

## Annex 5

# **FLEXIBLE WORKING & TIME OFF POLICY**

## **1. INTRODUCTION**

- 1.1. Within the limitations necessarily imposed by the provision of services to the public, the Council acknowledges the importance of balancing working time requirements with the differing needs and/or priorities that individual staff have outside work in order that it can retain a motivated and demographically diverse workforce.
- 1.2. This document gives a summary of the types of flexible working and time off issues that are available for staff and managers to consider. It should be recognised that, due to the rigid nature of some jobs, it will not be possible for all staff to have as much flexibility as they might wish. It will be for Chief Officers to determine what methods of flexible working are applicable to each section/job. However, it will be for management to demonstrate why a particular method cannot be facilitated.
- 1.3. When considering requests for changes to working patterns, leave (such as annual leave and flexi-time leave), time off in lieu etc, managers will be mindful of their responsibility to ensure levels of staffing/office cover that are necessary to enable the Council to undertake its commitments to the public and to discharge its responsibilities for the health and well being of those providing office/service cover.
- 1.4. The Council will adhere to legislation concerning flexible working and will not discriminate unlawfully when making decisions about whether to allow someone to work flexibly.

## **2. FLEXITIME**

- 2.1 In sections where it is possible to run a flexitime working hours scheme staff will have the opportunity to vary times of arrival at and departure from work and the length of their lunch break subject to there being a period of core hours and that offices are staffed sufficiently to respond to customers during the period from 0830 to 1700 hours.
- 2.2 Staff participating in the scheme will be required to record their working time on the forms which will be provided for each section participating in the scheme.
- 2.3 It has to be understood that within the scheme there will be varying degrees of flexibility depending on the nature of the work. In some sections a very large degree of flexibility outside of the core hours will

be practicable, in others e.g. customer services, caretaking, operational staff at the leisure centres, it will be essential to pre-determine with staff the pattern of hours they will work so that services can be maintained. In these sections staff will need to agree with their managers any departures from normal patterns of work to minimise service disruptions.

## **2.4 Core and Variable Time**

2.4.1 Core working hours are 1000 to 1200 hours and 1400 to 1600 hours, Monday to Friday unless alternative core times are agreed between managers and staff. This may be the case where sections have peak workloads at times outside the standard core hours. Where necessary, core times will also be different for part time staff. Time worked outside of core hours and between 0730 and 1830 hours therefore represents the variable working time.

2.4.2 However, the variable working time may be in a narrower band for staff who depend on certain computer systems for their work if those systems are not available throughout the standard variable time. This issue will need to be resolved at a section level. Time worked between 1830 and 0730, or between the limits of such narrower bands of variable time that are determined for certain sections, is not recordable for the purpose of flexitime but may be claimed as overtime or time off in lieu by staff who qualify for these. A minimum of 30 minutes must be taken for lunch between 12.00 and 14.00.

## **2.5 Recording and Accruing Working Time**

2.5.1 A four week settlement period will apply, whereby at the end of each settlement period a maximum credit or debit of 10 hours can be carried over into the next settlement period. Unless authorised by the Chief Officer due to exceptional circumstances, any hours in excess of 10 hours will not be carried forward. Deficits in excess of 10 hours should be taken from the employee's annual leave entitlement.

2.5.2. If sufficient credit time has been accrued, flexi-leave may be taken in full or half days other than for medical and dental appointments, when the amount of time needed can be taken. A maximum of 1 day's flexi-leave can be taken in any settlement period. All flexi-leave must be agreed with the employee's manager in advance.

2.5.3 Hours not worked because of training, external meetings, sickness or approved leave will be 'credited'. Other hours not worked, e.g. dealing with domestic emergencies, traffic delays or planned medical or dental appointments will not be counted as working hours. Planned dental, hospital or doctors' appointments should be arranged in an employee's own time where possible. In the event that such appointments must take place during work time then flexi-leave, time in lieu, lunch breaks or annual leave must be used to cover the absence. The exceptions to this will be in the case of a pregnant employee who has medically necessary ante natal appointments for

which she has the right to paid time off (where such appointments will be accounted for as working hours), and employees with disability who are required to access regular medical treatment. In the case of the latter, it will be for management and the individual to agree how such time off will be accounted for and whether the flexi-time scheme is the appropriate method of accounting for this time.

The phrase 'Planned dental, hospital or doctors' appointments' assumes that the individual is fit to return to work after the appointment. In the event that they are medically not fit to do so, the individual should self-certify as sick.

2.5.4 Bank/Public Holidays and annual leave should be recorded as 7 hours 24 minutes (7.4 hours) for a day and 3 hours 42 (3.7 hours) minutes for half a day.

2.5.5 For further detailed guidance on the recording requirements of the flexi-time scheme please refer to the Flexible Working & Time Off Accounting Sheet Instructions on the Personnel Reference Manual.

## **2.6 Review**

2.6.1 The Council reserves the right to withdraw or suspend the scheme generally, or in specific sections should circumstances make this necessary, following a minimum of four weeks notice to staff. Staff may withdraw from the scheme by written notice to their manager at the end of any accounting period (ensuring that they have no debit to carry forward).

2.6.2 Failure on the part of an individual member of staff to abide by the terms of the flexitime scheme will result in its withdrawal and abuse of the scheme will be treated as a disciplinary matter.

2.6.3 Any dispute concerning the operation of the scheme, which cannot be settled by the Service, will be dealt with through the grievance procedure.

## **3. TIME OFF IN LIEU**

3.1 Where flexitime is not in operation or the time worked is not within the flexi-time band of core and variable hours, non-M grade staff may request to claim time off in lieu rather than being paid for additional hours or overtime.

3.2 Non-M grade staff requiring a specific period of time off work can request that they be allowed to work such hours back at a later time. Such requests must have the agreement of the line manager and hours 'worked back' must complement service needs.

- 3.3 M grade staff are contracted to work the time that is necessary for the proper and efficient despatch of their duties and responsibilities. They do not have a contractual right to overtime payments or time off in lieu. However, managers of M grade staff should monitor their working time, particularly where this involves significant evening or weekend commitments, and may sanction arrangements for compensatory time off where justified by evening or weekend workload levels.

## **4. REQUESTS TO WORK PART-TIME, JOB SHARE OR CHANGE DISTRIBUTION OF HOURS**

- 4.1 All employees have a right to request a change from full to part-time hours or to vary the distribution of their present hours. Such requests will be fully considered, by the relevant managers (supported by a representative from Personnel Services ), following the procedure set out in the Annex to this policy. Whilst it may not always be possible to find an arrangement that satisfies both the individual and the service need, every attempt will be made to find a complimentary solution.
- 4.2 There are a number of factors that may influence the response to such requests, including rights conferred by the Equality Act 2010. In instances where an employee has requested an adjustment on the grounds of a disability, managers will be mindful of the duty to make reasonable adjustments to a working pattern if this removes a barrier to the employee being able to do the job. Managers will also consider requests for adjustments in working patterns to accommodate caring responsibilities, requirements pertaining to religion or belief and issues relating to gender reassignment within the framework provided by the Equality Act 2010. In accordance with the Parental Leave (EU Directive) Regulations 2013, agency workers returning from a period of parental leave have the right to request flexible working.
- 4.3 Job sharing provides a convenient solution to requests to work part-time where full time hours are required. However, the arrangement of a job share for an existing member of staff can be limited by the ability to fill the 'other half'. Again, every attempt will be made to find a solution but, in the event that none can be found, the request may be refused.
- 4.4 An assumption will be made that an advertised post will be open to job sharing unless the Chief Officer has demonstrated that it cannot be.

## **5. TERM-TIME WORKING**

- 5.1 Term-time working allows for absences during school holiday periods, allowing parents to be at home to care for children. In small teams it can be hard to accommodate one person's absence for such periods without burdening others and in a relatively small organisation like Tonbridge & Malling it is likely to be particularly difficult to accommodate this type of flexible working. Therefore, any employees wishing to move to term time working should make proposals to their manager that explain how their request could be met and any detrimental effects reasonably overcome.
- 5.2 Any agreement to allow term-time working will be reviewed annually and withdrawn where it has adversely affected the effective running of a service or the motivation or welfare of other staff.
- 5.3 Those for whom term time working has been agreed will be required to work according to the dates of the academic year of the relevant Education Authority or private school (approximately 38 weeks) for an agreed number of hours per week. The first day of the autumn term will be considered to be the beginning of the new academic year. Should the year's term dates exceed or fall short of the equivalent of 38 weeks, any outstanding balance of hours will be paid or deducted at the year end. To this end term time workers will be required to maintain a timesheet, which should be submitted on the first day of each month to their line manager. In the event that the contract is brought to an end, by either the individual or the Council, before the beginning of a new academic year and the individual has been paid for more or less hours than they have worked on a pro rata basis, the balance will be paid to them or deducted from their final salary payment.
- 5.4 Entitlement to leave will be on a pro rata basis, according to the number of whole calendar months worked. Any overtaken leave at the time of termination will be deducted from the final salary payment.

## **6. MATERNITY LEAVE**

- 6:1 Pregnant employees have the right to paid time off for ante-natal care.
- 6:2 Employees with more than 26 weeks continuous TMBC service, and who meet the necessary qualifying criteria, have a basic right to Statutory Maternity Leave of 39 weeks paid leave and a further 13 weeks unpaid leave.
- 6:3 For employees with more than 1 years continuous local government service, there is an occupational entitlement to enhanced rates of maternity pay (six weeks at 9/10ths pay, twelve weeks at half pay plus Statutory Maternity Pay, and then 21 weeks at the statutory rate).
- 6:4 In order to retain the half pay element mentioned above, an employee must return to work following the end of their maternity leave for a minimum of three months.

6:5 Employees on maternity leave can work for up to 10 Keeping in Touch days during their maternity leave.

## **7. PATERNITY LEAVE**

7:1 For employees with at least 26 weeks continuous service with TMBC, and who satisfy the conditions relating to Statutory Paternity Leave, there is a statutory entitlement to two weeks paternity leave with Statutory Paternity Pay. For employees with more than 1 years continuous service with TMBC, there is an occupational entitlement for one of these weeks to be paid at the normal weekly rate.

7:2 Paternity Leave can be taken by the biological father, the mother's husband, partner or civil partner, or the adopter's spouse, partner or civil partner. They must have or expect to have responsibility for the child's upbringing.

### 7:3 Statutory Paternity Pay

7:3:1 In order to be assessed for Statutory Paternity Pay, form SC3 (for paternity leave), form SC4 (for paternity leave adoption) or form SC5 (for paternity leave adoption from abroad) should be completed by the employee and forwarded to the payroll office by the 15<sup>th</sup> week before the baby is due or within 7 days of the adopter being notified of being matched with a child.

7:3:2 The employee can change their mind about the intended start date but should give the employer 28 days notice of the dates.

7:3:3 If it is not possible to give the necessary notice, the issue should be discussed with the Line Manager who should liaise with Personnel and Payroll.

7:3:4 Statutory Paternity Pay can be paid for one or two weeks (but not two separate weeks).

7:3:5 Paternity leave cannot start before the child is born and must finish within 56 days of the actual birth or expected week of childbirth.

### 7:4 Additional Paternity Leave

7:4:1 In addition to the provisions outlined above, employees will be entitled to take additional paternity leave (APL) of between 2 to 26 weeks in the first year of their child's life, or the first year after the child's placement for adoption. In order to be assessed whether there is an entitlement for payment for any of this leave the employee needs to complete form SC7 (for parents), SC8 (for adoptive parents, or SC9 (for adoptions from abroad).

7:4:2 Employees can start their additional paternity leave any time from 20 weeks after the child is born, provided that the mother or adopter has returned

to work. Any APL which falls within the mother or co-adopters statutory maternity or adoption leave pay will qualify for the remainder of the mother's or co-adopter's statutory maternity or adoption leave pay. This will be paid to the father as additional statutory paternity pay. Contractual benefits, apart from remuneration, will continue during APL and fathers will be able to take Keeping in Touch Days.

## **8. PARENTAL LEAVE**

8:1 If you have at least one year's continuous service with your employer and are responsible for a child aged under 5, or under 18 if your child is entitled to Disability Living Allowance, you are entitled to:

- 18 weeks (unpaid) leave per child to look after your child
- 18 weeks (unpaid) leave per child to look after your disabled child

8:2 To qualify for parental leave, you must be a parent (named on the birth certificate), adoptive parent, or have acquired legal parental responsibility for the child.

8:3 The leave must be taken by the child's fifth birthday, or for a child who is entitled to Disability Living Allowance, by their 18th birthday. For parents who have adopted a child, the leave must be taken during the five years from the date of placement or before the child's 18th birthday, whichever is the sooner.

8:4 Leave can be taken in blocks of a week and up to four weeks in a year, or blocks of a day if the leave is to care for a disabled child (again, up to a maximum of four weeks a year).

8:5 You must give at least 21 days' notice to your employer in order to take parental leave.

8:6 Parental leave can be postponed by TMBC if taking leave at the time requested would cause particular disruption to the organisation, e.g. during a seasonal peak in work or if multiple requests for parental leave are made at the same time.

8:7 If leave is postponed, TMBC must inform the employee within seven days of the request for leave being made, and the leave must be granted within six months. Parental leave cannot be postponed if it has been requested for the time immediately after the birth of a child or the start of an adoption placement.

## **9. SHARED PARENTAL LEAVE**

9.1 SPL enables eligible parents to choose how to share the care of their child during the first year of birth (or adoption). 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 SPL. There may also be an entitlement to Shared Parental Pay. The full policy is at Annex 2.

## **10. ADOPTION LEAVE**

10:1 Employees will be allowed up to five days paid leave for the purpose of visiting a child and making the necessary arrangements with the Adoption Agency or Social Services Department. This leave applies to both prospective parents.

10:2 Employees with more than 26 weeks continuous service, and who meet the necessary qualifying criteria, have a basic right to Statutory Adoption Leave which mirrors the Statutory Maternity Leave and Statutory Paternity Leave provision.

10:3 For employees with more than 1 year's continuous service with TMBC, there is an occupational entitlement to enhanced rates of adoption pay.

## **11. PARENTAL BEREAVEMENT LEAVE**

11:1 The Council wishes to show compassion in circumstances where staff, who are parents, experience the death of a child under the age of 18 or a still birth after 24 weeks of pregnancy. The provisions below are designed to set out a minimum standard of leave and pay in these circumstances.

11:2 A bereaved parent is anyone who had responsibility as one of the primary carers for a child who is now deceased. This includes adoptive parents, legal guardians, individuals who are fostering to adopt, and any other parent/child relationship that the Council deems to be reasonable. For example, this may include grandparents who have had caring responsibilities for a child in the absence of parents, or instances where someone other than the biological parent is the primary carer (this could be the case where the parents of the child have separated).

11:3 All bereaved parents will be eligible for a minimum of two weeks of parental bereavement leave. A bereaved parent will not be required to demonstrate any eligibility criteria in order to access bereavement leave or pay.

11:4 Bereaved parents with more than 26 weeks continuous local government service will be entitled to two weeks' occupational parental bereavement pay which will include any entitlement to statutory parental bereavement pay. Pay is calculated on the basis of what the individual would have received had he/she been at work. This would normally be based on the previous three months at work.

11:5 Where both parents of a deceased child work for the Council, the entitlements in this policy will apply to both members of staff.

11:6 Parents who experience a still birth from the 24th week of pregnancy will be eligible for these provisions. Bereavement leave and pay may be extended to members of staff, by agreement of the Chief Officer, in



circumstances where they were hoping to become parents under surrogacy arrangements.

11:7 Bereavement leave may be taken in a continuous 2 week block, or as 2 separate weeks. The employee should confirm in writing to their line manager the leave they wish to take. Taking parental bereavement leave is an individual choice, it is not compulsory for the employee to take such leave.

11:8 Bereaved parents may request to take parental bereavement leave at any point up to 56 weeks following the death of the child. Should the parent wish to take parental bereavement leave immediately following the death of a child they shall be able to do so upon informing their line manager in writing that they will be absent from work for this purpose. Should the parent wish to take bereavement leave at another time, after the initial period following the death, they should give their line manager reasonable notice in writing of their intention to take the leave at this time.

11:9 Bereaved parents will at no point be required to produce the child's Death Certificate, or any other official documents, in order to access parental bereavement leave or pay.

## **12. COMPASSIONATE LEAVE**

12:1 Compassionate Leave is at the discretion of Chief Officers to whom requests for such time off should be directed. In most instances between 1 and 5 days paid leave will be granted but this will entirely depend on the circumstances and the reasons leading to the request.

## **13. SPECIAL LEAVE**

13:1 Special Leave is normally unpaid and meant to be used whenever it is not appropriate or possible to use annual or compassionate leave. Again, it is at the discretion of Chief Officers.

13:2 Where the request is only for one or two day's leave, Chief Officers may consider allowing the individual to work the hours back at some time in the future rather than to reduce their pay.

## **14. TIME OFF FOR RELIGIOUS HOLIDAYS**

14:1 Leave for religious holidays/festivals not celebrated by a public holiday will not be unreasonably refused and should be taken out of the annual leave entitlement.

## **15. JURY SERVICE**

15:1 If you are called for Jury Service, inform your Chief Officer of the dates you have been asked to attend. The Courts will send you a Loss of Earnings Certificate which you should take to Payroll.

## **16. TIME OFF FOR PUBLIC DUTIES**

16:1 Reasonable paid time off during working hours of up to 18 paid days per year may be authorised by your Chief Officer for the performance of the following public duties:

- Justice of the Peace
- A member of a local authority
- A member of a statutory tribunal
- A member of an NHS Trust board or Health Authority or Primary Care Group
- A governor of an educational establishment
- A member of a board of visitors for prisons, remand centres and young offenders institutions
- A member of a housing association board
- A member of the Territorial Army

16:2 Although this is discretionary, Chief Officers are encouraged to allow time off for such duties wherever reasonably practical, and likewise employees are expected to ensure the time off does not have a detrimental effect on the performance of their job wherever this can be avoided.

16:3 Performance of any such duty should be declared in accordance with the Code of Conduct.

16:4 Paid time off of up to three days per year may also be authorised for the performance of voluntary duties with recognised groups undertaking work of benefit to the residents of the borough.

## **17. TIME OFF FOR STUDY & TRAINING**

17:1 To make a request for time to train an individual must:

- be an employee
- have worked for the Council continuously for at least 26 weeks on the date they make their request.

17:2 As there is no time limit for the length of time that the study or training may take, potentially the entire range of developmental activity currently supported by the Council could fall within the remit of these regulations – IF THE INDIVIDUAL REQUESTING THE TRAINING CHOOSES TO INITIATE THE FORMAL PROCESSES SET OUT IN The Employee Study & Training (Procedural Requirements) Regulations 2010.

17:3 Employees will have the right to request that the Council allow them time to undertake training. They do not have the right to be paid for the time spent training.

17:4 In order for a request for time to train to be a valid request, covered by the legislation, it must be submitted in writing.

17:5 The timescales for considering time to train requests mirror those set out in the requesting flexible working procedure set out in the Annex to this policy.

17:6 The employee's request for time to train can only be refused for one of the "business reasons" set out in the Annex (below) to this policy.

17:7 For detailed guidance on the provision for supporting staff engaged in study and training activity, please refer to the Training Expenses & Facilities Scheme on the Personnel Reference Manual.

Personnel Services

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## Annex 1

### REQUESTING FLEXIBLE WORKING PROCEDURE

This procedure should be followed whenever an employee makes a request to work part time, job share or change the distribution of their hours, or for time off for study or training.

An employee can make only one request every 12 months. The employee and their line manager, supported by a representative from Personnel Services, should follow the procedure set out below. Time limits can be extended only where this has been agreed in writing.

The employee initiates the procedure by making a formal written request. The request should include details of the requested change in working pattern and the date on which it is proposed the change should take effect. The employee should also explain what effect, if any, he or she thinks making the change would have on the service they provide or role they undertake, and how, in his or her opinion, any such effect might be dealt with. A copy of this formal request should be sent to the relevant line manager and Personnel Services.

The line manager, having consulted a representative from Personnel Services, may agree to the employee's request to vary their working patterns, or for time off for study or training. If so, they must write to the employee within 28 days of receipt of the employee's request. The letter must set out the agreed changes to the employee's working patterns and the date these are to commence.

In the absence of an immediate agreement to the employee's request, the line manager must arrange a meeting within 28 days to consider the employee's request. An employee has the right to be accompanied by a work colleague or trade union official working for the Council at the meeting. The manager will be supported by a representative from Personnel Services.

The manager must consider the employee's request seriously and, in the case of a change to the pattern of working hours, can only refuse the request for one of the following prescribed business reasons:

- the burden of additional costs;
- detrimental effect on the ability to meet customer demand;
- inability to reorganise work among existing staff;
- inability to recruit additional staff;
- detrimental impact on quality;
- detrimental impact on performance;
- insufficient work during the periods the employee wished to work;
- planned structural changes.

There are the following two additional reasons for refusing a request for time off for study or training;

- the proposed study or training would not improve the employee's effectiveness;
- the proposed study or training would not improve the performance of the Council.

The manager must notify the employee in writing of their decision within 14 days of the meeting.

The employee must be given the opportunity to appeal the decision. The employee must outline in writing the reasons why he or she thinks the decision is wrong within 14 days of the decision. The appeal letter should be submitted to the employee's Chief Officer, or the Chief Executive or his/her nominated deputy (as appropriate).

The Chief Officer, Chief Executive or nominated deputy will then organise an appeal meeting to consider the employee's appeal. An employee has the right to be accompanied by a work colleague or trade union official working for the same employer at the appeal meeting. The manager hearing the meeting will be supported by a representative from Personnel Services.

The manager hearing the appeal meeting must notify the employee of their final decision within 14 days of the appeal meeting. If they agree to vary the employee's working pattern, it should be set out in writing what the agreed change is and when it is to start. If they do not agree to any change, they should provide the employee with their reasons.

Any changes put in place will be permanent unless the employee and employer agree otherwise. For example, the changes could be put in place for a three month trial period.

## Annex 2

# Shared Parental Leave Policy and Guidelines

### 1. Aim of the Policy

1.1 The Shared Parental Leave Regulations 2014 came into force from 1 December 2014 and have effect only in relation to children whose expected week of birth is after 5 April 2015.

1.2 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).

### 2. Scope

This policy covers all Council employees, including those employed under part-time and fixed term arrangements.

### 3. What is Shared Parental Leave?

SPL enables eligible parents to choose how to share the care of their child during the first year of birth (or adoption). 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 SPL. There may also be an entitlement to ShPP.

### 4. Eligibility

4.1 SPL can only be used by two people:

- The mother/adopter and
- One of the following:
- the father of the child (in the case of birth) or
- the spouse, civil partner or partner of the child's mother/ adopter

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

4.2 An employee seeking to take SPL must satisfy each of the following criteria:

- the mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or, if not entitled to statutory maternity/adoption leave, they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements
- the employee must still be working for the organisation at the start of each period of SPL

- the employee must pass the 'continuity 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/matching 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/matching date have worked for at least 26 weeks and earned an average of at least £30 a week in any 13 of those weeks (this is correct as of 2015 but may change annually)
- the employee must correctly notify the organisation of their entitlement and provide evidence as required

4.3 Employees are responsible for ensuring that they and their partner are eligible for SPL / ShPP.

## 5. The Shared Parental Leave entitlement

5.1 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/adopter's entitlement to maternity/adoption leave that allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement, then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.

5.2 A mother/adopter may reduce their entitlement to maternity/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.

5.3 A mother, subject to certain criteria, will be entitled to statutory maternity pay/ adoption pay/Maternity Allowance for up to 39 weeks. If the mother gives notice to reduce their entitlement before they will have received it for 39 weeks, then any remaining weeks could become available as ShPP. 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, SAP or MA taken by the mother/adopter.

5.4 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 adopter can take SPL after taking at least two weeks of adoption leave
- The father/partner/spouse can take SPL immediately following the birth/placement of the child, 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)

5.5 Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.

5.6 SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice.

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

5.8 SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption will be lost.

5.9 SPL entitlement is not affected by the number of children born or expected as a result of the same pregnancy.

## 6. Notifying the Council of an entitlement and an intention to take Shared Parental Leave

6.1 If you are entitled to and are intending to take SPL, you must give your line manager at least eight weeks notification before you can take any period of SPL.

6.2 You are encouraged to discuss your intention to take SPL with your line manager at the earliest opportunity, to give more time for options to be considered.

6.3 Part of the eligibility criteria requires you to provide the organisation with correct notification. All notifications must be in writing (an e-mail is acceptable) and requires each of the following:

- your name
- the name of the other parent
- the start and end date of any maternity/adoption 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 and the actual date of birth or, in the case of an adopted child, the date on which you were notified of having been matched with the child and the date of placement for adoption
- the amount of SPL you and your partner each intend to take
- a non-binding indication of when you expect to take the leave

6.4 You must provide your line manager with a signed declaration stating:

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

6.5 You must provide your line manager with a signed declaration from your partner confirming:



- their name, address and national insurance number (or a declaration that they do not have a national insurance number)
- that they are the mother/adopter of the child or they are the father of the child or are the spouse, civil partner or partner of the mother/adopter
- that they satisfy the 'employment and earnings test', and have at the date of the child's birth or placement for adoption the main responsibility for the child along with you
- the name and business address of your partner's employer (where your partner is not employed or is self-employed their contact details if not previously provided must be given instead)
- that they consent to the amount of SPL that you intend to take
- that they consent to the Council processing the information
- in the case that you are the mother/adopter, that they will immediately inform you should they cease to satisfy the eligibility conditions

#### 6.6 You must provide to your manager as evidence of eligibility

- in the case of biological parents and when available, 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 you were notified of having been matched with the child and the date on which the agency expects to place the child for adoption with you

#### 7. Fraudulent claims

Where there is a suspicion that you may have provided false information, the Council will investigate the matter in accordance with the Disciplinary and Grievance policies.

#### 8. Booking Shared Parental Leave

8.1 In addition to notifying your line manager of your entitlement to SPL/ShPP, you must also give notice to take the leave. It is expected that your notice to take leave will be given at the same time as your notice of entitlement to SPL.

8.2 You have the right to submit three notifications specifying the leave periods that you 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 you intend to return to work between periods of leave.

8.3 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 you return to work between periods of SPL, your next period of SPL can start on any day of the week.

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

8.5 Your 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).

8.6 You have 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 you (specified in the notice of entitlement) and you have given the Council at least eight weeks' notice.

8.7 You may submit up to three separate notifications for continuous periods of leave.

8.8 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 you return to work.

8.9 Where discontinuous leave has been requested, the Council will consider this but it has the right to deny the request and to then discuss with you about alternative dates. If no leave pattern can be agreed, you can either withdraw your request or you can take the leave in a single continuous block. If you choose to take the SPL in a single continuous block, you have until 19 days from the date that your original notification was given to choose when you want the SPL period to begin. The SPL cannot start sooner than eight weeks from the date the original notification was submitted. If you do not choose a start date, then the SPL will begin on the first leave date requested in the original notification.

8.10 All requests for SPL will be responded to within 14 days.

## 9. Variations to arranged Shared Parental Leave

9.1 You are permitted to vary or cancel an agreed and booked period of SPL, provided that you advise the organisation 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.

9.2 The variation notification will need to be signed by the employee and their partner, and set out

- details of the original arrangement
- that the employee wishes to change the arrangement
- details of the new SPL arrangement that the employee and their partner wish to take

9.3 Any variation or cancellation notification made by you, including notice to return to work early, will usually count as a new notification reducing your right to book or vary leave by one. However, a change as a result of a child being born early, or as a result of the Council requesting it be changed, and you being agreeable to the change, will not count as a further notification.

## 10. Shared Parental Pay (ShPP)

### 10.1 Statutory ShPP

10.1.1 You 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.

10.1.2 ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.

10.1.3 In addition to meeting the eligibility requirements for SPL, if you are seeking to claim ShPP, you 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
- you must intend to care for the child during the week in which ShPP is payable
- you must have an average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child's expected due date that are not less than the lower earnings limit in force for national insurance contributions
- you must remain in continuous employment until the first week of ShPP has begun
- you must give proper notification in accordance with the rules set out below (see 10.5)

10.1.4 If you are entitled to receive ShPP, you must at least eight weeks before receiving any ShPP, give your line manager written notice advising him/her of your entitlement to ShPP. To avoid duplication, if possible, this should be included as part of your notice of entitlement to take SPL.

10.1.5 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 amount of ShPP available, the amount of ShPP you and your partner each intend to claim, and a non-binding indication of when you expect to claim ShPP
- a signed declaration from you, confirming that the information you have given is correct, that you meet or will meet the criteria for ShPP and that you will immediately inform the organisation should you cease to be eligible

10.1.6 It must be accompanied by a signed declaration from your partner confirming:

- their agreement to you claiming ShPP and for the Council to process any ShPP payments to you
- in the case whether the partner is the mother, that they have reduced their maternity pay or maternity allowance
- in the case whether the partner is the mother that they will immediately inform their partner should they cease to satisfy the eligibility conditions

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

## 10.2 Contractual ShPP

10.2.1 To qualify for contractual ShPP you must:

- have at least 1 year's continuous local government service at the beginning of the 11th week prior to the EWC,
- continue to be employed immediately before your SPL starts,
- have already followed the process for notifying your line manager of your pregnancy.

10.2.2 Contractual Shpp is made up of:

- 6 weeks at 90% of Average Weekly Earnings (this will be paid during weeks 1 to 6 of the leave period)
- 12 weeks at half pay (if you intend to return to work) in addition to Statutory ShPP – total amount not exceeding full pay (this will be paid during weeks 7 to 18 of the leave period)

10.2.3 Contractual ShPP, as with Contractual Maternity Pay, is linked to specified periods of Shared Parental Leave (i.e. weeks 7 to 18 for contractual half pay) if you are off during these periods, and meet the necessary criteria, you will receive the appropriate payments. However, if you return to work early and you have a partner who is a TMBC employee, and who meets the required criteria, they will be entitled to the contractual ShPP if they are off during the specified periods.

10.2.4 If both you and your partner are TMBC employees and you choose to take SPL at the same time, the entitlement to 12 weeks of contractual half pay will be shared equally between the two of you, i.e. you both receive the appropriate payment for 6 weeks.

10.2.5 If you are currently taking advantage of any salary sacrifice scheme, including childcare vouchers, average weekly pay will be calculated on a case-by-case basis to ensure that there is no additional cost to the Council.

## 11. Terms and conditions during Shared Parental Leave

11.1 Except for your salary, your contract of employment continues in force and you will receive all your contractual benefits.

11.2 Pension contributions will continue to be made during any period when you are receiving ShPP but not during any unpaid period. Your contributions will be based on actual pay, while the Council's contributions will be based on the average pensionable pay over the period of 3 months prior to the reduction occurring.

## 12. Annual Leave

SPL is granted in addition to your normal annual holiday entitlement. You are reminded that holiday should, wherever possible, be taken in the year that it is earned. Where an SPL period overlaps leave years, you should discuss with your line manager how your annual leave entitlement can be used to ensure that it is not untaken at the end of the holiday year.

## 13. Contact during Shared Parental Leave

Before a period of SPL begins, your line manager will discuss with you the arrangements for you to keep in touch. The Council reserves the right in any event to maintain reasonable contact with you from time to time during your SPL.

## 14. Shared Parental Leave in Touch (SPLIT) days

14.1 You can agree to carry out work for the organisation for up to 20 days during SPL without bringing your period of SPL to an end or impacting on your 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.

14.2 The Council has no right to require you to carry out any work, and the Council is under no obligation to offer you any work during your SPL. Any work undertaken is a matter for agreement between the Council and you. You will receive full pay for any hours/day worked under these arrangements. If a SPLIT day occurs during a week when you are receiving ShPP, this will be effectively 'topped up' so that you receive full pay for the hours worked. Any SPLIT days worked do not extend the period of SPL.

14.3 You may, with the agreement of the Council, use SPLIT days to work part of a week during your SPL or as part of return to work arrangements towards the end of a long period of SPL or to trial a possible flexible working pattern.

14.4 SPLIT days are in addition to Keeping in Touch (KIT) days that are already available to those on maternity or adoption leave.

## 15. Returning to work after Shared Parental Leave

15.1 You will have been formally advised in writing of the end date of any period of SPL and you are expected to return on the next working day after this date, unless you notify your line manager otherwise. If you are unable to attend work due to sickness, the normal arrangements for reporting sickness absence will apply.

15.2 If you wish to return to work earlier than the expected return date, you may provide a written notice to your line manager to vary the SPL and you must give the organisation at least eight weeks notice of your date of your early return and this will count as one of your notifications. If you have already

used your three notifications to book and/or vary leave then the Council does not have to accept your notice to return early but may agree to do so.

15.3 On returning to work after SPL, you are entitled to return to the same job if the aggregate of the total statutory maternity leave and SPL that you have taken amounts to 26 weeks or less. The same job is defined as the one that you occupied immediately before commencing maternity leave and the most recent period of SPL.

15.4 If the aggregate of your maternity leave and SPL amounts to 26 weeks or more, you are entitled to return to the same job you held before commencing the last period of leave. If this is not reasonably practicable, you are entitled to another job within the Council that is both suitable and appropriate and on no less favourable terms and conditions.

15.5 If you also take a period of unpaid parental leave of 4 weeks or less, this will have no effect on your right to return and you will still be entitled to return to the same job as you occupied before taking the last period of leave if the aggregate weeks of maternity leave and SPL do not exceed 26 weeks.

15.6 If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity and SPL do not exceed 26 weeks, you will be entitled to return to the same job you held before commencing the last period of leave. If this is not reasonably practicable, you will be entitled to another job within the Council that is both suitable and appropriate and on no less favourable terms and conditions.

## 16. Special Circumstances and further information

In certain situations, your rights and requirements regarding SPL and ShPP may change. In these circumstances the Council will abide by any statutory obligations and you should refer to the documents listed below and/or clarify any issues or queries with your line manager (or Personnel Services).

- The Shared Parental Leave Regulations 2014
- The Shared Parental Pay (General) Regulations 2014
- The Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014
- Employment Rights Act 1996
- Child and Families Act 2014
- Equality Act 2010

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