THE MORAY COUNCIL
SHARED PARENTAL LEAVE POLICY

1.0 Introduction

1.1 The Moray Council recognises there is a need for staff to balance their domestic and work responsibilities to enhance an employee's work / life balance.

1.2 This policy sets out the statutory rights and responsibilities of employees who wish to take Shared Parental Leave.

2.0 Scope

2.1 This policy applies to all employees of the Moray Council who meet the relevant eligibility requirements.

2.2 This policy applies to all employees whose child is due on or after 5 April 2015, regardless of when the child is born.

2.3 This policy will also apply to all employees who are adopting a child due to be placed on or after 5 April 2015 via an adoption agency.

3.0 Applicant Eligibility Criteria for Shared Parental Leave & Pay

3.1 For employees to be eligible to take shared parental leave, both parents must meet certain eligibility requirements.

3.2 Eligibility criteria for leave:

Mother's eligibility for shared parental leave

3.2.1 The mother of the child will be eligible to apply for Shared Parental Leave if she:

- has at least 26 weeks' continuous employment by the end of the 15th week before the expected week of childbirth and remains in continuous employment with that employer until the week before any period of shared parental leave that she takes;
- has the main responsibility for the care of the child at the date of the birth (apart from the responsibility of her partner or the child's father);
- is entitled to statutory maternity leave in respect of the child;
- has ended her statutory maternity leave (form ShP2 should be used for this purpose);
- has complied with the relevant notice and evidence requirements.

In addition, for the mother to be eligible for shared parental leave, her partner (i.e. the child's father or the mother's spouse, civil partner or partner) must:

- have been employed or self-employed during at least 26 of the 66 weeks before the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold (currently £30) for any 13 of those 66 weeks; and
- have the main responsibility for the child at the date of the birth (apart from the responsibility of the mother).

Partner's eligibility for shared parental leave

3.2.2 The partner is eligible for shared parental leave if he/she:

- has at least 26 weeks' continuous employment by the end of the 15th week before the expected week of childbirth and remains in continuous employment with that employer until the week before any period of shared parental leave that she takes;
- has the main responsibility for the care of the child at the date of the birth (apart from the responsibility of the mother);
- has complied with the relevant notice and evidence requirements

In addition, for the partner to be eligible for shared parental leave, the mother must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold (currently £30) for any 13 of those 66 weeks;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and
- comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave).

3.3 Eligibility criteria for pay:

Mother's eligibility for statutory shared parental pay

3.3.1 The mother of the child will be eligible to apply for statutory shared parental pay if she:

- has at least 26 weeks' continuous employment by the end of the 15th week before the expected week of childbirth and remains in continuous employment with that employer until the week before any period of shared parental leave that she takes;
- has normal weekly earnings for a period of 8 weeks, ending with the 15th week before the expected week of childbirth, of at least the lower earnings limit for national insurance contribution purposes;
- has the main responsibility for the care of the child at the date of the birth (apart from the responsibility of her partner or the child's father);
- is absent from work and intends to care for the child during each week in which she receives statutory shared parental pay;

- is entitled to statutory maternity pay in respect of the child, but the maternity pay period has been reduced.

In addition, for the mother to be eligible for statutory shared parental pay, her partner (i.e. the child's father or the mother's spouse, civil partner or partner) must:

- have been employed or self-employed during at least 26 of the 66 weeks before the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold (currently £30) for any 13 of those 66 weeks; and
- have the main responsibility for the child at the date of the birth (apart from the responsibility of the mother).

Partner's eligibility for statutory shared parental pay

3.3.2 The partner is eligible for statutory shared parental pay if he/she:

- has at least 26 weeks' continuous employment by the end of the 15th week before the expected week of childbirth and remains in continuous employment with that employer until the week before any period of shared parental leave that he/she takes;
- has normal weekly earnings for a period of 8 weeks, ending with the 15th week before the expected week of childbirth, of at least the lower earnings limit for national insurance contribution purposes;
- has the main responsibility for the care of the child at the date of the birth (apart from the responsibility of the mother);
- is absent from work and intends to care for the child during each week in which he/she receives statutory shared parental pay;
- has complied with the relevant notice and evidence requirements

In addition, for the partner to be eligible for statutory shared parental pay, the mother must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold (currently £30) for any 13 of those 66 weeks;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child; and
- be entitled to statutory maternity pay or maternity allowance in respect of the child, but the maternity pay period or maternity allowance period has been reduced.

4.0 Notice requirements for shared parental leave

4.1 The notices that the parents must give to the relevant employer to be able to take shared parental leave are made up of three elements. They are:

- a ‘maternity leave curtailment notice’ from the mother setting out when she proposes to end her maternity leave (unless the mother has already returned to work from maternity leave);
- a ‘notice of entitlement and intention’ from the employee giving an initial, non-binding indication of each period of shared parental leave that he/she is requesting; and
- a ‘period of leave notice’ from the employee setting out the start and end dates of each period of shared parental leave that he/she is requesting.

5.0 Shared Parental Leave & Pay

5.1 All pregnant employees must take at least 2 weeks compulsory maternity leave after the child’s birth. This means that the mother cannot cease her maternity leave to take shared parental leave until two weeks after the birth and the maximum period that the parents could take as shared parental leave is 50 weeks between them (although it will normally be less than this because of the maternity leave that mothers usually take before the birth). However, the mother's partner can begin a period of shared parental leave at any time from the date of the child's birth (but the partner should bear in mind that he/she is entitled to take up to two weeks' ordinary paternity leave following the birth of his/her child, which he/she will lose if shared parental leave is taken first).

5.2 The period of Shared Parental Leave will be for a combined maximum period of 52 weeks, whilst the Statutory Shared Parental Pay will be payable for a combined maximum period of 39 weeks. This period will be made up in 3 parts of the mother’s maternity leave, the mother’s shared parental leave and the partner’s shared parental leave. Shared Parental Leave must be taken in blocks of as least four weeks. Examples of how parents might wish to share the parental leave:

- the mother could take the first eight months, with the father taking the remaining four months;
- the mother could return to work for a period in the middle of the year with the father looking after the child for that time;
- the parents could both stay at home together with the child for up to six months.

5.3 Any period(s) of Shared Parental Leave must be taken within the 52 week period following the child’s birth, i.e. before the child’s 1st birthday.

5.4 Employees wishing to apply for Shared Parental Leave must do so using form ShP1. The completed form should be forwarded to Human Resources (HR) no later than 8 weeks before the intended start date, this will be inclusive of a 2 week ‘discussion period’ for the employer and employee to agree the leave request. HR will write to you, within 28 days of receiving your application. Depending on the circumstances involved there are three possible outcomes

once we have received, considered and discussed a notice to book Shared Parental Leave:

A) Unconditionally accept a leave notification
B) Confirm an agreed modification to a leave notification
C) Refuse a leave notification (discontinuous leave only)

5.5 If you are the mother of the child and you are a Moray Council employee, you will be required to complete form ShP2 Form for Notification of Intention to Cease Maternity Leave. Either when you intend to return to work or if you wish to end your maternity leave and commence share parental leave.

5.6 The period of shared parental leave can be taken as one period or can be taken in blocks of weeks, subject to approval by the Council taking account of the requirements of the service they are employed in.

5.7 Shared Parental Pay and the amount payable will depend on both you and your partner's periods of continuous service with your respective employers and the level of National Insurance Contributions paid.

5.8 Employees, both full and part-time, who are, either the mother or the mother's partner are entitled to Statutory Shared Parental Pay, if:

- they have worked for the Council for a continuous period of at least 26 weeks ending with the qualifying week, which is 15 weeks before the expected week of childbirth.

- their average weekly earnings in the eight weeks up to and including the qualifying week was at least equal to the lower earnings limit for National Insurance Contributions.

5.9 If the mother does not qualify for maternity pay (either statutory maternity pay or maternity allowance), then neither she nor her partner will be entitled to Shared Parental Leave and pay.

5.10 Statutory Shared Parental Pay is only payable when you are on leave from work. However, 'shared parental leave in touch' days give employees the chance to go to work and keep in touch without losing their right to Shared Parental pay. Employees cannot utilise SPLIT days during the first 2 weeks after the child's birth. If you exceed the maximum keeping in touch days and/or work for the Council in any particular week you will be disqualified from receiving Statutory Shared Parental Pay for that week.

5.11 The number of shared parental leave requests or changes to current requests will be restricted to 3. Any mutually agreed changes will not fall within the cap.

5.12 The mother can withdraw her notice to cease her maternity leave in limited circumstances. The withdrawal of a maternity leave curtailment notice must be in writing and can be given only if the mother has not returned to work. The mother can withdraw her maternity leave curtailment notice if:

- it is discovered that neither the mother nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother withdraws her maternity leave curtailment notice within eight weeks of the date on which the notice was given;
- the maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth; or
- the partner has died.

6.0 Start of Shared Parental Leave before the Notified Date

6.1 An employee cannot normally start their Shared Parental leave unless he/she has given the Council the required notice, except in the following circumstances:

- If an employee gives birth before the date she has notified, or before she has notified a date, her Shared Parental leave period will commence no earlier than 2 weeks after the child's birth.

7.0 SPLIT Days

7.1 During Shared Parental Leave an employee and employer will be able to agree up to 20 days with normal pay as Shared Parental Leave in Touch (SPLIT) days, without bringing the Shared Parental Leave period to an end. Normal pay will be an amount inclusive of Statutory Shared Parental Pay or Shared Parental Allowance, as appropriate. These 20 days will be in addition to the 10 Keeping in Touch Days (KIT days) already available for women on statutory maternity leave.

7.2 SPLIT days do not have to be consecutive, and can be used for training or any other activity which enables you to keep in touch with your place of employment.

7.3 SPLIT days can only be taken following agreement between yourself and your line manager as to the activity and the timing, of such activity.

7.4 Employees cannot be forced to take SPLIT days, nor does the Council have to offer them.

7.5 If you do participate in a SPLIT day(s), then your Manager should notify the Payroll Section accordingly. Payment for SPLIT days will be made when you return to work following your period of shared parental leave.

8.0 Reasonable Contact

8.1 An employer and employee are allowed to make reasonable contact during Shared Parental Leave, to discuss such issues as the return to work. This does not constitute 'work' and does not therefore count towards the 20 SPLIT days. Such contact will not bring the Shared Parental leave to an end. Apart from discussing the return to work, the department should ensure that an

employee is kept informed of other issues, such as job vacancies, significant workplace developments such as staffing changes and training opportunities.

9.0 Returning to Work

9.1 If you return to work within the first 26 weeks, or following 26 weeks of cumulative Shared Parental Leave (maternity/paternity/adoption leave) you have the right to return to the same job with the same terms and conditions, unless a redundancy or "in excess" situation has arisen or there is some other reason why it is not reasonably practicable for the Council to take you back in your original job. In these circumstances, you are entitled to be offered a suitable alternative job. If you return following more than 26 weeks leave then you will have the right to return to the same job or, if that is not reasonably practicable, a similar job.

10.0 Consecutive periods of Shared Parental Leave

10.1 An employee may become pregnant again during a period of Shared Parental leave and therefore be entitled to another period of leave without returning to work. In this case, you have the right to return to the same job or, if that is not reasonably practicable, a similar job.

11.0 Benefits

11.1 During Shared Parental Leave, you are entitled to benefit from the terms and conditions of your employment, except remuneration.

11.2 Annual Leave and Public Holidays will continue to accrue during Shared Parental Leave period (i.e. up to 52 weeks). You must ensure that any holidays accrued prior to your Shared Parental Leave period, are taken prior to commencement of your Shared Parental Leave. All holidays accrued during your Shared Parental Leave period should be taken at the end of the leave period i.e. before returning to work.

11.3 Contributions to the Local Government Superannuation Scheme continue to be deducted from actual pay received (i.e. remuneration and Statutory Shared Parental Pay). If you have a period of leave without pay, but would like this period to count as part of your pensionable service, you must elect to do so within 30 days of returning to work. Contributions for this period are paid on the reduced remuneration you were entitled to receive immediately prior to the unpaid period. The Payments Section will notify the Pensions Section on your return and you will receive correspondence from the Pensions Section giving you the option to pay contributions for the unpaid period. If you choose not to pay contributions for the period of unpaid leave, you will not receive credit for this period of service.

12.0 Adoption & Surrogacy

12.1 Shared parental leave will also apply to parents who are adopting a child due to be placed on or after 5 April 2015 via an adoption agency. In order for adoptive parents to take shared parental leave in respect of a child they

must been similar eligibility criteria as described above, and be entitled to statutory adoption leave. Parents must provide a similar notice of entitlement to their employers, however the notice must also confirm:

- the date the parents were notified as having been matched with the child;
- the date the child is expected to be placed with the parents; and
- a declaration which includes the parents' national insurance numbers and consent to the amount of time the other parent intends to take.

Evidence of eligibility in this case will be copies of documents issued by the adoption agency confirming the date the parents were matched with the child.

12.2 For surrogacy arrangements, if the intended parents have applied, or intend to apply, for a 'parental order' then, subject to meeting qualifying conditions, the nominated 'primary' adopter will be entitled to take adoption leave and pay and to end their adoption leave early and move onto shared parental leave.

Definitions

Childbirth - Childbirth means the live birth of a child, or a stillbirth after a pregnancy lasting at least 24 weeks.

Reference Documents

Form SHP1 – *Form for notification of entitlement & intention to opt in to shared parental leave scheme* – Employee to complete and submit to the Human Resources Section

Form ShP2 – *Form for notification of intention to cease maternity leave* – employee to complete and submit to Human Resources Section

Form ShP3 – *Form for notification of a period of leave notice* - employee to complete and submit to Human Resources Section

Form ShP4 – *Form to vary or cancel a notification of entitlement & intention* - employee to complete and submit to Human Resources Section

Form ShP5 – *Form to vary or cancel a period of leave notice* - employee to complete and submit to Human Resources Section

Shared Parental Leave request to discuss leave booking

Confirmation of entitlement to Shared Parental Leave

Confirmation of Shared Parental Leave booking

Shared Parental Leave: Refusal of a discontinuous leave booking

Associated Documents

Readers are also referred to the following **Family Friendly** policies and procedures:

- Guidance on Maternity Leave and Pay
- Paternity Leave/Maternity Support Policy
- Parental Leave
- Flexible Working
- Job Sharing Scheme
- Special Leave
- Leave of Absence