

<b>Committee</b>	HR&R		
<b>Date paper prepared</b>	09/05/2023	<b>Date of committee meeting</b>	24/05/2023
<b>Subject</b>	Shared Parental Leave, Pay Policy and Procedure		
<b>Author</b>	Jane Lewis, Principal		
<b>Action requested</b>	For review and approval		
<b>Purpose of the paper</b>	To present new Shared Parental Leave, Pay, Policy & Procedure for approval		
<b>Brief summary of the paper</b>	Presentation of Shared Parental Leave, Pay, Policy & Procedure for approval		
<b>Consultation</b>	SMT, LNCC, SMG		
<b>Resource implications</b>	N/A		
<b>Risk implications</b>	It is a requirement for the college to have such a policy and so the introduction of this is essential		

<p><b>Link with strategy</b></p>	<p>N/A</p>
<p><a href="#">Equality, Diversity and Inclusion</a></p>	<p>N/A</p>
<p><b>Island Community Impact</b></p>	<p>N/A</p>
<p><b>Paper status</b></p>	<p><input checked="" type="checkbox"/> <b>Open</b> – The paper may be circulated to non-members of the committee and published online without restriction.</p> <p><input type="checkbox"/> <b>Restricted</b> – The paper must not be circulated to non-members or published online until after the committee meeting.</p> <p><input type="checkbox"/> <b>Confidential</b> - The paper must not be circulated beyond the committee members and should not be published online. [Please note papers may still be subject to Freedom of Information requests – see below].</p>
<p><a href="#">Freedom of information</a></p>	<p>Open</p> <p>If closed/ withheld, select date this will become ‘open’: Enter a date.</p>

## Shared Parental Leave and Pay Policy and Procedure

### 1. Introduction to Shared Parental Leave

- 1.1 This policy sets out the rights of employees to shared parental leave and the procedures to follow when applying for Shared Parental Leave.
- 1.2 This policy applies to all employees of Shetland UHI.
- 1.3 This policy will be superseded by any nationally bargained policy agreed and approved by the NJNC, at a future date.
- 1.4 Shetland UHI recognises that, from time to time, employees may have questions or concerns relating to their rights to Shared Parental Leave. It is Shetland UHI's policy to encourage open discussion with employees to ensure that queries can be resolved as quickly as possible. If an employee is considering using Shared Parental Leave, they should clarify the relevant procedures with Human Resources at the earliest opportunity, to ensure that they are followed correctly.

### 2. Data protection

- 2.1 When managing an employee's shared parental leave and pay, Shetland UHI processes personal data collected in accordance with its data protection policy.
- 2.2 Data collected from the point at which an employee informs Shetland UHI that they are applying for Shared Parental Leave, may be accessed by, and disclosed to, individuals only for the purposes of managing their adoption leave and pay.
- 2.3 Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with Shetland UHI's data protection policy immediately. It may also constitute disciplinary offence, which will be dealt with under Shetland UHI's disciplinary procedure.

### 3. Shared Parental Leave

- 3.1 Shared Parental Leave (SPL) is a statutory entitlement designed to provide parents with more flexibility in relation to time away from work if you are:
  - having a baby
  - using a surrogate to have a baby
  - adopting a child
  - fostering a child who you're planning to adopt

- 3.2 You are entitled to up to 50 weeks of leave, of which 37 weeks are paid, if you fulfil the eligibility criteria in Section 4, and follow the notice requirements set out in section 7.
- 3.3 You need to share the pay and leave in the first year after your child is born or placed with your family.
- 3.4 You can use SPL to take leave in blocks separated by periods of work, or take it all in one go. You can also choose to be off work together or to stagger the leave and pay.
- 3.5 To get SPL and Statutory Shared Parental Pay (ShPP), you and your partner need to give up some of your maternity or adoption leave and pay.
- 3.6 Shetland UHI is committed to supporting parents who choose to access Shared Parental Leave and encourages parents who are considering this to discuss with their line manager.
- 3.7 Parents who wish to apply for SPL are expected to complete the relevant forms located on SharePoint within the 'Shared Parental Leave' folder. Your line manager can assist you in ensuring you complete the correct forms.

## 4. Eligibility

### 4.1 Statutory Shared Parental Pay

ShPP is paid at the same rate as Statutory Maternity Pay (SMP) and is paid for up to 37 weeks, though any weeks already used as SMP and Statutory Maternity Leave will be deducted from the amount of ShPP and SPL available.

### 4.2 SPL and ShPP for Birth Parents

To be eligible for Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP), both parents must share responsibility for the child at birth and meet work and pay criteria (these are different depending on which parent wants to use the shared parental leave and pay). You're not eligible if you started sharing responsibility for the child after it was born.

If both parents wish to share SPL and ShPP, they must meet the same eligibility criteria.  
They must:

- have been employed continuously by the Shetland UHI for at least 26 weeks by the end of the 15th week before the due date
- stay with the Shetland UHI until the start of their SPL

There is a minimum average earnings threshold that you must earn. This is updated annually and the current figure is available from [here](#).

For the mother's partner to take SPL and ShPP, both the mother and the mother's partner must meet some eligibility requirements. The mother must:

- have been working for at least 26 weeks out of the 66 weeks before the week the baby's due (the 26 weeks do not need to be in a row)
- have earned the minimum threshold stated [here](#) across any 13 of the 66 weeks (add up the highest paying weeks - they do not need to be in a row)

The mother's partner must:

- have been employed continuously by the same employer for at least 26 weeks by the end of the 15th week before the due date
- stay with the same employer until they start their SPL
- meet the minimum average earnings threshold available [here](#).

[If the mother's partner wants to take the SPL and ShPP both the mother and the mother's partner must meet some eligibility requirements.](#)

The mother must:

- have been working for at least 26 weeks out of the 66 weeks before the week the baby's due (the 26 weeks do not need to be in a row)
- have earned the minimum threshold stated [here](#) across any 13 of the 66 weeks (add up the highest paying weeks - they do not need to be in a row)

The mother's partner must:

- have been employed continuously by Shetland UHI for at least 26 weeks by the end of the 15th week before the due date
- stay with the same employer until they start their SPL

[If the mother wants to take the SPL and ShPP, both the mother's partner and the mother must meet some eligibility criteria.](#)

The mother's partner must:

- have been working for at least 26 weeks out of the 66 weeks before the week the baby's due (the 26 weeks do not need to be in a row)
- have earned the minimum threshold stated [here](#) across any 13 of the 66 weeks (add up the highest paying weeks - they do not need to be in a row)

The mother must:

- have been employed continuously by Shetland UHI for at least 26 weeks by the end of the 15th week before the due date
- stay with the same employer until they start their SPL
- The eligibility for workers is different and workers who are considering Shared Parental Leave and Pay should raise this with their line manager at the earliest opportunity for support to assess their eligibility.

#### 4.3 SPL and ShPP for Adopters or parents using a surrogate

To be eligible for Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP), both adoptive parents or both parents using a surrogate must share responsibility for the child from:

- the child's due date or birth date if you're using a surrogate
- the date the child is placed with you, if you're adopting or fostering to adopt

Both parents must also meet the work and earnings criteria. The criteria are different depending on which one of you wants to use the shared parental leave and pay.

If both parents want to share the SPL and ShPP then both parents must meet the same eligibility criteria.

To be eligible for SPL and ShPP, you must stay with Shetland UHI until you start your SPL. You must be employed continuously by us for at least 26 weeks, by either:

- the end of the week you or your partner are matched with a child if you're adopting
- the end of the 15th week before the due date if you're using a surrogate

To be eligible for ShPP, you must each earn the average minimum earnings threshold available [here](#).

If only one of the parents wants to take the SPL and ShPP then both parents must meet some eligibility criteria.

The parent who wants to take the leave and pay must stay with the Shetland UHI until they start their SPL. They must also have been employed continuously by Shetland UHI for at least 26 weeks, by either:

- the end of the week you or your partner are matched with a child if you're adopting
- the end of the 15th week before the due date if you're using a surrogate

Additionally, to be eligible for ShPP, you must each earn the average minimum earnings threshold available [here](#).

The criteria for the other parent is as follows. The other parent must:

- have been working for at least 26 weeks out of the 66 weeks before the week the child was placed with you (the 26 weeks do not need to be in a row)
- have earned the average minimum earnings threshold available [here](#).

## 5. How much you receive

5.1 You can share up to 50 weeks of leave and up to 37 weeks of pay between you.

- 5.2 The actual amount depends on how much maternity or adoption leave and pay (or Maternity Allowance) you or your partner take. If you or your partner are eligible then you can:
- take less than the 52 weeks of maternity or adoption leave and use the rest as Shared Parental Leave (SPL)
  - take less than the 39 weeks of maternity or adoption pay (or Maternity Allowance) and use the rest as Statutory Shared Parental Pay (ShPP)
- 5.3 Shared Parental Pay (ShPP) is paid at the same rate as Statutory Maternity Pay (SMP), except that during the first 6 weeks of SMP the rate is 90% of your earnings with no upper limit, and the current rate is available [here](#)

## 6. When SPL and ShPP can start

- 6.1 Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) can only start after the baby is born or after the child has been placed with you if you are adopting.
- 6.2 For Shared Parental Leave to start, the mother must either return to work (thereby ending her maternity or adoption leave), or provide Shetland UHI with binding notice.
- 6.3 Binding notice must set out the date in which you intend your Maternity or Adoption Leave to finish. You cannot usually change this date.
- 6.4 Employees are reminded that a mother cannot return to work before the end of the compulsory two weeks of maternity leave following the birth. If you're adopting, the person claiming adoption pay must take at least two weeks of adoption leave.
- 6.5 For ShPP to start the mother (or the person getting adoption pay) must give Shetland UHI binding notice of the date when they plan to end any maternity or adoption pay (if you are in receipt of Maternity Allowance, you must give notice to Jobcentre Plus).
- 6.6 Once your maternity pay, maternity allowance or adoption pay has ended it cannot be restarted.
- 6.7 You can start ShPP while your partner is still on maternity pay, adoption pay or Maternity Allowance as long as they've given binding notice to end it.
- 6.8 You can give binding notice and say when you plan to take your ShPP at the same time.
- 6.9 **Change the decision to end maternity or adoption leave**

The mother or adopter may be able to change their decision to end maternity or adoption leave early. They must let their employer know. They can only change the decision if both:

- the planned end date has not passed
- they have not already returned to work

One of the following must also apply:

- you find out during the 8-week notice period that neither of you is eligible for SPL or ShPP
- the mother or adopter's partner has died

- the mother tells their employer less than 6 weeks after the birth (and they gave their employer notice before the birth)

## 7. Applying for Shared Parental Leave and Pay

- 7.1 To apply for Shared Parental Leave and Pay, you must follow the process for starting SPL and ShPP outlined in Section 6 and ensure you provide Shetland UHI with at least eight weeks notice, in writing, of your start date.
- 7.2 Shared Parental Leave can be taken in three blocks, where both parents are applying then you each have three blocks.
- 7.3 You may split these blocks but each block must not be less than one week
- 7.4 You can change your mind later about how much SPL or ShPP you plan to take and when you want to take it. You must give notice of any changes, in writing, at least eight weeks before the start of any leave.
- 7.5 You must apply for Shared Parental Leave and Pay using the application forms available in Appendix 1 and Appendix 2.
- 7.6 Please note that Shetland UHI retains the right to seek additional evidence in support of your application within 14 days of receipt of your application. Details relating to the additional information required, is available in the application forms stored on SharePoint.

## 8. Rights during Shared Parental Leave

- 8.1 During a period of Shared Parental Leave all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by ShPP if the employee is eligible for it.
- 8.2 This means that, while sums payable by way of salary will cease, other benefits such as holiday entitlement will remain in place. Shetland UHI's pension contributions will continue to be based on the employee's normal pay during shared parental leave. However, Shetland UHI's pension contributions will cease during any periods of unpaid shared parental leave.
- 8.3 Employees are reminded that holiday must be taken in the year that it is earned.

## 9. Contact during Shared Parental Leave

- 9.1 Shetland UHI reserves the right to maintain reasonable contact with employees during a period of Shared Parental Leave. This may be to discuss employees' plans for 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.

## 10. SPLIT Days

- 10.1 Employees can agree to work for Shetland UHI (or to attend training) for up to 20 days during their shared parental leave without that work bringing their shared parental leave to an end and without loss of a week's ShPP. These are known 'Shared Parental Leave in touch' (or SPLIT) days.
- 10.2 Any work carried out on a day shall constitute a day's work for these purposes.
- 10.3 SPLIT days are available in addition to 10 'keeping in touch' (or KIT) days available to those on maternity or adoption leave.
- 10.4 Shetland UHI has no right to require employees to carry out any work and employees have no right to undertake any work during their adoption leave. Any work undertaken, and the amount of salary paid for any work done on SPLIT days, is entirely a matter for agreement between employees and Shetland UHI.

## 11. Returning to work after a period of Shared Parental Leave

- 11.1 If the employee wishes to return before the full period of Shared Parental Leave has elapsed, they must give at least eight weeks' notice in writing to Shetland UHI of the date on which she intends to return.
- 11.2 The employee has the right to resume working in the same job if returning to work from a period of Shared Parental Leave.
- 11.3 Failure to return to work by the end of a period of Shared Parental Leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the Shared Parental Leave period.
- 11.4 If the employee decides during Shared Parental Leave that they do not wish to return to work, they should give written notice of resignation to Shetland UHI as soon as possible and in accordance with the terms of her contract of employment.
- 11.5 Ahead of a return to work, should an employee wish to change their pattern of working or working hours, they should make a request via the flexible working policy and procedure.
- 11.6 In reference to Annual Leave, employees are encouraged to take any carry over annual leave ahead of returning to work following a period of Shared Parental Leave to support business continuity.

## Linked Policies

- Maternity Leave and Pay Policy
- Adoption Leave and Pay Policy
- Paternity Leave Policy
- Equality, Diversity and Inclusion Policy

- Dignity at Work Policy
- Disciplinary Policy and Procedure
- Flexible Working Policy and Procedure

## Relevant Legislation

- Employment Rights Act 1996 as amended
- Employment Rights Act 2004
- Employment Rights Dispute Resolution Act 1998
- Employment Relations Act 1999
- Data Protection Act 1998 as amended.
- Human Rights Act 1998
- Health and Safety at Work etc. Act 1974.
- Management of Health and Safety at Work Regulations 1999.
- Equality Act 2010

<b>Reviewed</b>	<b>By</b>	<b>Approved</b>
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16 <sup>th</sup> May	SMG	
14 <sup>th</sup> April 2023	LNCC	1 <sup>st</sup> May by correspondence
24 <sup>th</sup> May 2023	HR&R	