adoptive parents**

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Notes:

- References to “days” in this document means “calendar days”

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- Teachers not working in schools should substitute “service manager,” “line manager” or “head of service” wherever “headteacher appears in this document. Similarly, the word “school” should be replaced with “service” or “establishment”

### **What is Shared Parental Leave: Adoption?**

Shared Parental Leave: Adoption is a statutory entitlement that from 5<sup>th</sup> April 2015, enables adopters to choose how to share the care of their child during the first year following adoption. Its purpose is to give adoptive parents more flexibility in considering how to best care for, and bond with, their adopted child.

All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. This policy sets out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).

The Governing Body recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. A list of FAQ’s can be found on HR119.1. If you have any further queries please contact your HR Services provider. Further sources of information are listed at the end of this document.

### **Scope**

This document is applicable for all school-based employees and unattached/non-school-based teachers.

Employees who are birth parents should refer to documents in the HR118 series.

### **Who is eligible for Shared Parental Leave: Adoption?**

SPL: Adoption can only be taken by two employees who fall into one of two categories:

- A child’s adopter **and**
- the partner of the adopter.

An adopter is someone with whom the child is, or is expected to be, placed for adoption. Where two people have been matched jointly, the adopter for the purposes of the Shared Parental Leave scheme is the person who elected to take Statutory Adoption Leave. The person who, at the time of the placement, is married to, or is the civil partner or partner of the adopter may also be eligible for leave. A partner of an adopter is defined as a person who lives with the adopter and the child in an enduring family relationship but is not the adopter’s child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

There are a number of qualifying criteria that must be fulfilled for either adoptive parent to be able to take Shared Parental Leave.

### Eligibility of an adopter to SPL

For an adopter to be eligible for SPL, they must satisfy the following criteria:

- Have 26 weeks’ continuous service by the end of the week that that the adopter is informed that they have been matched with the child (known as the **relevant** week)

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and have remained in continuous employment up to the week before any SPL is taken.

- Have, at the time of the child's placement, the main responsibility for the care of the child (i.e. apart from the adopter's partner)
- Be entitled to Statutory Adoption Leave.
- Have ended their entitlement to Statutory Adoption Leave by giving notice to curtailing their leave or by returning to work.
- Have a partner who satisfies the employment and earnings test and, at the time of the child's placement, has the main responsibility (apart from the adopter themselves) for caring for the child.

In addition, the adopter must also:

- provide a notice of entitlement and intention to take SPL eight weeks before the first period of leave to be taken,
- provide evidence, where requested in the form of one or more documents from the adoption agency of:
  - the name and address of the adoption agency,
  - the date the adopter was notified of being matched and
  - the date the agency expect to place the child with the adopter and
- provide the Headteacher with details of the adopter's partner's employer.

### Eligibility of an adopter's partner to SPL

For an employee who is an adopter's partner in order to be able to take SPL, they must satisfy the following criteria:

- Have worked for at least 26 weeks and earned an average of at least £30 (as of 2015) a week in any 13 weeks in the 66 weeks leading up to the baby's matching date,
- have remained in continuous employment up to the week before any SPL taken.
- Have, at the time of the child's placement, the main responsibility for the care of the child (i.e. apart from the adopter themselves).
- To have a partner who is entitled to Statutory Adoption Leave or Statutory Adoption Pay and who has curtailed their entitlement or returned to work.

In addition the adopter's partner must...

- provide a notice of entitlement and intention to take SPL eight weeks before their first period of leave.
- provide evidence in the form of one or more documents from the adoption agency of:
  - the name and address of the adoption agency,
  - the date the adopter was notified of being matched and
  - the date the agency expect to place the child with the adopter.
- provide the adopter's employer's details.
- have given a period of leave notice.
- satisfy the employment and earning test and at the time of the child's placement.
- have the main responsibility (apart from the adopter) for the care of the child.

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### **The Shared Parental Leave entitlement**

This is generally 52 weeks less the amount of Statutory Adoption Leave the adopter has had or intends to take. The adopter must take two weeks' adoption leave (if eligible) before the start of a period of SPL. Therefore a maximum of 50 weeks' leave is available to be shared.

If he/she is not entitled to leave, he/she is not allowed to curtail their Statutory Adoption Pay until after the first two weeks of the adoption pay period.

An adopter may reduce their entitlement to adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their adoption leave at a specified future date.

Where an adopter gives notice, from a future date, to curtail their adoption entitlement, then the adopter's partner can take Shared Parental Leave while the adopter is still using their adoption entitlements.

SPL will generally commence on the employee's chosen start date specified in their leave booking notice (i.e. for adopters on form HR119.2 or for partners on form HR119.3) or in any subsequent variation notice (i.e. on form HR119.4) (see "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave" below).

If the employee is eligible to receive it, Shared Parental Pay may be paid for some, or all, of the SPL period.

### **When can Shared Parental leave be taken?**

The adopter must take two weeks' adoption leave before the start of a period of SPL. Shared Parental Leave can be taken by the secondary adopter from the day the child is placed for adoption with the adopter up to the day before the first anniversary of the placement. Leave must be taken in complete weeks, with a minimum of one week. It can be taken in one continuous period or in a number of discontinuous blocks.

Both parents can be on leave at the same time, e.g. an adopter could be on adoption leave and, if they have curtailed their adoption leave from a future date, the adopter's partner could be taking SPL, or they could both be on SPL.

(Ann, can we talk about this paragraph?)

### **Notifying the school of an entitlement to Shared Parental Leave**

If the notice is given before the child is placed for adoption, the start date of the leave must be expressed as either the day the child is placed or a certain number of days following the placement. The end date must also be expressed as a certain number of days following the placement.

An employee entitled and intending to take SPL must give their Headteacher notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL.

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### **Requesting further evidence of eligibility**

The Headteacher will, within 14 days of the SPL entitlement notification being given, request:

- 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.
- The name and business address of the partner's employer (where the employee's partner is no longer employed or is self-employed, their contact details must be given instead)

### **Fraudulent claims**

The employer can, where there is a suspicion that fraudulent information may have been provided or where the employer has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual investigation and disciplinary procedures.

### **Initial discussions regarding Shared Parental Leave**

An employee considering/taking SPL is encouraged to contact their Headteacher to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the school to support the individual. Support from HR is available by contacting the schools HR services provider.

### **Formal notification**

Upon receiving a leave booking notice (i.e. form HR119.2 or HR119.3) the Headteacher will usually arrange a meeting to discuss it. 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 notice booking leave, a meeting may not be necessary. **A request for continuous period of leave cannot be refused by the employer.**

At the meeting the employee may, if they wish, be accompanied by a workplace colleague or recognised trade union representative.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the Headteacher, and what the outcome may be if no agreement is reached.

### **Booking Shared Parental Leave**

In addition to notifying the Headteacher of entitlement to SPL/ShPP, an employee must also give notice to take the leave. Notice to take leave will be given at the same time as the notice of entitlement to SPL.

The employee has the right to submit three notifications specifying leave periods they are intending to take. Each one of the notifications may contain either:

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- (a) a single unbroken block of weeks of leave (i.e. known as a “**continuous** period of leave”- for example, six weeks in a row)

An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the school I has been given at least eight weeks’ notice.

OR

- (b) two or more weeks of “discontinuous” leave, where the employee intends to return to work between periods of leave.

A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

Where there is concern over accommodating the notification, the Headteacher may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the school (see “Initial discussions regarding Shared Parental Leave /Formal notifications” above).

For requests for discontinuous periods of leave, there is a two-week discussion period beginning with the date the employer received the notice during which the employer may consent to the leave, propose alternative dates, or refuse the leave. If agreement cannot be reached during this two weeks as to the timing of leave the employee can take the total amount of leave requested in the notice as a continuous period of leave. If the employee chooses to do this, they five days from the end of this two-week period to specify a date from which they will take the continuous period of leave. This date must be after the 8 week notice period required. If the employee does not choose a date, the default position is that the leave will commence on the start date of the first period of leave requested.

The Headteacher will consider a notification for a discontinuous leave but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

### **When can Shared Parental Leave be taken?**

SPL can only be taken in complete weeks, but may begin on any day of the week. For example, if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL the next period of SPL can start on any day of the week.

The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

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### **Responding to a Shared Parental Leave notification within statutory timescales**

Once the Headteacher receives the SPL notification, it will be dealt with as soon as possible, but a response will be provided by no later than the 14<sup>th</sup> day after the request was made.

All requests for discontinuous leave will be given on form HR119.2 (for adopters) or on form HR119.3 (for the partners of adopters) and cannot be refused.

Requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the employee and to the employer against any adverse impact to the council.

Each request for discontinuous leave 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 14<sup>th</sup> day after the leave notification was made. The request may be granted in full or in part: for example, the Headteacher may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee may

- a) withdraw the request without detriment on or before the 15<sup>th</sup> day after the notification was given (Failure to withdraw notices in the time period means that employees “use-up” one of their maximum number of three possible notifications); or
- b) may combine the total number of weeks in the notice in a single continuous block. If the employee wants to take this action, they have until the 19<sup>th</sup> day from the date the original notification was given to inform the Headteacher when they want the leave period to begin. In this instance because notice to take a continuous block is being given the leave cannot be refused, but cannot start earlier than eight weeks after the original notification was given and sooner than the original start date requested. If the employee does not choose a start date, then the leave will begin on the first leave date requested in the original notification.

### **Variations to amend an arranged period of Shared Parental Leave**

Arranged periods of Shared Parental Leave are not binding on the employee who is therefore permitted to vary or cancel an agreed and booked period of SPL, provided that he/she advises the Headteacher 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 request to vary the leave.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee’s right to book/vary leave by one. (i.e. A request to vary will count towards one of the three notifications that an employee can make). However, a change as a result of a child being placed earlier than expected, or as a result of the Headteacher requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the employer.



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

Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the adopter reduces their adoption pay period. .

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

- the adopter must be/have been entitled to Statutory Adoption Pay and must have reduced their adoption pay period ;
- the employee must intend to care for the child during the week in which ShPP is payable;
- the employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the child's expected matching date and not less than the lower earnings limit in force for National Insurance contributions;
- the employee must remain in continuous employment until the first week of ShPP has begun;
- the employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.

In addition to what must be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for ShPP must include:

- the start and end dates of any adoption pay, ;
- the total number of ShPP weeks available, the amount of ShPP weeks the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
- a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ;ShPP and that they will immediately inform the council should they cease to be eligible.

It must be accompanied by a signed declaration from the employee's partner confirming:

- their agreement to the employee claiming ShPP and for the council to process any ShPP payments to the employee;
- that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

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

The number of weeks during which an adopter or an adopter's partner can receive SHPP is 39 less the number of weeks' Statutory Adoption Pay the adopter has had or will have. As the adopter must take two weeks' adoption leave or not curtail their adoption pay period until after the first two weeks, there is a maximum of 37 weeks' ShPP available to be shared.

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### **Terms and conditions during Shared Parental Leave**

During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind will continue and contractual annual leave entitlement will continue to accrue.

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. ,

Any unpaid periods of SPL may affect an employee's pension benefits.

### **Annual Leave**

SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's holiday year.

### **Contact during Shared Parental Leave**

Before an employee's SPL begins, the employee's manager should discuss the arrangements for them to keep in touch during their leave. The Headteacher 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 to return to work, to ensure the individual is aware of any possible job opportunities, 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 (SPLiT) days**

An employee can agree to or attend training for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave in Touch" (SPLiT) days.

The Headteacher has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's SPL. Any work undertaken is a matter for agreement between the Headteacher and the employee. Any SPLiT days worked do not extend the period of SPL.

An employee, with the agreement of the Headteacher, may use SPLiT days to work part of a week during SPL. The Headteacher and the employee may use SPLiT days to effect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

SPLiT days may be taken in one block, or in single days.

For working a SPLiT day, employees will be paid their standard day's pay in line with the School Teachers Pay and conditions document (including any Teaching and Learning Responsibility payments). If the employee is receiving any ShPP during this time, the ShPP Pay will be increased to make up a standard day's pay.

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Employees can claim payment for working on SPLiT Days on form HR605s.

### **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 school otherwise. If they are unable to attend work due to sickness or injury, the school'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 school at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the Headteacher does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

On returning to work after SPL, the adopter is entitled to return to the same job if their aggregate total Statutory Adoption Leave and SPL amounts to 26 weeks or less.

For adopter's this means the same job as the one they occupied immediately before commencing adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

For partners of adopters this means the same job as the one they occupied immediately before commencing the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

If their adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they 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.

The details of the Shared Parental Leave policy do not affect an employee's right to apply for Unpaid Parental Leave.

If the employee also takes a period of Unpaid Parental Leave of 4 weeks or less, this will have no effect on the employee's right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of adoption leave and SPL do not exceed 26 weeks.

If a parent takes a period of 5 weeks of Unpaid Parental Leave, even if the total aggregate weeks of adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

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### **Further information**

Any queries or issues on Shared Parental Leave can be raised with the HR Service provider.

Acas.org.uk (provide hyperlink)

[www.cipd.co.uk](http://www.cipd.co.uk)

Unison	0121 569 5996
Unite	0121 569 6143
GMB	0121-569 5990