



East Dunbartonshire Council
Shared Parental Leave Policy
Revisions March 2015

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Appendix 2 – Shared Parental Leave Policy

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Monitoring and Review

This policy will be reviewed in line with:

- Legislative Change
- Other external factors
- Feedback on the effectiveness of the policy
- Requests for review by Elected Members, Trade Unions and/or Management

Alternative Formats

All Customer Services and Transformation Team policies and procedures can be found on The Hub.

The policy and procedure can also be made available (on request) in a variety of formats. These can be requested from the Customer Services and Transformation Team by contacting 0141 578 8471. Information will be made available in line with the Council Accessible Information Policy.

Shared Parental Leave Policy

1. INTRODUCTION

This policy sets out the rights of employees to shared parental leave and pay. Shared parental leave is a type of leave that is available to parents with babies due on or after 5 April 2015. Shared parental leave enables mothers to commit to ending their maternity leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date. (Please refer to the Work Life Balance Policy for guidance on shared parental leave for employees who are adopting children, which includes surrogacy.)

Shared parental leave should not be confused with ordinary parental leave, which is unaffected by shared parental leave. Ordinary parental leave is the entitlement to up to 18 weeks' unpaid leave. (Please refer to the Work Life Balance Policy for guidance on ordinary parental leave.)

2. DEFINITIONS

The following definitions are used in this policy:

"Mother" means the mother or expectant mother of the child.

"Partner" means the father of the child, or the person who, at the date of the child's birth, 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.

"Expected week of childbirth" means the week, starting on a Sunday, during which the mother's doctor or midwife expects her to give birth.

3. SCOPE

This policy applies to Local Government Employees, Craft Employees and Chief Officers, whether they are the mother or the partner. If it is the mother who is employed by the council, her partner must (where relevant) submit any notifications to take shared parental leave set out in this policy to his/her own employer, which may have its own shared parental leave policy in place, if he/she wants to take a period of shared parental leave.

Teachers and those employed on SNCT Conditions of Service should refer to Education Procedure Manual: Family Leave and SNCT Handbook Part 2, Section 7, Family Leave.

Similarly, if it is the partner who is employed by the council, the mother must (where relevant) submit any notifications to take shared parental leave to her own employer.

The mother and the partner should ensure that they are each liaising with their own employer to ensure that requests for shared parental leave are handled as smoothly as possible.

3.1 Amount of shared parental leave available

The amount of shared parental leave which an individual is entitled to will depend on when the mother brings her maternity leave period to an end and the amount of leave that the other parent takes in respect of the child. While it is for each employer to decide, in order to

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maximise the flexibility available to the parents and operational benefit for all parties, employers are strongly encouraged to allow shared parental leave to be taken in blocks of at least four weeks.

It is up to the parents how they share the parental leave – they can take it in turns or take time off together, provided no more than 52 weeks of leave is taken in total.

The government has provided some 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.

The employee can request to take shared parental leave in one continuous block (in which case the council is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of discontinuous blocks of leave (in which case the employee needs the council's agreement). A maximum of three requests for leave per pregnancy can normally be made by each parent.

The first two weeks following birth (first four weeks for manual workers) are the compulsory maternity leave period and are reserved for the mother. This means that the mother cannot curtail 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). The mother and partner must take any shared parental leave within 52 weeks of birth.

4. **ELIGIBILITY**

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

Mother's eligibility for shared parental leave

The mother is eligible for shared parental leave if she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the council until the week before any period of shared parental leave that she takes;
- has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is entitled to statutory maternity leave in respect of the child; and

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- complies with the relevant maternity leave curtailment requirements (or has returned to work before the end of statutory maternity leave), and shared parental leave notice and evidence requirements.

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

- have been employed or been a self-employed earner in 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; and
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child.

Partner's eligibility for shared parental leave

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

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the council until the week before any period of shared parental leave that he/she takes;
- has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- complies with the relevant shared parental leave 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).

5. NOTICE REQUIREMENTS

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

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- 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.

The notice periods set out below (see Mother's notice curtailing maternity leave; Employee's notice of entitlement and intention; and Employee's period of leave notice) are the minimum required by law. However, the earlier the employee informs the council of his/her intentions, the more likely it is that the council will be able to accommodate the employee's wishes, particularly if he/she wants to take periods of discontinuous leave.

Employees are advised that, if they have already decided the pattern of shared parental leave that they would like to take, they can provide more than one type of notice at the same time. For example, the mother could provide a maternity leave curtailment notice, notice of entitlement and intention and period of leave notice at the same time. Similarly, the partner could provide his/her notice of entitlement and intention and period of leave notice at the same time.

5.1 Mother's notice curtailing maternity leave

Before the mother or partner can take shared parental leave, the mother must either return to work before the end of her maternity leave (by giving the required eight weeks' notice of her planned return) or provide her employer with a maternity leave curtailment notice. The maternity leave curtailment notice must be in writing and state the date on which maternity leave is to end. That date must be:

- after the compulsory maternity leave period, which is the two weeks after birth;
- at least eight weeks after the date on which the mother gave the maternity leave curtailment notice to her employer; and
- at least one week before what would be the end of the additional maternity leave period.

The mother must provide her maternity leave curtailment notice at the same time she provides either her notice of entitlement and intention or a declaration of consent and entitlement signed by the mother confirming that her partner has given his/her employer a notice of entitlement and intention (see Employee's notice of entitlement and intention below).

5.2 Revocation of maternity leave curtailment notice

The mother can withdraw her notice curtailing 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.

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5.3 Employee's notice of entitlement and intention

The employee, whether the mother or the partner, must provide the council with a non-binding notice of entitlement and intention. The employee's notice of entitlement and intention, which must be in writing and provided at least eight weeks before the start date of the first period of shared parental leave to be taken by the employee, must set out the following information.

If the employee is the mother, the notice of entitlement and intention must set out:

- the mother's name;
- the partner's name;
- the start and end dates of any statutory maternity leave taken or to be taken by the mother;
- the total amount of shared parental leave available;
- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the mother);
- how much shared parental leave the mother and partner each intend to take; and
- a non-binding indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave).

The mother's notice of entitlement and intention must include a declaration signed by her that:

- she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- the information she gives in the notice of entitlement and intention is accurate; and
- she will immediately inform the council if she ceases to care for the child.

In addition, the mother's notice of entitlement and intention must include a declaration signed by her partner:

- specifying the partner's name, address, and national insurance number (or declaring that the partner does not have a national insurance number);
- declaring that the partner satisfies, or will satisfy, the conditions set out above (see Mother's eligibility for shared parental leave);
- declaring that the partner is the father of the child, or is married to, the civil partner of, or the partner of, the mother;
- declaring that the partner consents to the amount of leave that the mother intends to take; and
- declaring that the partner consents to the mother's employer processing the information in the partner's declaration.

If the employee is the partner, the partner's notice of entitlement and intention must set out:

- the partner's name;

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- the mother's name;
- the start and end dates of any periods of statutory maternity leave, statutory maternity pay or maternity allowance taken or to be taken by the mother;
- the total amount of shared parental leave available;
- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the partner);
- how much shared parental leave the partner and mother each intend to take; and
- a non-binding indication as to when the partner intends to take shared parental leave (including the start and end dates for each period of leave).

The partner's notice of entitlement and intention must include a declaration signed by the partner that:

- he/she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- the information given by the partner in the notice of entitlement and intention is accurate; and
- he/she will immediately inform the council if he/she ceases to care for the child or if the mother informs him/her that she no longer meets the requirement to have curtailed her maternity leave or pay period.

In addition, the partner's notice of entitlement and intention must include a declaration signed by the mother:

- specifying the mother's name, address, and national insurance number (or declaring that the mother does not have a national insurance number);
- declaring that the mother satisfies, or will satisfy, the conditions set out above (see Partner's eligibility for shared parental leave) and she will notify the partner if she no longer qualifies for maternity leave, statutory maternity pay or maternity allowance;
- declaring that the mother consents to the amount of leave that the partner intends to take;
- declaring that she will immediately inform the employee if she no longer meets the requirement to have curtailed her maternity leave or pay period; and
- declaring that the mother consents to the partner's employer processing the information in the mother's declaration.

Within 14 days of receiving a notice of entitlement and intention from the employee, whether the mother or partner, the council can request from the employee:

- a copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth - if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice); and

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- the name and address of the other parent's employer (or a declaration that the other parent has no employer).

The employee has 14 days from the date of the request to send the council the required information.

5.4 Variation or cancellation of notice of entitlement and intention

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a notice of entitlement and intention, provided that he/she provides the council with a written notice. The written notice must contain:

- an indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave);
- details of any periods of shared parental leave that have been notified through a period of leave notice;
- details of any periods of statutory shared parental pay that have been notified in relation to periods where shared parental leave was not to be taken; and
- a declaration signed by the mother and the partner that they agree to the variation.

Any indication of leave intended to be taken that the employee provides in a variation of notice of entitlement and intention is non-binding until he/she provides a period of leave notice in relation to that period of leave. There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

5.5 Employee's period of leave notice

To take a period of shared parental leave, the employee must provide the council with a written notice setting out the start and end dates of each period of shared parental leave requested in that notice.

A period of leave notice must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave.

5.6 Variation or cancellation of period of leave notice

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a period of leave notice, provided that he/she provides his/her employer with a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The written notice can:

- vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

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6. LIMIT ON NUMBER OF REQUESTS FOR LEAVE

The employee can provide a combined total of up to three 'period of leave' notices or variations of 'period of leave' notices per pregnancy (including the original request).

7. CONTINUOUS PERIOD OF SHARED PARENTAL LEAVE

If the employee submits a period of leave notice requesting one continuous period of leave, he/she will be entitled to take that period of leave.

8. DISCONTINUOUS PERIODS OF SHARED PARENTAL LEAVE

The employee may submit a period of leave notice requesting discontinuous periods of leave. For example, the mother and partner could request a pattern of leave from their respective employers that allows them to alternate childcare responsibilities.

While it is for each employer to decide, in order to maximise the flexibility available to the parents and operational benefit for all parties, employers are strongly encouraged to allow shared parental leave to be taken in blocks of at least four weeks.

If the employee submits a period of leave notice requesting discontinuous periods of leave, the council, in the two weeks beginning with the date the period of leave notice was given, can:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested. If the decision is taken to refuse the leave, the employer must provide clear reasons for this to the employee.

If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, the employee is entitled to take the leave as one continuous period of leave. In that event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the period of leave notice was originally given. The employee must notify the council of that date within five days of the end of the two-week discussion period. If the employee does not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date of the first period of leave requested in the period of leave notice.

Alternatively, if the council has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw a period of leave notice requesting discontinuous periods of leave. The employee can withdraw a period of leave notice at any time on or before the 15th day after the period of leave notice was given. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make.

8.1 Amount of shared parental pay available

Only statutory pay is payable to either party for the duration of the shared parental leave period.

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Statutory shared parental pay is available for eligible parents to share between them while on shared parental leave. The number of weeks' statutory shared parental pay available to the parents will depend on how much statutory maternity pay or maternity allowance the mother has been paid when her maternity leave or pay period ends.

A total of 39 weeks' statutory maternity pay or maternity allowance is available to the mother. As there is a compulsory maternity leave period of two weeks, this means that a mother who ends her maternity leave at the earliest opportunity could share up to 37 weeks' statutory shared parental pay with her partner (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).

It is up to the parents as to who is paid the statutory shared parental pay and how it is apportioned between them.

Statutory shared parental leave is paid for 37 weeks at the **lower** of the statutory prescribed rate (currently £138.18 for statutory maternity and paternity pay) or 90% of the relevant parent's normal weekly earnings (subject to the lower earnings limit). The remaining 13 weeks of shared parental leave are unpaid.

This means that statutory shared parental pay is paid at the lower (statutory) level throughout the leave period. Unlike occupational maternity pay, there is no provision for the first six weeks to be paid at 90% of the parent's actual weekly earnings. This is the case even if the mother returns from maternity leave after only two weeks, during the period where the higher (occupational) level of maternity would be have been available to her.

9. ELIGIBILITY FOR STATUTORY SHARED PARENTAL PAY

For employees to be eligible for statutory shared parental pay, both parents must meet certain eligibility requirements.

9.1 Mother's eligibility for statutory shared parental pay

The mother is eligible for statutory shared parental pay if she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with her employer until the week before any period of shared parental pay that she gets;
- has normal weekly earnings for a period of eight 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, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is absent from work and intends to care for the child during each week in which she receives statutory shared parental pay; and
- 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, the partner 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;

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- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks.

9.2 Partner's eligibility for statutory shared parental pay

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

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with his/her employer until the week before any period of shared parental pay that he/she gets;
- has normal weekly earnings for eight 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, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- is absent from work and intends to care for the child during each week in which he/she receives statutory shared parental pay.

In addition, for the partner to be eligible, 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.

10. RIGHTS DURING SHARED PARENTAL LEAVE

During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory shared parental pay if the employee is eligible for it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue. Pension contributions will continue to be paid.

11. CONTACT DURING SHARED PARENTAL LEAVE

The council reserves the right to maintain reasonable contact with employees during shared parental leave. This may be to discuss employees' plans for their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

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An employee can agree to work for the council (or to attend training) for up to 20 days during shared parental leave without that work bringing the period of his/her shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days.

The council has no right to require employees to carry out any work and employees have no right to undertake any work during their shared parental leave. Any work undertaken on SPLIT days, is entirely a matter for agreement between employees and the council. An employee will be paid the equivalent of their normal pay for time worked on a SPLIT day which will be inclusive of Statutory Shared Parental Pay.

12. SHARED PARENTAL LEAVE "IN TOUCH" DAYS

Parents taking shared parental leave can each work up to 20 SPLIT (shared parental leave in touch) days without bringing the shared parental leave to an end. These will be in addition to the 10 keeping in touch (KIT) days already available for women on statutory maternity leave.

13. RETURNING TO WORK FOLLOWING SHARED PARENTAL LEAVE

The employee has the right to return to the same job when returning to work from shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory maternity leave or statutory paternity leave taken by the employee in relation to the same child, is 26 weeks or less.

If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory maternity or paternity leave taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional maternity leave, the employee has the right to return to the same job unless this is not reasonably practicable. In these circumstances, if it is not reasonably practicable for the council to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for him/her.

14. ADOPTION AND SURROGACY

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 meet 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.

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.



APPLICATION FOR SHARED PARENTAL LEAVE

This Application Should Be Submitted Initially To Your Supervisor/Line Manager For Approval Prior To Original Being Sent To HR Employee Services For Processing

EMPLOYEE DETAILS

Full Name:

Directorate:

Department:

Location:

Post Title:

Extension

Employment
Status:

Employee
No:

National
Insurance
No:

From Date _____ to Date _____

Total No of Days _____

Signed: (Employee)

Date:

No of Days Parental Leave Approved: _____