



# **WEST EXMOOR FEDERATION SHARED PARENTAL LEAVE POLICY & PROCEDURE**

**Policy Date: 5.4.2015**

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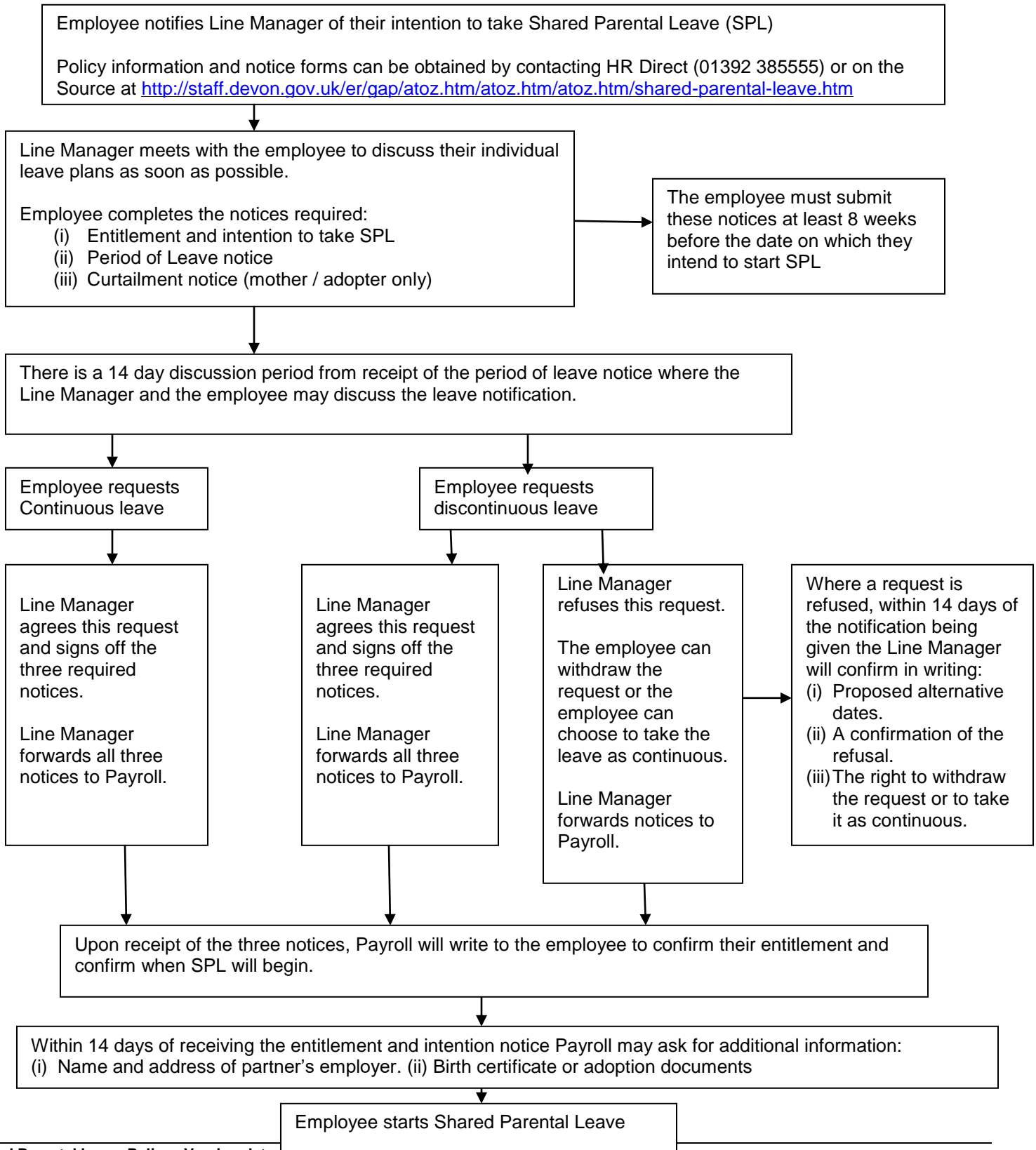
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## Procedure Flow Chart



Shared Parental Leave Policy. Version date: 14.06.2015

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## 1.0 Introduction

- 1.1 The entitlement to Shared Parental Leave (SPL) came into effect from 1<sup>st</sup> December 2014 and applies to children expected to be born or placed for adoption on or after 5<sup>th</sup> April 2015. It will replace additional paternity leave and pay which will be abolished under the new regulations.
- 1.2 This policy sets out the rights of employees to SPL and Shared Parental Pay (ShPP) which enables eligible parents to share a mother's remaining maternity or an adopter's leave and pay.
- 1.3 Employees can start SPL if they're eligible and they or their partner end their maternity or adoption leave or pay early. The remaining leave will be available as SPL. The remaining pay may be available as ShPP.
- 1.4 Unlike maternity/adoption leave, eligible employees can stop and start their SPL and return to work between periods of leave with each eligible parent able to submit three notices booking periods of leave.
- 1.5 Where both parents meet the eligibility criteria SPL can be taken by both parties at the same time or at separate times or a mixture of both.
- 1.6 A mother/adopter can share their SPL with only one other person.
- 1.7 All leave must be taken in the first 52 weeks after birth/adoption, otherwise it will be lost.
- 1.8 For school based staff, requests for SPL should be submitted during term time.
- 1.9 Shared Parental leave should not be confused with ordinary parental leave which is unaffected. Ordinary parental leave is the entitlement to 18 weeks unpaid leave and DCC's policy can be found at <http://staff.devon.gov.uk/er/atoz.htm/atoz.htm/parentalleave.htm> . It should also not be confused with Ordinary Statutory Paternity Leave. See Maternity & Adoption Support Leave Policy at <http://staff.devon.gov.uk/atoz.htm/paternity.htm>

## 2.0 Scope

- 2.1 This policy only applies to employees engaged under Devon Council Council (DCC) statement of particulars including those contracted to a school (where the policy has been adopted).
- 2.2 This policy can be adopted by Voluntary Aided / Foundation / Trust / Academy schools.
- 2.3 This policy does not apply to those employed by other organisations, employed under other organisations' terms and conditions of employment which include a contractual Shared Parental Leave Policy.

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2.4 This Policy applies in relation to employees, whether they are the mother/adopter or the partner. If the DCC/School employee is the mother/adopter, her partner must submit any notifications to take SPL to his/her own employer. Similarly, if the DCC employee is the partner then the mother/adopter must submit any notifications to take SPL to their own employer.

### 3.0 Eligibility

3.1 If a partner does not meet the eligibility criteria to receive SPL, but the mother/adopter does, then the mother/adopter can take SPL on their own.

3.2 Where both parties propose to share SPL there is a two stage test for eligibility for SPL: an employee must be eligible in his or her own right and the employee's partner must also meet certain eligibility requirements.

#### 3.2.1

<p><b>An employee who is the mother / adopter must meet the following criteria to be eligible for SPL:</b></p>	<p><b>In addition, the partner must:</b></p>
<ul style="list-style-type: none"> <li>• Must have 26 weeks continuous service by the end of the 15<sup>th</sup> week before the due date (or date they are matched with their adopted child) and remains in continuous employment up to the week before any SPL is taken.</li> <li>• Be entitled to Statutory Maternity /Adoption Leave or pay or Maternity Allowance.</li> <li>• Must share primary responsibility for the child with the other parent at the time of the birth/adoption.</li> <li>• Must have curtailed or given notice to curtail SML or SAL.</li> </ul>	<ul style="list-style-type: none"> <li>• Have been employed or self employed during at least 26 weeks of the 66 weeks before the expected week of childbirth/adoption;</li> <li>• Have average weekly earnings of at least £30.00 (as of 2015) in 13 of those 66 weeks, and;</li> <li>• Share responsibility for the care of the child.</li> </ul>
<p><b>An employee who is the father of the child or the partner of the child's mother / adopter must meet the following criteria to be eligible for SPL:</b></p>	<p><b>In addition, the child's mother/adopter must:</b></p>
<ul style="list-style-type: none"> <li>• Must have 26 weeks continuous service by the end of the 15<sup>th</sup> week before the due date (or date they are matched with their adopted child) and remains in continuous employment up to the week before any SPL is taken.</li> <li>• Must share primary responsibility for the child with the other parent at the time of the birth/adoption.</li> </ul>	<ul style="list-style-type: none"> <li>• Have been employed or self employed during at least 26 weeks of the 66 weeks before the expected week of childbirth/adoption;</li> <li>• Have average weekly earnings of at least £30.00 (as of 2015) in 13 of those 66 weeks.</li> <li>• Share responsibility for the care of the child.</li> <li>• Be entitled to statutory maternity/adoption leave, statutory maternity/adoption pay or maternity allowance in respect of the child.</li> </ul>

3.2.2 **For ShPP purposes**, in addition to the above, **both parties must also satisfy the following criteria:**

- Have average weekly earnings at or above than the lower earnings limit for National Insurance during the 8 week period up to and including the end of the 15<sup>th</sup> week before the child's due date/matching date.
- Intend to care for the child during each week in which ShPP is paid.

3.2 If an employee is not eligible then their request will be refused.

## 4.0 Entitlement

4.1 If an employee is eligible and they or their partner end maternity or adoption leave and pay (or Maternity Allowance) early, then they can:

- Share up to a maximum of 50 weeks as SPL.
- Share up to a maximum of 37 weeks as ShPP.

4.2 The first two weeks following birth or adoption are reserved for the mother/adopter.

4.3 SPL must be taken in blocks of at least one week. The pattern of leave must be requested and agreed with the Line Manager, giving 8 weeks notice.

4.4 Requests to take SPL in one continuous block will be approved unless alternative dates are agreed, as long as the employee does not exceed the number of weeks available to them through SPL and they meet the eligibility and notice requirements.

4.5 Requests to take SPL as a number of discontinuous blocks of leave is subject to agreement and may be either approved, refused or different dates suggested.

4.5 A maximum of three requests for leave per pregnancy/adoption can be submitted provided that they are submitted 8 weeks before the date that the leave is due to start.

4.6 Statutory Shared Parental Pay (ShPP) will be paid to employees who have chosen to move onto shared parental leave. From April 2015, this will be at the standard rate or at 90% of the employee's average weekly earnings, whichever is the lower. The current rate of ShPP can be found at [www.acas.org.uk/sp](http://www.acas.org.uk/sp)

4.7 Details of entitlement can be obtained by using the following calculator: [www.gov.uk/pay-leave-for-parents](http://www.gov.uk/pay-leave-for-parents)

## 5.0 Starting Shared Parental Leave

5.1 For SPL to start, **the mother or adopter must do one of the following:**

- **End their maternity or adoption leave by returning to work;**
- **Submit a maternity/adoption curtailment notice** to bring forward the date their ordinary or additional maternity/adoption leave will end at a future point.

- 5.2 The mother/adopter must give their employer at least 8 weeks notice to end their maternity/adoption pay or 8 weeks notice to Jobcentre Plus to end their Maternity Allowance in order to take SPL.
- 5.3 SPL can start for the partner while the mother or adopter is still on maternity or adoption leave if he/she's given notice to end her leave.
- 5.4 Even though the partner can take SPL immediately following the birth/placement of the child, they may choose first to exhaust any [Maternity/Adoption Support Leave](#) entitlements. The father/partner cannot take Maternity/Adoption Support Leave or pay once they have taken SPL or ShPP.

## 6.0 Notification requirements to take SPL & ShPP

There are three types of notices required:

<a href="#">Notice of Entitlement and Intention</a>	<a href="#">Curtailment Notice</a>	<a href="#">Period of Leave Notice</a>
Given by mother/adopter and partner	Given by mother/adopter only	Given by mother/adopter and/or partner
Confirms eligibility	End SML/SMP and SAL/SAP	States when they would like to take leave

- 6.1 To move from maternity/adoption leave to SPL the employee must give **notice of their entitlement and intention** to take SPL and ShPP. There are two different forms available, depending upon whether the DCC employee is the mother/adopter or the partner. This notice may be submitted at the same time as the maternity/adoption curtailment notice or at a later date. The employee must complete the notice form, giving at least 8 weeks notice.
- 6.2 Payroll, within 14 days of the SPL entitlement and intention notification being received, may request the following additional information:
- the name and 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)
  - in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth)
  - in the case of an adopted child, 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

In order to be entitled to SPL, the employee must produce this information within 14 days of the request with the exception of the birth certificate if they are notifying their intention to use SPL prior to their baby being born.

- 6.3 The employee must give written notice of the leave they intend to take by way of a **'Period of Leave Notice'**.
- 6.4 If the employee has already decided the pattern of SPL they wish to request then they can provide their **curtailment notice, notice of their entitlement and intention** to take SPL and ShPP and **period of leave notice** at the same time.

## **7.0 Cancelling the decision to end maternity or adoption leave**

- 7.1 The mother or adopter may be able to change their decision to end maternity or adoption leave early if both the planned end date hasn't passed and /or they haven't already returned to work.
- 7.2 One of the following must also apply:
- (i) It's discovered during the 8 week notice period that neither partner is eligible for either SPL or ShPP
  - (ii) The employee's partner has died
  - (iii) It's less than 6 weeks after the birth and the mother gave notice before the birth.
- 7.3 An employee who revokes their maternity/adoption leave curtailment notice within 6 weeks of the birth will be able to opt into SPL at a later date with the same partner, either by returning to work and then giving notice of entitlement to SPL or by giving another notice to curtail the maternity/adoption leave.
- 7.4 If a mother or adopter revokes their notice as in circumstances above, (i) and (ii) there is no further opportunity to opt into SPL at a later date for the same child.

## **8.0 Requesting Shared Parental Leave**

- 8.1 An employee considering taking SPL is encouraged to discuss their entitlement with their Line Manager as early as possible to talk about their plans and how they currently expect to use their SPL entitlement. It could be that these discussions take place before any formal notices are given.
- 8.2 An employee must give notice to take the leave by way of a **'Period of Leave Notice'** and submit a **'notice of entitlement and intention'**, in writing, at least 8 weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.
- 8.3 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 period of weeks of leave; or
  - (b) Two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.
- 8.5 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.

- 8.6 For both continuous and discontinuous leave requests it is important to consider how reliant a parent is on the proposed pattern the other parent/partner is seeking to agree. Where both parents are taking continuous leave, this consideration is minimal because the request must be accepted. However, where the care of the child is dependent on one or both parents/partners agreeing discontinued leave arrangements and one is refused, one or both parents/partners may need to withdraw their notification and make new amended ones.

## 8.7 Continuous leave notifications

- 8.7.1 A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).
- 8.7.2 If notice is given for a continuous period of SPL, the employee is entitled to take it. The request cannot be refused.

## 8.8 Discontinuous leave notifications

- 8.8.1 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).
- 8.8.2 All requests for discontinuous leave will be considered, however they may not be agreed.
- 8.8.3 Where there is concern over accommodating the notification, the Line Manager will meet with the employee to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the Service/School.
- 8.8.4 The Line Manager will consider a discontinuous leave notification 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.

## 8.9 Upon receiving a request for discontinuous leave the Line Manager might consider the following when making their decision:

- What impact will the leave arrangements have on the Service and could this be mitigated?
- Are there important events/days planned which must be covered during the leave period?
- Are there busy/challenging periods during the leave requested?

- Would any modification to the leave reduce the impact on the Service/School and might the employee be agreeable to this?
- How will the role be covered while the employee is absent?
- Will there be significant staffing issues during the leave period requested?
- What will be the impact on the customer/client/pupils during this period of leave? Can this be managed?

## 9.0 Responding to a Shared Parental Leave Notification

- 9.1 There is a 14 day discussion period from receipt of the **period of leave notice** where the Line Manager and employee may discuss the leave notification and consider alternative arrangements if appropriate.
- 9.2 The request may be granted in full or in part: for example, the Line Manager may propose a modified version of the request.
- 9.3 If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee does withdraw the request it will not count as one of the three notices to book leave. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than 8 weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.
- 9.4 Where a request is refused, the Line Manager should within 14 days of the notification being given, confirm the following in writing:
- Proposed alternative dates for the employee to consider;
  - A confirmation of the refusal;
  - Clear information on what options are now available to the employee (See paragraph 9.3 above)

## 10.0 Variations to arranged Shared Parental Leave

- 10.1 The employee is permitted to vary or cancel an agreed period of SPL, provided that they advise their Line Manager in writing at least 8 weeks before the date of any variation. Any new start date cannot be sooner than from the date of the variation request.
- 10.2 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. However, a change as a result of a child being born early, or as a result of the Line Manager 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.

- 10.3 If an employee has already used up their three notifications then the Line Manager is under no obligation to agree to vary/cancel the leave but they will consider the request and decide whether it is reasonably practicable to grant it.

## 11.0 Terms and conditions during Shared Parental Leave

- 11.1 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.

### Pension

#### 11.2 Teachers:

- During the period of paid maternity leave, pension contributions will be paid and deducted from the teachers pay in the usual manner.
- Any unpaid period will not be pensionable / reckonable.
- Contact Teachers Pensions on 0845 6066166 and ask for the Fact sheet on Maternity/Paternity which is also available online at [www.teacherspensions.co.uk](http://www.teacherspensions.co.uk)

#### 11.3 All Other Employees:

- During any period of paid or unpaid SPL, employees who are members of the Local Government Pension Scheme (LGPS) will pay basic pension contributions on the pay actually received but the Employer will pay pension contributions on the pay the employee would have received had she/he been at work (Assumed Pensionable Pay (APP)). The service will count as normal for pension purposes, i.e. as if the employee had been at work.
- During any period of unpaid SPL, pension will not accrue, unless the employee elects to pay Additional Pension Contributions (APC) by buying the 'lost' pension.
- If an employee elects to buy the 'lost' pension by paying an APC within 30 days of returning to work, the employer must pay 2/3rds of the total cost with the remaining 1/3rd being paid by the employee. If the election is not made within the 30 day period then the employee will pay the full cost, unless the employer chooses to contribute towards the cost.
- If the employee wishes to buy the 'lost' pension they need to read the employee factsheet (ABSENCES – Buying lost pension from 1st April 2014 by paying Additional Pension Contributions (APC) which can be found on the Peninsula Pensions website, which explains how to calculate the cost and then what the process is. See [www.peninsulapensions.org.uk](http://www.peninsulapensions.org.uk)
- Where an employee works on a Shared Parental Leave In Touch (SPLIT) Day, both the employee and the employer will pay contributions based on the pay the employee receives for that day and it will count in full for pension purposes.

## **Annual Leave**

- 11.4 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 left untaken at the end of the employee's holiday year.

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

- 12.1 Before an employee's SPL begins, the Line Manager will discuss the arrangements for them to keep in touch during the leave. In any event reasonable contact will be maintained 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 promotion 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.

## **13.0 Shared Parental Leave in Touch days (SPLIT Days)**

- 13.1 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' or 'SPLIT' days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.
- 13.2 During the employee's SPL, DCC has no right to require the employee to carry out any work, and is under no obligation to offer any work,. Any work undertaken is a matter for agreement between the Line Manager and the employee. An employee taking a SPLIT day will receive their normal rate of pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives normal pay for the day. Any SPLIT days worked do not extend the period of SPL.
- 13.3 An employee, with the agreement of the Line Manager, may use SPLIT days to work part of a week during SPL. The Line Manager and the employee may use SPLIT days to affect 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.
- 13.4 Where an employee works on a SPLIT Day, both the employee and the employer will pay contributions based on the pay the employee receives for that day and it will count in full for pension purposes.
- 13.5 SPLIT days are in addition to the 10 'keeping in touch' (KIT) days already available to those on maternity and adoption leave.

## 14.0 Returning to work after Shared Parental Leave

- 14.1 Payroll will write to the employee to advise them 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 otherwise. If they are unable to attend work due to sickness or injury, this must be reported in line with the [Managing Sickness Absence Policy & Procedure](#). In any other case, late return without prior authorisation will be treated as unauthorised absence.
- 14.2 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 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 notice to return early does not have to be accepted but it may be accepted if it is considered to be reasonably practicable to do so.
- 14.3 On returning to work after SPL, the employee is entitled to return to the same job if the employee's aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, he or she will return to the same job. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.
- 14.4 If their maternity/paternity/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.

## 15.0 Fraudulent claims

- 15.1 Where there is a suspicion that fraudulent information may have been provided or where DCC/ the School has been informed by the HMRC that a fraudulent claim was made, this will be investigated in accordance with DCC's [Disciplinary Policy](#), and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

## 16.0 Further Guidance

- 16.1 Further guidance can be found on the Department for Business Innovation & Skills website at <https://www.gov.uk/government/organisations/department-for-business-innovation-skills>
- 16.2 ACAS have produced a good practice guide for employers and employees. This can be found at [www.acas.org.uk](http://www.acas.org.uk)

## TERMS AND DEFINITIONS

Mother / Adopter	The woman who gives birth to a child or the adopter. The adopter means the person who is eligible for adoption leave and/or pay (They can be male or female.)
Partner	The biological father of the child, or the person who, at the date of the child's birth, or adoption is married to, the civil partner of, or the partner of the mother. This includes someone of either sex, who lives with the mother and the child in an enduring family relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.
SPL	Shared Parental Leave
ShPP	Statutory Shared Parental Pay
Match	When an adopter is approved to adopt a named child or children
Expected week of childbirth	The week, starting on a Sunday, during which the mother's doctor or midwife expects her to give birth.
14 day discussion period	This is 14 consecutive days from receipt of the period of leave notice form.
Curtailment Notice	Curtailment is notice to end maternity/adoption leave with the intention to use any remaining leave and pay through shared parental leave.
Notice of entitlement & Intention	Notice given to the employer of the intention to take SPL containing declarations from both parents about the amount of leave they are entitled to and the consent of the other parent to take the leave.
Period of Leave Notice	Notice given to employer setting out the start and end dates of each period of SPL
Continuous leave	A period of leave that is taken in one block, e.g. four week's leave
Discontinuous leave	A period of leave that is arranged around weeks where the employee will return to work, e.g. an arrangement where an employee will work every other week for a period of three months.
SPLIT day	Shared Parental Leave in Touch Day

## POLICY HISTORY

Policy / Version Date	Summary of change	Contact	Implementation Date	Review Date
5.4.2015	Policy implemented following the new legal entitlement to Shared Parental Leave	HR	5.4.2015	
24.6.2015	'Employee' changed to 'Employer' in penultimate box in flowchart on page 3.	HR Direct	24.6.2015	
14.6.2016	Confirmation that curtailment notice only applies to mother/adopter added to flowchart on page 3 & at para. 6.0	HR	14.6.2016	

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