

Introduction

The Children and Families Act 2014 introduced a system of shared parental leave and pay which allows adopters to end their adoption leave and share up to 50 weeks' untaken leave and 37 weeks' unclaimed pay with their partner.

Shared parental leave is aimed at giving parents more flexibility over how they share childcare between them during the first year of the child being placed with them. Parents can choose to take time off together or at separate times to care for their child.

This procedure is divided into three sections for ease of reference:

Section 1 - details the entitlements for employees that are the adopter of a child intending to take shared parental leave.

Section 2 - details the entitlements for employees that are the adopter's partner intending to take shared parental leave.

Section 3 – details general information relevant to both parents.

To make this document easy to read the terms 'adopter' and 'adopter's partner' are used throughout. The adopter is the person with whom the child is, or is expected to be, placed for adoption under UK law. Where two people have been matched jointly, the adopter is whichever of them has elected to be the child's adopter for the purposes of taking Adoption Leave. The adopter's partner is the adopter's spouse, civil partner or partner at the date of the child's placement for adoption.

The following documents are available to support this procedure:

- *MA61 Shared Parental Leave Manager Guide*
- *MA62 Shared Parental Leave Employee Guide*
- *MA63 Shared Parental Leave Model Letters*
- *MA64 Leave Curtailment Notice Form*
- *MA65 Notice of Entitlement and Intention Form*
- *MA66 Declaration of Consent and Entitlement Form*
- *MA67 Period of Leave Notice Form*
- *MA68 Payroll Instruction Form*

Managers should read the Manager Guide alongside this procedure, to ensure that they fulfil their obligations throughout this process.

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Guiding Principles

Our aim is to ensure that requests for shared parental leave are managed fairly and consistently. We will follow the provisions set out in the Shared Parental Leave Regulations 2014, Statutory Shared Parental Pay (General) Regulations 2014 and Maternity and Adoption Leave (curtailment of Statutory Rights to Leave) Regulations 2014 to ensure that we deal with requests for shared parental leave in a reasonable manner.

- Shared parental leave is available to adoptive parents having a child placed for adoption with them on or after 5 April 2015.
- Adopters will continue to be entitled to 52 weeks of adoption leave and 39 weeks of statutory adoption pay (if eligible).
- An adopter will be able to choose to bring their adoption leave to an end and take shared parental leave with their partner (if eligible).
- Adopters must continue to make arrangements to commence adoption leave on a suitable date, in line with the Adoption Leave Procedure.
- Shared parental leave is created from the number of week's untaken adoption leave and pay.
- Employees must be eligible in their own right to take shared parental leave and their partner must also meet certain eligibility requirements. If only one parent is eligible for shared parental leave they cannot share the leave.
- Shared parental leave must be taken in complete weeks.
- The minimum period of shared parental leave which may be taken is one week.
- Shared parental leave must be taken within one year from the date of placement of the child. Any leave not taken by the day before the first anniversary of the date of placement is lost.
- Line managers and employees have a mutual responsibility to make sure they comply with this procedure. This will ensure employees receive their correct entitlements and managers are able to plan and manage their workforce effectively, while their employees are absent from the workplace.

Section One: Employees that are the Adopter of the Child

Eligibility criteria

To be eligible for **shared parental leave** you must:

- Have 26 weeks' continuous Fife Council service ending with the week in which you are notified of having been matched with the child and remain in continuous employment with us until the week before any period of shared parental leave that you take.
- Have the main responsibility for the care of the child at the date of placement (apart from the responsibility of your partner).
- Be entitled to statutory adoption leave in respect of the child.
- Curtail your statutory adoption leave and pay, or return to work before taking your full adoption entitlement.
- Comply with all notification requirements in this procedure.

In addition your partner must:

- Have been an employed or self-employed earner in the UK for at least 26 of the 66 weeks (not necessarily continuously) immediately preceding the week in which the adopter is notified of having been matched for adoption with the child.
- Have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks. Please refer to *PY51 Statutory Benefit Rates* for the current maternity allowance threshold.
- Have the main responsibility for the child at the date of placement (alongside your responsibility for the child).

To be eligible for **shared parental pay** you and your partner must each meet the criteria above, and you must also:

- Be entitled to Statutory Adoption Pay and you must have reduced your adoption pay period.
- Have average weekly earnings not less than the lower earnings threshold in the 8 weeks ending with the week in which you are notified of having been matched with the child.
- Intend to care for the child during each week in which shared parental pay is payable.

It is possible that you may qualify for shared parental leave but do not qualify for shared parental pay, based on the criteria above.

It is your responsibility to check that you are eligible for shared parental leave and shared parental pay. You must correctly notify your line manager of your entitlement and provide evidence as required.

Calculation of Shared Parental Leave Available

Whilst you are preparing to adopt a child you must ensure that you make arrangements to commence adoption leave on a suitable date chosen by you. Please refer to *MA12 Adoption Leave Procedure*. From the date of placement of the child you must take 2 weeks adoption leave before you can take any shared parental leave. The amount of shared parental leave available will be the balance of what is left from your entitlement of 52 weeks adoption leave. As there is a minimum 2 week adoption period the maximum amount of shared parental leave available is 50 weeks and the maximum amount of shared parental pay is 37 weeks.

Ending your Adoption Leave

The entitlement to shared parental leave is created when you end your adoption leave before taking your full entitlement. Your remaining adoption leave then becomes shared parental leave.

If you want to take shared parental leave, or want to enable your partner to take shared parental leave, you are able to end your adoption leave and pay in one of two ways:

- You can return to work before the end of your 52 week entitlement to adoption leave therefore bringing your adoption leave and pay to an end; or
- You can give notice to us to end your adoption leave on a date in the future that you specify. This is called a **Leave Curtailment Notice**.

In order to return to work before the end of your full entitlement of adoption leave you must ensure that you comply with the Adoption Leave Procedure and provide 8 weeks' notice in writing of the date that you wish to return.

If you return to work before the end of your full entitlement to adoption leave you cannot re-start your adoption leave at any point.

Once you have ended your adoption leave you are then able to make arrangements to take shared parental leave. To do this you should submit a **Notice of Entitlement and Intention Form** and then a **Period of Leave Notice Form**. If you do not wish to take shared parental leave, but want to enable your partner to take shared parental leave from their employment, you need to provide us with a **Declaration of Consent and Entitlement Form**. Please refer to the appropriate sections within this document for further guidance on each of these notices.

Leave Curtailment Notice

A Leave Curtailment Notice must be given no less than 8 weeks before the start of the first period of shared parental leave. You must complete a *MA64 Leave Curtailment Notice Form* and submit this to your line manager.

As shared parental leave must be taken in complete weeks, you should ensure that you select a date that ends your adoption leave in complete weeks. This will ensure that the full 52 weeks entitlement is available to you.

Example - If your adoption leave began on a Monday you should choose a suitable date on a Sunday to end your adoption leave.

When you submit your Leave Curtailment Notice you must also provide one of the following:

- **A Notice of Entitlement and Intention**

You should submit a Notice of Entitlement and Intention if you intend to take shared parental leave; or

- **A Declaration of Consent and Entitlement**

You should submit a Declaration of Consent and Entitlement if you do not intend to take shared parental leave but wish to enable your partner to take your remaining adoption entitlement as shared parental leave.

When you have submitted your Leave Curtailment Notice Form with either a Notice of Entitlement and Intention Form or a Declaration of Consent and Entitlement Form, you are bound by the notice to end your adoption leave, except in very limited circumstances. Please refer to the section on Withdrawing your Leave Curtailment Notice for further information.

Withdrawing your Leave Curtailment Notice

If you have given notice to end your adoption leave you may withdraw the notice if you have not yet returned to work or the leave curtailment date has not yet passed, and one of the following circumstances applies:

- Where it is discovered in the 8 weeks following the notice that neither yourself nor your partner has any entitlement to shared parental leave or pay;
- In the event of death of your partner.

If you withdraw your Leave Curtailment Notice shared parental leave no longer exists. To withdraw your Leave Curtailment Notice you must put this in writing to your line manager, clearly stating which circumstance from above is relevant to your situation.

Notice of Entitlement and Intention

You must provide a Notice of Entitlement and Intention if you wish to take shared parental leave. This must be given no less than 8 weeks before the start of the first period of shared parental leave. You must complete a *MA65 Notice of Entitlement and Intention Form* and submit this to your line manager.

The Notice of Entitlement and Intention is non-binding. The purpose of this notice is to notify us that you are eligible and entitled to shared parental leave, and when you intend to take leave.

You are able to vary a notice already given to alter how much shared parental leave you and/or your partner each intend to take. There is no limit on the number of notices that you may give to vary your Notice of Entitlement and Intention.

On receipt of a Notice of Entitlement and Intention Form, managers should arrange to meet with the employee to discuss the intended shared parental leave and the leave periods that they may be agreeable to. Managers should use Letter 3 to invite an employee to this meeting. Please refer to *MA63 Shared Parental Leave Model Letters*.

Declaration of Consent and Entitlement

If you do not intend to take shared parental leave, but wish to enable your partner to take your remaining adoption entitlement as shared parental leave, you must provide a Declaration of Consent and Entitlement. This should be submitted with a Leave Curtailment Notice if you have not yet returned to work from adoption leave. The purpose of this declaration is to give your consent for your partner to take the remainder of your adoption entitlement. You should complete a *MA66 Declaration of Consent and Entitlement Form* and submit this to your line manager.

Managers should use Letter 2 to acknowledge receipt of a Declaration of Consent and Entitlement. Please refer to *MA63 Shared Parental Leave Model Letters*.

Period of Leave Notice

A Period of Leave Notice is a formal request to take shared parental leave. You must complete a *MA67 Period of Leave Notice Form* and submit this to your line manager. This notice is binding and must clearly state the start and end dates of each period of shared parental leave requested and each period of shared parental pay requested in that notice.

You may submit up to 3 Period of Leave Notices. In each of these notices you may request a continuous period of shared parental leave or discontinuous periods of shared parental leave.

Managers should hold a meeting with the employee when they receive a Period of Leave Notice Form, even if the request is for a continuous block of leave. This will help both parties to have a clear understanding of the request and avoid any confusion. Managers should use Letter 3 to invite an employee to this meeting. Please refer to *MA63 Shared Parental Leave Model Letters*.

Continuous period of shared parental leave

If you request one continuous period of shared parental leave you are entitled to take that leave, as long as the start date for the leave is not less than 8 weeks from the date the notice was given. This request cannot be refused and you cannot be asked to alter the dates.

Your period of shared parental leave will be confirmed in writing to you within 14 days. Managers should use Letter 4 for this. Please refer to *MA63 Shared Parental Leave Model Letters*.

Discontinuous period of shared parental leave

A discontinuous block of leave is two or more periods of leave separated by periods at work. For teachers or associated professionals the minimum block of time for discontinuous leave is normally 4 weeks.

We can take any of the following actions within 14 calendar days beginning on the date your notice was given:

- Agree to the periods of leave requested;
- Propose alternative dates for the periods of leave; or
- Refuse the periods of leave without proposing alternative dates.

Within the 14 days, if we agree to a request for discontinuous blocks of leave or an agreement is reached to take alternative dates, you are entitled to take the leave on the dates agreed.

Within the 14 days, if no agreement is reached you are entitled to take the total amount of leave requested in the notice as a continuous period of leave. In this case you must choose a start date for the continuous period of leave which must be a date after 8 weeks from the date your notice was given. You must advise us of your chosen start date within 5 days from the end of the 14 calendar day period. If you do not choose a start date, your leave will begin on the start date of the first period of leave requested in your original notice.

You may withdraw a notice which requests discontinuous blocks of leave, on or before the 15th day after the notice was given, unless we have agreed to periods of leave. If you withdraw your request for discontinuous blocks of leave, this notice does not count towards the limit of 3 notices.

Any agreed outcome will be discussed with you and confirmed to you in writing within 14 days. Managers should use Letter 5 or 6 for this. Please refer to *MA63 Shared Parental Leave Model Letters*.

If you are unhappy with a decision to refuse a discontinuous period of shared parental leave, you may raise your concerns in writing to a manager who is more senior to the manager making the decision to refuse the request. This manager will review your request and the outcome and will respond to you directly. Managers can contact HR Direct for advice.

Section Two: Employees that are the Adopter's Partner

Eligibility criteria

To be eligible for **shared parental leave** and pay you must:

- Have 26 weeks' continuous Fife Council service ending with the week in which you are notified of having been matched with the child and remain in continuous employment with us until the week before any period of shared parental leave that you take.
- Have the main responsibility for the care of the child at the date of placement (apart from the responsibility of the adopter).
- Comply with all notification requirements in this procedure.

In addition, the child's adopter must:

- Have been an employed or self-employed earner in Great Britain for at least 26 of the 66 weeks (not necessarily continuously) immediately preceding the week in which the adopter is notified of having been matched for adoption with the child.
- Have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks. Please refer to *PY51 Statutory Benefit Rates* for the current maternity allowance threshold.
- Have the main responsibility for the child at the date of placement (alongside your responsibility for the child).
- Be entitled to statutory adoption leave or statutory adoption pay in respect of the child.
- Curtail their entitlement to statutory adoption leave and statutory adoption pay, or return to work before taking her full entitlement to adoption leave and pay.

To be eligible for **shared parental pay** you and the child's adopter must each meet the criteria above, and you must also:

- Have average weekly earnings not less than the lower earnings threshold in the 8 weeks ending with the week in which you are notified of having been matched with the child.
- Intend to care for the child during each week in which shared parental pay is payable.

It is possible that you may qualify for shared parental leave but do not qualify for shared parental pay, based on the criteria above.

It is your responsibility to check that you are eligible for shared parental leave and shared parental pay. You must correctly notify your line manager and provide evidence as required.

Entitlement to Shared Parental Leave

As the partner, your entitlement to shared parental leave depends on the leave and pay taken by the child's adopter. Shared parental leave is created when an adopter ends their entitlement to adoption leave early, by either returning to work or submitting a leave curtailment notice to their employer. The maximum amount of shared parental leave available is 50 weeks and the maximum amount of shared parental pay is 37 weeks.

If you intend to take shared parental leave you must ascertain how much adoption leave the child's adopter intends to take or has already taken.

You are entitled to exhaust your entitlement to paternity leave before you take shared parental leave. Please refer to *MA13 Paternity Leave Procedure*. You are not able to take paternity leave after any period of shared parental leave.

Where the child's adopter has curtailed their adoption leave at a future date, you are able to take shared parental leave whilst the adopter is still on adoption leave.

Notice of Entitlement and Intention

You must provide a Notice of Entitlement and Intention if you wish to take shared parental leave. This must be given no less than 8 weeks before the start of the first period of shared parental leave. You must complete a *MA65 Notice of Entitlement and Intention Form* and submit this to your line manager.

The Notice of Entitlement and Intention is non-binding. The purpose of this notice is to notify us that you are eligible and entitled to shared parental leave, and when you intend to take shared parental leave.

You are able to vary a notice already given to alter how much shared parental leave you and/or the child's mother each intend to take. There is no limit on the number of notices that you may give to vary your Notice of Entitlement and Intention.

On receipt of a Notice of Entitlement and Intention, managers should arrange to meet with the employee to discuss the intended shared parental leave and the leave periods they may be agreeable to. Managers should use Letter 3 to invite an employee to this meeting. Please refer to *MA63 Shared Parental Leave Model Letters*.

Period of Leave Notice

A Period of Leave Notice is a formal request to take shared parental leave. You must complete a *MA67 Period of Leave Notice Form* and submit this to your line manager. This notice is binding and must clearly state the start and end dates of each period of shared parental leave requested and each period of shared parental pay requested in that notice.

You may submit up to 3 Period of Leave Notices. In each of these notices you may request a continuous period of shared parental leave or discontinuous periods of shared parental leave.

Managers should hold a meeting with the employee when they receive a Period of Leave Notice Form, even if the request is for a continuous block of leave. This will help both parties to have a clear understanding of the request and avoid any

confusion. Managers should use Letter 3 to invite an employee to this meeting. Please refer to *MA63 Shared Parental Leave Model Letters*.

Continuous period of shared parental leave

If you request one continuous period of shared parental leave you are entitled to take that leave, as long as the start date for the leave is not less than 8 weeks from the date the notice was given. This request cannot be refused and you cannot be asked to alter the dates.

Your period of shared parental leave will be confirmed in writing to you within 14 days. Managers should use Letter 4 for this. Please refer to *MA63 Shared Parental Leave Model Letters*.

Discontinuous period of shared parental leave

A discontinuous block of leave is two or more periods of leave separated by periods at work. For teachers or associated professionals the minimum block of time for discontinuous leave is normally 4 weeks.

We can take any of the following actions within 14 calendar days beginning on the date your notice was given:

- Agree to the periods of leave requested;
- Propose alternative dates for the periods of leave; or
- Refuse the periods of leave without proposing alternative dates.

Within the 14 days, if we agree to a request for discontinuous blocks of leave or an agreement is reached to take alternative dates, you are entitled to take the leave on the dates agreed.

Within the 14 days, if no agreement is reached you are entitled to take the total amount of leave requested in the notice as a continuous period of leave. In this case you must choose a start date for the continuous period of leave which must be a date after 8 weeks from the date your notice was given. You must advise us of your chosen start date within 5 days from the end of the 14 calendar day period. If you do not choose a start date, your leave will begin on the start date of the first period of leave requested in your notice.

You may withdraw a notice which requests discontinuous blocks of leave, on or before the 15th day after the notice was given, unless we have agreed to periods of leave. If you withdraw your request for discontinuous blocks of leave, this notice does not count towards the limit of 3 notices.

Any agreed outcome will be discussed with you and confirmed to you in writing within 14 days. Managers should use Letter 5 or 6 for this. Please refer to *MA63 Shared Parental Leave Model Letters*.

If you are unhappy with a decision to refuse a discontinuous period of shared parental leave, you may raise your concerns in writing to a manager who is more senior to the manager making the decision to refuse the request. This manager will review your request and the outcome and will respond to you directly. Managers can contact HR Direct for advice.

Section 3: General Information relevant to both parents

Shared Parental Pay

Eligible employees are entitled to take up to a maximum of 37 weeks shared parental pay. The remaining 13 weeks will be unpaid.

The number of weeks' pay available is dependent on how much Statutory Adoption Pay the adopter has taken or intends to take. It is up to the parents to decide how the Statutory Shared Parental Pay is split between them.

Statutory Shared Parental Pay is paid at a rate set by the Government for the relevant tax year. Please refer to *PY51 Statutory Benefit Rates* for the current rate payable.

Evidence Required

We may request, within 14 days of receipt of a Notice of Entitlement and Intention, the following supplementary evidence:

- The name and address of the adoption agency
- The date that the adopter was notified of having been matched for adoption with the child
- The date on which the adoption agency expects to place the child with the adopter.

You must provide this within 14 days of our request.

Cancelling or Varying booked Shared Parental Leave

Situations may arise where you need to cancel or vary a period of booked shared parental leave. To do this you must submit a new *MA67 Period of Leave Notice Form* clearly stating the change that you would like. Any variation must be made at least 8 weeks before any period of leave varied or cancelled by the notice is due to commence.

A notice to vary a period of booked shared parental leave will count as a further notification. If you have used up all of your notifications we are not obliged to agree to vary or cancel a period of leave. In this case managers should consider the request and decide if it is reasonable to accept the notice. You can get advice from HR Direct.

In the event of a placement date being brought forward you should advise your line manager of this and seek advice from HR Direct.

Surrogate Parents

This procedure applies to parents who have a parental order under s.54 of the Human Fertilisation and Embryology Act 2008 (ie surrogate parents) and intended parents in a surrogacy situation, in respect of children whose expected week of birth begins on or after 5th April 2015.

Discussions regarding Shared Parental Leave with your Manager

If you are considering taking shared parental leave you should contact your manager to arrange an informal discussion as early as possible. You should discuss your potential entitlement to shared parental leave and your intention to take shared parental leave.

You can also get advice from HR Direct.

Manager Information

The process of requesting and booking shared parental leave should be administered between a manager and employee. Managers are responsible for responding to employees in a timely manner and must treat every request fairly and without prejudice. Please refer to *MA61 Shared Parental Leave Manager Guide* for further guidance on holding meetings and issuing letters.

Working and Communication during Shared Parental Leave

Reasonable contact should be maintained between a manager and employee during periods of shared parental leave. Discussion should take place in advance of the leave period being taken, to agree how and when contact will take place.

Shared Parental Leave In Touch days

Shared Parental Leave In Touch (SPLIT) days allow you to work up to 20 days during shared parental leave without bringing any period of shared parental leave to an end. SPLIT days should be used where this is mutually beneficial. We are not obliged to offer SPLIT days and you are not obliged to request or accept SPLIT days. If you work a SPLIT day you will be paid your normal pay for your time, which will be inclusive of your Statutory Shared Parental Pay. These are in addition to the 10 Keeping In Touch (KIT) days available to mothers taking Statutory Adoption Leave.

Annual Leave

Your annual leave and public holiday leave entitlement continues to accrue throughout the year as normal regardless of your absence whilst on shared parental leave. It is recommended that leave accrued is calculated and taken immediately before your shared parental leave begins, or prior to your adoption/paternity leave, and again immediately after your shared parental leave, subject to agreement with your line manager.

Returning to Work following Shared Parental Leave

When a period of shared parental leave is agreed, this will be confirmed to you in writing and you will be formally advised of the end date of your shared parental leave. You are expected to return to work on the next working day following the end of your shared parental leave, unless you make arrangements to take another form of leave, for example annual leave.

If you wish to return to work earlier than your agreed end date you must provide 8 weeks' notice to vary your leave. Please refer to the earlier section on Cancelling or Varying booked Shared Parental Leave.

On returning to work following shared parental leave, you are entitled to return to the same job and on the same terms and conditions if your aggregate total statutory adoption leave/statutory paternity leave and shared parental leave amounts to 26 weeks or less. The same job is the one in which you occupied immediately before commencing adoption leave/paternity leave and your most recent period of shared parental leave.

If your aggregate total statutory adoption leave/statutory paternity leave and shared parental leave amount to more than 26 weeks, you are entitled to return to the same job in which you occupied before the last period of leave. However if this is not reasonably practicable you will return to another job which is both suitable and appropriate and on terms and conditions no less favourable.

No longer responsible for the child

If you have shared parental leave booked and your circumstances change, and you will no longer be responsible for caring for the child, your entitlement to shared parental leave and shared parental pay will end immediately and you must inform your line manager.

If you have shared parental leave arranged to begin within 8 weeks of your entitlement ending we can still require you to take shared parental leave if it is not reasonably practicable to have you at work. For instance, if we have temporary cover arrangements in place. Any shared parental leave arranged to take place after 8 weeks of your entitlement ending must be cancelled.

If your partner will no longer be responsible for caring for the child you are still entitled to take your booked shared parental leave. If your partner has shared parental leave outstanding they can transfer this to you by providing a signed agreement which you must submit along with a new *MA67 Period of Leave Notice*.

Multiple Placements

If you are expecting more than one child in a placement you are not entitled to extra shared parental leave or shared parental pay. Your entitlements are the same as that of an employee expecting one child in a pregnancy or placement.

Fraudulent claims

If we suspect that fraudulent information has been provided or if we are informed by the HRMC that a fraudulent claim for Shared Parental Leave and Pay has been made, we may investigate this under our Disciplinary Policy and Procedure.

Further Information

If you are a member of the Local Government Pension Scheme, any part of your Shared Parental Leave that is unpaid will not count for pension purposes. However you can choose to pay Additional Pension Contributions (APC's) to buy back the

amount of pension 'lost' during that time, either in a lump sum or by regular contributions. If you submit a request to pay back the 'lost' pension within 6 months of returning to work from your shared parental leave, Fife Council will pay two thirds of the cost of the lost contributions, otherwise you will be liable for the full cost. Please contact the Pensions Team for more information.

If you are a member of a teachers pensions scheme please contact the SPPA directly to discuss how any period of unpaid shared parental leave will impact on your pension.

You can find our HR policies, procedures and other information on FISH in the HR Direct pages or you can contact HR Direct on extension 2000.

Your line manager may be able to answer any queries you may have and help you find more information.

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