SHARED PARENTAL LEAVE AND PAY POLICY

INTRODUCTION

Shared Parental Leave (SPL) is a new legal entitlement for parents of babies due to be born, or children placed for adoption, on or after 5 April 2015 providing the mother or primary adopter commits to curtailing their maternity or adoption leave at a future date and both parents satisfy the eligibility criteria. SPL is also available to intended parents in surrogacy arrangements where they are applying for a parental order and are eligible for adoption leave and/or pay.

It is designed to enable two working parents to share leave between them, creating greater flexibility for parents in considering how best to care for their child during their child's first year. SPL can be taken in turns, with parents alternating the caring responsibilities or at the same time, with parents sharing the caring responsibilities.

SCOPE OF POLICY

This policy applies to all individuals working at all levels and grades within Tayside Contracts.

It should be read in conjunction with either the Maternity Leave and Pay Policy or Adoption Leave and Pay Policy in addition to the Maternity/Adoption Support and Ordinary Paternity Leave and Pay Policy. The Additional Paternity Leave and Pay Policy will no longer exist for parents of babies due to be born, or placed for adoption, on or after 5 April 2015.

The policy applies to mothers who give birth to a baby and their partner or to the primary adopter and their partner.

The partner must share the main responsibility for the care of the child. Partner means the child's biological father, secondary adopter or a person who the mother or primary adopter is married to, in a civil partnership with, or a partner whom they live with and who shares the main responsibility for the care of the child at the time of birth or matching date.

It does not apply to grandparents, sisters, aunts, uncles or any other family member.

SHARED PARENTAL LEAVE ENTITLEMENT

The amount of SPL available is dependent on when the mother or primary adopter brings their maternity or adoption leave period to an end.

Maternity or adoption leave cannot be curtailed and turned into SPL until two weeks following the birth or four weeks following the birth in the case of manual workers resulting in a maximum of fifty weeks or forty eight weeks SPL respectively, this is known as the compulsory leave period.

It is up to the parents to decide how they would like to share their SPL, providing that no more than 52 weeks leave is taken in total. All SPL must be taken within 52 weeks of the birth or placement of the child, any SPL not taken by this time will be forfeited.

Eligibility for Shared Parental Leave

In order to be eligible for SPL, each parent must satisfy the following eligibility criteria.

Mother or Primary Adopter Eligibility

If you are the mother or primary adopter, you are eligible if you:

- Are entitled to statutory maternity or adoption leave and/or pay which could be maternity allowance.
Share the main responsibility for the care of your child with the child’s other parent or a partner as defined above at the date of the child’s birth or matching date.

Have at least 26 weeks continuous service at the end of the 15th week before the expected week of childbirth (EWC) or by the end of the week in which you are notified of having been matched for adoption.

Remain in continuous employment until the week before any period of SPL starts.

Ceased maternity or adoption leave by returning to work or have given binding notice to curtail leave.

Comply with Tayside Contracts notification, evidence and declaration requirements.

In addition your partner must:

Share the main responsibility for the care of your child with you, at the date of the child’s birth or matching date.

Have been employed or have been a self employed earner in the UK during at least 26 weeks in the 66 weeks immediately leading up to the EWC or matching date.

Have earned at least £30 per week on average in any 13 of the 66 weeks.

Comply with Tayside Contracts notification, evidence and declaration requirements.

Partner or Secondary Adopter Eligibility

If you are the partner or secondary adopter, you are eligible if you:

Share the main responsibility for the care of the child with the child’s mother or primary adopter.

Have at least 26 weeks continuous service at the end of the 15th week before the EWC or by the end of the week in which you are notified of having been matched for adoption.

Remain in continuous employment until the week before any period of your SPL starts.

Comply with Tayside Contracts notification, evidence and declaration requirements.

In addition the mother or primary adopter must:

Share the main responsibility for the care of your child with you, at the date of the child’s birth or matching date.

Have been employed or have been a self employed earner in the UK during at least 26 weeks in the 66 weeks immediately leading up to the EWC or matching date.

Have earned at least £30 per week on average in any 13 of the 66 weeks.

Be entitled to statutory maternity or adoption leave and/or pay which could be maternity allowance.

Ceased maternity or adoption leave by returning to work or have given binding notice to curtail leave.

Comply with Tayside Contracts notification, evidence and declaration requirements.

Occasionally one parent may not be entitled to SPL; however, if they meet the minimum weekly earnings test the other parent may still be eligible.

This only occurs when one of the parents does not have the required length of service but they meet the minimum weekly earnings test allowing the mother or primary adopter to curtail their leave and convert the remaining leave into SPL.

This affords the eligible parent the flexibility of taking leave in separate blocks, up to a maximum of three blocks.

**SHARED PARENTAL PAY ENTITLEMENTS**

You may be eligible for Shared Parental Pay during SPL providing you meet the following eligibility criteria.
Statutory Shared Parental Pay

Statutory Shared Parental Pay (ShPP) up to a maximum of 37 weeks at the statutory rate, or 90% of your average weekly pay, whichever is the lower is available for eligible parents to share between them while on SPL. The actual amount of ShPP available is dependent on what date the maternity or adoption leave and/or pay period is curtailed and when you intend to take SPL. It is possible for both parents to receive ShPP during some or all of their SPL as it is based on the duration and timing of the leave. It is also possible to qualify for SPL without qualifying for Shared Parental Pay.

Unlike SMP and SAP, there is no provision for the first six weeks to be paid at 90% of the parent’s actual weekly earnings. This is the case even if the mother or primary adopter returns to work during the initial 6 week period.

Mother or Primary Adopter ShPP Eligibility

If you are the mother or primary adopter, you are eligible for ShPP if you:

- Are entitled to statutory maternity pay (SMP) or statutory adoption pay (SAP).
- Curtailed or intend to curtail your SMP or SAP period.
- Share the main responsibility for the care of your child with the child’s other parent or a partner as defined above at the date of the child’s birth or matching date.
- Intend to care for your child during the weeks in which ShPP is payable.
- Have average weekly earnings for a period of eight weeks leading up to and including the 15th week before the EWC or matching date of at least the lower earnings limit for NI contributions.
- Have at least 26 weeks continuous service at the end of the 15th week before the EWC or by the end of the week in which you are notified of having been matched for adoption.
- Remain in continuous employment until the week before any ShPP starts.
- Comply with Tayside Contracts notification, evidence and declaration requirements.

In addition your partner must:

- Share the main responsibility for the care of your child with you, at the date of the child’s birth or matching date.
- Have been employed or have been a self employed earner in the UK during at least 26 weeks in the 66 weeks immediately leading up to the EWC or matching date.
- Have earned at least £30 per week on average in any 13 of the 66 weeks.
- Comply with Tayside Contracts notification, evidence and declaration requirements.

Note: If you qualify for Maternity Allowance, you will not qualify for ShPP but your partner might.

Partner or Secondary Adopter ShPP Eligibility

If you are the partner or secondary adopter, you are eligible for ShPP if you:

- Share the main responsibility for the care of the child with the child’s mother or primary adopter.
- Intend to care for your child during the weeks in which ShPP is payable.
- Have average weekly earnings for a period of eight weeks leading up to and including the 15th week before the EWC or matching date of at least the lower earnings limit for NI contributions.
- Have at least 26 weeks continuous service at the end of the 15th week before the EWC or by the end of the week in which you are notified of having been matched for adoption.
- Remain in continuous employment until the week before any ShPP starts.
- Comply with Tayside Contracts notification, evidence and declaration requirements.

In addition the mother or primary adopter must:

- Have curtailed or intend to curtail their SMP, SAP or maternity allowance.
- Share the main responsibility for the care of your child with you, at the date of the child’s birth or matching date.
Have been employed or have been a self employed earner in the UK during at least 26 weeks in the 66 weeks immediately leading up to the EWC or matching date.

Have earned at least £30 per week on average in any 13 of the 66 weeks.

Comply with Tayside Contracts notification, evidence and declaration requirements.

**SHARED PARENTAL LEAVE PERIODS**

SPL may be taken in a single continuous block or taken in smaller blocks of leave, known as discontinuous leave; however, a minimum of one week must be taken at any one time. SPL can only be taken in complete weeks; however the week can begin on any day of the week.

**Continuous Leave**

Continuous leave is a period of leave that is taken in one block, for example four weeks’ leave following the birth and must, subject to the employee meeting the eligibility and notification requirements be approved within 14 calendar days of the date the request was received.

**Discontinuous Leave**

Discontinuous leave is a period of leave that is arranged around weeks where an employee will return to work for a period then commence leave, for example, two weeks leave in June, three weeks leave in August and four weeks leave in September and all of December and January.

Tayside Contracts has 14 calendar days in which to either, authorise the request, refuse the request or propose an alternative pattern of leave.

- **Refusals**

  Discontinuous leave will only be refused if you do not meet the eligibility and notification requirements or if it will adversely impact on Tayside Contracts ability to deliver services. Discontinuous leave requests which are refused will be confirmed in writing, with clear reasons for the refusal within 14 calendar days of the date the request was received.

  - **Alternative Proposals**

    If your request is refused your line manager will meet with you to discuss options to modify your discontinuous leave request, however if a mutual agreement cannot be reached during the 14 calendar day discussion period, ultimately you will have to decide whether you take the leave you requested as a continuous block or you can withdraw your request. If you withdraw your request on or before the 15th day in which it was given then this will not count towards your three requests. If you decide to take the leave as a continuous block you must choose a start date for the leave that is at least eight weeks after the date your request for a period of SPL was originally given. You must give notification of that date within 19 calendar days of the original request. If you do not give notification within this period then the start date automatically defaults to the date the requested discontinuous leave would have started.

    If a variation is mutually agreed then you will receive a letter within 14 calendar days of the date the notification was received outlining the agreed dates. You will be asked to confirm your acceptance of the variation in writing.

**HOW TO APPLY FOR SHARED PARENTAL LEAVE AND PAY**

In order to opt into SPL, there are three notices that parents must give to their relevant employer:

1. Curtailment Notice
2. Notice of Entitlement and Intention to take SPL
3. Request for a Period of SPL
Curtailment Notice (SPL 1)

Before either parent can take SPL, the mother or primary adopter must have, either, returned to work early or given binding notice to curtail their maternity or adoption leave period to their employer.

If you would like to curtail your maternity or adoption leave period, you are required to complete a SPL 1 Form which must be submitted at least eight weeks prior to the date which you or your partner intend to commence SPL. The date must also be after your compulsory leave period and at least one week before the end of your additional leave period.

If you are giving notice to curtail your maternity or adoption leave period and do not wish to take a period of SPL, you must declare this on your curtailment notice.

If you are giving notice to curtail your maternity or adoption leave period and wish to take a period of SPL, you are also required to complete a Notice of Entitlement and Intention to take SPL on a SPL 2 Form.

Notice of Entitlement and Intention to take SPL (SPL 2)

If you intend to take SPL, you are required to complete and submit a SPL 2 Form at least eight weeks prior to the date which you intend to commence your first period of SPL.

Within 14 calendar days of receiving a SPL 2 Form you will be asked to provide:

- A copy of your child’s birth certificate or adoption certificate. If your child is not yet born or not yet been placed with you, you will be required to produce it within 14 calendar days of the birth or adoption.
- Documentary evidence of the name and address of the adoption agency, the date you were notified of matching and the date the child has been placed with you or the date the agency expects to place the child with you.
- The name and address of your partner’s employer, or if your partner is not employed, a signed declaration to this effect.

Alternatively, if you prefer, you can provide this information at the time you submit your SPL 2 Form.

An SPL 2 Form is a non binding notice until you submit your first request for a period of SPL on a SPL 3 Form.

Request for a Period of SPL (SPL 3)

You are required to complete a SPL 3 Form for each period of SPL that you would like to take, which must be submitted at least eight weeks prior to the date which you would like the SPL to commence.

A SPL 3 Form constitutes a binding notice requesting a period of SPL. You are entitled to submit up to a maximum of three separate notices or variation notices per pregnancy. Tayside Contracts will respond to all requests within 14 calendar days and providing your request is approved, you can commence your SPL.

If you are the partner of the mother or primary adopter, you can commence SPL as soon as the baby is born or the child has been placed with you, providing that you booked the leave at least eight weeks prior to the date you intended to take the leave (unless the baby is born early) and the request has been approved.

Notice of Variation of Entitlement and Intention to take SPL (SPL 4)

After the birth or adoption you may change your mind about how much leave you would like to share. You can change your mind at any stage. If you would like to vary your amount of leave and/or proposed SPL dates you must complete and submit an SPL 4 Form which constitutes a non binding
variation notice. There is no limit to the number of variations you can submit for proposed SPL dates, however if an SPL period has already been requested and authorised and it will no longer take place then you are also required to submit an SPL 5 Form in relation to those dates.

**Notice to Cancel or Vary a Period of SPL (SPL 5)**

You can cancel or vary a period of SPL by completing a SPL 5 Form, which must be submitted at least eight weeks before the dates being cancelled or varied begin. You can:

- Vary the start or end date of a period of SPL, or cancel a request for leave.
- Request that a continuous period of SPL becomes a discontinuous period of SPL.
- Request that discontinuous periods of SPL become continuous periods of SPL.

A notice to cancel or vary a period of SPL, made by you, counts towards your entitlement to submit a maximum of three notifications and/or variations unless a variation is proposed by Tayside Contracts or the baby is born early and you had elected to take leave within the first eight weeks of the due date, in which case it would not count towards your entitlement. In addition, if you cancel your request on or before the 15th day in which a discontinuous leave request was given then this will not count towards your three requests.

**Cancellation Notice (SPL 6)**

If you are the mother or primary adopter, you can cancel your decision to end your maternity or adoption leave early on a SPL 6 Form, providing that the planned end date has not passed and you have not returned to work already. In addition one of the following criteria must be met:

- You must notify us of this decision no more than six weeks after the birth and you gave your notice to curtail your entitlement before the birth.
- Your partner has died.
- Within eight weeks of submitting a notice to curtail maternity or adoption leave it transpires that neither of you qualify for SPL or ShPP.

If you cancel your curtailment notice in the first of these circumstances you may opt into SPL at a later date, either by returning to work or by giving another curtailment notice.

**SHAREDPARENTAL LEAVE IN TOUCH DAYS**

You may, by agreement with your line manager, do up to 20 Shared Parental Leave in Touch days (SPLiT) days, under your contract of employment during your shared parental leave period. These days are different from simply making contact with your manager (and vice versa), as during these days you can actually carry out work for Tayside Contracts and be paid. The type of work to be undertaken on a SPLiT day is a matter for agreement between you and your line manager and it may include attendance at a team meeting or training event.

Tayside Contracts cannot make you work during shared parental leave if you do not wish to and there is no obligation on Tayside Contracts to offer or agree to a SPLiT day. SPLiT days may be undertaken at any stage during the shared parental leave period, by agreement with Tayside Contracts.

To request to undertake a SPLiT day please submit a written request to the Head of your Unit/Division.

**ANNUAL LEAVE AND PUBLIC HOLIDAYS**

You accrue annual leave including public holidays throughout your SPL. You may, subject to prior approval from your line manager, take annual leave which will accrue during your SPL prior to commencing your leave.
Term Time Employees Annual Leave and Public Holiday Entitlement

If you are employed on a term time only basis you will accrue annual leave and public holidays throughout your SPL. Payment in lieu of the accrued leave will be made upon your return to work.

CONTRACTUAL NON-CASH BENEFITS

You will continue to receive all contractual non-cash benefits other than pay during SPL. This does not include non-cash benefits provided for business use only.

PENSION CONTRIBUTIONS

Your pension contributions will continue to be deducted from any pay during SPL, however if you take a period of unpaid SPL, all benefits accrued in the Pension Fund will be frozen until payments recommence on your return to work. If you do not wish to have a break in your pension membership, you must inform the Payroll Section within 30 days of returning to work.

SICKNESS ABSENCE ENTITLEMENT

You cannot receive Statutory Sick Pay (SSP) whilst being paid ShPP. Should you be unable to return to work on your expected return date due to illness, the provisions of the Sickness Absence Management Policy will apply with regard to notification, certification and payment of sickness allowance.

RETURNING TO WORK AFTER SHARED PARENTAL LEAVE

You will be formally advised in writing of the end date of your SPL and you will be expected to return to work on the next working day following this date unless you inform us otherwise. Should you wish to return to work earlier than the expected return date you must provide written notice to vary the leave giving a minimum of eight weeks’ notice of your preferred earlier return to work date. This will count as one of your three notifications. If you have already used your three notifications to book and/or vary SPL then Tayside Contracts is under no obligation to accept the notice to return early, but may do so depending on the circumstances.

You have the right to return to your original job on return from SPL if the period of leave taken (when added to any other period of SPL, maternity leave or paternity leave taken for the same child) is 26 weeks or less. This right is also unaffected by unpaid parental leave of up to four weeks being taken.

If the leave taken is more than 26 weeks you have the right to return to your original job, unless this is not reasonably practicable. If it is not reasonably practicable you have the right to return to a similar job on the same terms and conditions.

If you wish to return on a part-time, job share or flexible working basis, you must submit your flexible working request at least 8 weeks before your return.

Temporary/Fixed Term Employees

If you are employed on a temporary fixed term contract, you will retain the right to return to your original job or similar job where:

- You return to work following SPL before the end of your temporary/fixed term contract.
- An extension to the temporary/fixed term contract is appropriate irrespective of whether you are on SPL.

Should your contract expire during the SPL period and no extension is offered, you will receive any statutory payments you are entitled to.
POLICY VIOLATIONS

Employees who abuse or attempt to abuse the SPL Policy will be investigated and have disciplinary action taken against them in accordance with Tayside Contracts’ Disciplinary Policy. In addition HMRC will be notified where employees and their partners are suspected of benefit fraud and/or tax evasion.

RELATED POLICIES

The Shared Parental Leave Policy and Forms link to the following policies which can be accessed on the Intranet, or requested from your line manager or from the HR Admin Team:

- Adoption Leave and Pay Policy
- Maternity Leave and Pay Policy
- Parental Leave and Pay Policy
- The Maternity/Adoption Support and Ordinary Leave Policy

POLICY REVIEW

The Shared Parental Leave Policy will be reviewed annually.

Should you have any queries or require further clarification regarding any aspects of this policy or related policies please contact HR Services on 01382 812721 or employment.policies@tayside-contracts.co.uk