



# Shared Parental Leave Policy

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### 1. Introduction

Throughout this Policy, the words 'Translink' 'Company' and/or 'the Group' refer to all corporate entities under the ownership of the Northern Ireland Transport Holding Company (NITHC). This includes the parent company and each subsidiary either individually or taken together as a group.

### 2. Scope

The Work and Families Act (Northern Ireland) 2015 and associated regulations provide an opportunity for parents to take advantage of additional flexibility in the way they choose to care for a new arrival to the family. The law will allow parents more choice about how they balance their work and caring commitments.

Eligible parents can choose how to share the care of their child during the first year of birth or adoption by utilising Shared Parental Leave, and up to 50 weeks can be shared between parents and up to 37 weeks of this can be paid.

The purpose of Shared Parental Leave is to give parents more flexibility in considering how to best care for their child. All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. 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).

The application of shared parental leave is inclusive of couples regardless of the sexual orientation and gender identity of the employee or their partner.

The Company recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. Translink employees should contact the HR Services Centre with questions relating to this policy to ensure that they obtain clarity where they require it.

### 3. Overview of Shared Parental Leave

In summary, if the employee and their partner meet the eligibility criteria outlined in the next section:

- The employee can effectively 'convert' a period of maternity/adoption leave and pay into Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) that can be taken by either parent
- An employee's partner can take SPL concurrently with the employee, or they may choose to overlap the leave or take it in turns
- SPL does not have to be taken in a single continuous block, it can be taken in discontinuous blocks of at least a week, but this is subject to agreement with the line manager

- The birth parent/main adopter can take SPL after taking the legally required two weeks of compulsory maternity/adoption leave immediately following the birth or placement of the child
- The partner can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any ordinary paternity leave entitlement (as paternity leave must be taken within the first 56 days and cannot be taken once they have taken any SPL or ShPP)
- Only one period of SPL and ShPP will be allocated in the event of multiple births or multiple adoptions in the same time period
- Shared parental leave may be taken at any time within the period which begins on the date the child is born or date of adoption placement and ends 52 weeks after that date. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

**4. Eligibility**

SPL can only be used by two people:

- The birth parent/adopter **and**
- One of the following:
  - the second parent of the child (in the case of birth) or
  - the spouse, civil partner or partner of the birth parent/ adopter.

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

Additionally, an employee seeking to take SPL must satisfy each of the following criteria:

- the employee must still be working for the Company at the start of the week in which SPL is to be taken;
- the employee must pass the ‘**continuity of employment test**’;
- the employee’s partner must meet the ‘**employment and earnings test**’
- the employee must correctly notify the Company of their entitlement and provide evidence as required.

Continuity of employment test	Employment & earnings test
The individual has worked for the same employer for at least 26 weeks’ at the end of the 15 <sup>th</sup> week before the child’s expected due date/matching date and is still working for the employer at the start of each leave period	In the 66 weeks leading up to the baby’s expected due date/matching date, the individual has worked for at least 26 weeks and earned a minimum average pay (amended annually, check <a href="http://www.gov.uk">www.gov.uk</a> ) in any 13 weeks.

For parents entitled to Shared Parental Leave they must decide:

- who will receive it
- how it will be divided

- and each must notify their employer of their entitlement

## 5. Entitlement / commencing SPL

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 birth parent's/ adopter's entitlement to maternity/adoption leave (less the two-week period of compulsory maternity / adoption leave).

If the birth parent/ adopter reduces 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.

The birth parent/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. Notice is binding therefore cannot be withdrawn (except in certain circumstances).

If the birth parent/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), the partner may still be able to take SPL (if they satisfy the eligibility criteria) and if the birth parent/adopter takes less than 39 weeks' pay. In this case, the number of weeks' pay or allowance taken by the birth parent or adopter must be deducted from 52 weeks to calculate the number of weeks of SPL that will be available for the partner to take.

SPL can commence as follows:

- The birth parent can take SPL after they have 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 partner can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the partner cannot take paternity leave or pay once they have taken any SPL or ShPP).
- Both the birth parent/ adopter and the partner can specify a date in the future on which the maternity / adoption leave will be curtailed and on which SPL will commence (provided that the entitlement has not been exhausted).

SPL will generally commence on the employee's chosen start date specified in their Booking Notice, or in any subsequent variation notice (see 'Booking Shared Parental Leave' and 'Variations to arranged Shared Parental Leave' below).

If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period (see 'Shared Parental Pay' below).

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 is lost.

## 6. Opting in to Shared Parental Leave

If an employee is entitled to SPL and intends to take SPL, they should complete Form 1 – Notice of Entitlement & Intention to Take SPL and submit to their line manager. This form must be submitted at least 8 weeks before taking any period of SPL.

## 7. Curtailing Maternity / Adoption leave

If the employee is the birth parent / main adopter, and wants to opt into the scheme, they must submit a Curtailment Notice (Section B on Form 1, or Form 2 if not entitled to SPL) before they can take SPL. This must be given together with Form 1 referred to at paragraph 6 above. The notice can be given before or after the birth parent gives birth or the child is placed for adoption however, neither maternity or adoption leave can be ended prior to the two week compulsory leave.

The Curtailment Notice is binding and cannot usually be revoked. An employee can only revoke a curtailment notice if maternity leave has not yet ended and one of the following applies:

7.1 If the employee realises that neither they nor the other parent are in fact eligible for SPL or ShPP, in which case the employee can revoke the Curtailment Notice in writing up to 8 weeks after it was given;

7.2 If the employee submitted the Curtailment Notice before giving birth, they can revoke it in writing up to 6 weeks' after birth; or

7.3 If the other parent has died.

## 8. Ending the employee's Partner's maternity / adoption leave or pay

If the Employee is not the birth parent/main adopter, but the birth parent is still on maternity leave or claiming SMP or maternity allowance, the employee will only be able to take SPL once they have:

8.1 returned to work;

8.2 given their employer a Curtailment Notice to end their maternity leave;

8.3 given their employer a Curtailment Notice to end their SMP (if they are entitled to SMP but not maternity leave);

8.4 given the benefits office a Curtailment Notice to end their Maternity Allowance (if they are not entitled to maternity leave or SMP).

## 9. Notification Requirements / Booking Shared Parental Leave

In addition to notifying the employer of entitlement to SPL/ShPP, (using Form 1 as referred to above) an employee must also give a notice to book the leave using SPL Form 3 Booking Notice (Notice to Take the Leave). This must be given at least eight weeks before the employee can take any period of leave and in many cases, will be given at the same time as the Notice of Entitlement and Intention to take to SPL (Form 1).

The employee has the right to submit three notifications specifying leave periods they 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 the employee intends to return to work between periods of leave.

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 an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

Once the line manager receives the Booking Notice (Form 3), it will be dealt with as soon as possible, but a response will be provided by the line manager no later than the 14<sup>th</sup> day after the leave request was made.

### ***Continuous leave notifications***

A 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).

An employee has 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 them (specified in Form 1 – Notice of Entitlement and Intention to take SPL) and the employer has been given at least eight weeks' notice.

An employee may submit up to three separate notifications for continuous periods of leave.

All notices for continuous leave will be confirmed in writing by HR.

### ***Discontinuous leave notifications***

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 the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the employee and to the Company against any adverse impact to the business.

Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

If the employee wants to request discontinuous periods of SPL, they must set out the requested pattern of leave in the Booking Notice (Form 3). The Company will either agree to the request and confirm this in writing or will begin a two week discussion period to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the Company (for more detail, see 'Discussions regarding Shared Parental Leave' below). At the end of that period the Company will confirm any arrangements in writing.

If agreement has not been reached, the employee will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given on the Employee's Booking Notice (Form 3). Alternatively, the employee may:

- choose a new start date (which must be at least 8 weeks after the date the employee submitted the notice requesting discontinuous leave) and tell the Company within 5 days of the end of the 2-week discussion period; or
- withdraw the notice and tell the Company within 2 days of the end of the 2 week discussion period (in which case it will not be counted as a period of leave notice, and the employee may submit a new one if they choose).

The Company will consider a discontinuous leave notification but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

### **10. Variations to arranged Shared Parental Leave**

The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the Company 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.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the Company requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the Company.

If the employee has already used up all of their notifications, the Company is under no obligation to agree to vary/cancel the leave but may still consider the request and decide whether it is reasonably practicable to grant it.

### 11. Requesting Further Evidence of Eligibility

The employee must provide the following information upon request:

- in the case of biological parents, 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 they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption
- the name and address of the other parent's employer (or a declaration that they have no employer)

In order to be entitled to SPL, the employee must produce this information within 14 days of the employer's request.

### 12. Premature Birth

Where the child is born early (before the Expected Week of Childbirth (EWC)), the employee may be able to start SPL in the eight weeks following birth even though they cannot give eight weeks' notice. The following rules apply:

- If the employee has completed a Booking Notice (Form 3) to start SPL on a set date in the eight weeks following the EWC, but the employee's child is born early, the employee can move the SPL start date forward by the same number of days, provided they notify the company in writing of the change as soon as they can. If the employee's Booking Notice already contained a start date which was a set number of days after childbirth (rather than a set date), then no notice of change is necessary.
- If the employee's child is born more than 8 weeks early and they want to take SPL in the eight weeks following birth, the employee must submit a Notice of Entitlement and Intention to take SPL (Form 1) together with a Booking Notice (Form 3) as soon as they can.

### 13. Statutory Shared Parental Pay (ShPP)

Eligible employees 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 birth parent/adopter reduces their maternity/adoption pay period or maternity allowance period. ShPP is paid at a rate set by the Government each year or 90% of average weekly earnings (whichever is lower).

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

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

- the birth parent/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
- the employee must intend to care for the child during the week in which ShPP is payable;
- the employee must have average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the child's expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;
- the employee must remain in continuous employment until the first week of ShPP has begun;
- the employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the Notice of Entitlement and Intention to take SPL (Form 1).

In addition to what must be included in Form 1, any notice that advises of an entitlement for ShPP must include:

- the start and end dates of any maternity/adoption pay or maternity allowance;
- the total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
- a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the Company should they cease to be eligible.

It must be accompanied by a signed declaration from the employee's partner confirming:

- their agreement to the employee claiming ShPP and for the Company to process any ShPP payments to the employee;
- in the case where the partner is the birth parent/ adopter, that they have reduced their maternity/adoption pay or maternity allowance;
- in the case where the partner is the birth parent/ adopter, that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

#### **14. Fraudulent Claims**

The Company may, where there is a suspicion that fraudulent information may have been provided or where the Company has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual company investigation and disciplinary procedures, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Northern Ireland employment legislation. If it is subsequently discovered that ShPP was incorrectly paid, the Company will recover wrongly paid ShPP as an overpayment of wages in line with Company policy and legislation.

#### **15. Discussions Regarding Shared Parental Leave**

An employee considering/taking SPL is encouraged to contact their line manager to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the company to support them.

The line manager may upon receiving a Notification of Entitlement and Intention to take SPL (Form 1) seek to arrange an informal discussion with the employee to talk about their intentions and how they currently expect to use their SPL entitlement.

Upon receiving a Booking Notice (Form 3) the line manager will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can, without further discussion, be approved in the terms stated in the employee's notice booking leave, a meeting may not be necessary.

Where a meeting is arranged it should take place in private and be arranged in advance. If the initial date is problematic then another date will be arranged if possible. If an alternative date cannot be arranged then the meeting may be held over the telephone.

At the meeting the employee may, if they wish, be accompanied by a workplace colleague or trade union representative.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the Company, and what the outcome may be if no agreement is reached.

#### **16. Terms and conditions during Shared Parental Leave**

During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a company car, laptop, mobile phone) will continue and contractual annual leave entitlement will continue to accrue.

Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the Company's contributions will be based on the salary that the employee would have received had they not been taking SPL.

During any unpaid period of SPL, the Company will no longer be able to deduct pension contributions. If an employee wishes to make pension contributions for the duration of the unpaid SPL, they can do so through an Additional Pension Contribution (APC) contract. If they elect to do this within 30 days of returning to work the cost of the APC will be split so 1/3<sup>rd</sup> is payable by the employee and 2/3<sup>rd</sup>s is payable by the Company. If they elect to pay this after 30 days, the cost of the APC contract is fully payable by the employee. Employee's should refer to the NILGOSC website for more information about APC contracts.

### 17. Annual Leave

SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holidays should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's holiday year.

Where it is not possible for the employee to take all of their annual leave, agreement may be reached with the line manager to allow a small number of days to be carried over but they must be used within 6 months of return.

Public Holidays will continue to accrue during SPL and can be taken upon return work.

### 18. Contact during Shared Parental Leave

Before an employee's SPL begins, the Company will discuss the arrangements for them to keep in touch during their leave. The Company reserves the right in any event to maintain reasonable contact with the employee from time to time during their SPL. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

### 19. Shared Parental Leave in Touch days

An employee can agree to work for the Company (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their 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.

**The Company has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's SPL.**

Any work undertaken is a matter for agreement between the Company and the employee. Basic daily rate will be paid for any day worked and will be offset against ShPP. Days must be agreed between employee and their Manager/Supervisor. Any SPLIT days worked do not extend the period of SPL.

An employee, with the agreement of the Company, may use SPLIT days to work part of a week during SPL. The Company and the employee may agree to use SPLIT days to effect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

### **20. Returning to work after Shared Parental Leave**

Having notified the Company of their intention to take SPL, the employee will subsequently receive a letter from the Company, formally advising them of the end date of any period of SPL.

The employee is expected to return on the next working day after this date, unless they notify the Company otherwise. If they are unable to attend work due to sickness or injury, the Company's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date or if they wish to extend the period of SPL (assuming that the employee has unused SPL entitlement), they may provide a written notice to vary the leave and must give the Company at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the Company does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

An employee is normally entitled to return to work in the position they held before starting SPL, and on the same terms of employment. However, if it is not reasonably practicable for the Company to allow the employee to return to the same position, the Company may give the employee another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances:

- If the employee's aggregate SPL and maternity or paternity leave adds up to more than 26 weeks (whether or not taken consecutively); or
- If the employee took SPL consecutively with more than four weeks of ordinary parental leave.

If an employee wants to change their hours or working arrangements on return from SPL, the employee should make a request under the Flexible Working Policy.

If an employee decides that they do not want to return to work, they should give notice of resignation in accordance with their contract of employment.

**21. Special Circumstances and further information**

In certain situations, an employee’s rights and requirements regarding SPL and ShPP may change. In these circumstances the Company will abide by any statutory obligations and an employee should refer to the documents listed below and/or clarify any issues or queries with HR Services.

**22. Definitions**

Parent	Refers to one of two people who will share the main responsibility for the child's upbringing (and who may be either the child-bearing parent, the biological non-child bearing parent, or the child-bearing parent's partner).
Partner	Refers to the child-bearing parent's spouse, civil partner or someone living with the child-bearing parent in an enduring family relationship.
SPL	Shared Parental Leave
ShPP	Statutory Shared Parental Pay
Continuous leave	a period of leave that is taken in one block, e.g. 4 weeks' leave
Discontinuous leave	a period of leave that is arranged around weeks where the employee will return to work, e.g. an arrangement where an employee will work every other week for a period of 3 months
SPLIT day	Shared Parental Leave In Touch day
Unpaid Parental Leave	separate to SPL, entitles employees to take up to 18 weeks' off work to look after a child's welfare, this leave is normally unpaid
Match	when an adopter is approved to adopt a named child or children
Curtail	where an eligible parent brings their maternity/adoption leave and, if appropriate, pay or allowance entitlement to an end early. This is sometimes referred to as reducing the maternity/adoption leave period or reducing the maternity/adoption pay or Maternity Allowance period

**23. Related Policies**

Employees may find it useful to review other related policies in conjunction with the Shared Parental Leave Policy. These include:

- Maternity Leave Policy

- Paternity/Partners Leave Policy
- Adoption Leave Policy
- Parental Leave Policy
- Time off for Dependants Policy
- Flexible Working Policy

### 24. Forms

The following forms are available for employees to submit to ensure they provide the necessary information to the Company:

- SPL Form 1 - Notification of Entitlement and Intention to take SPL
- SPL Form 2 – Curtailment notice for the birth parent or main adopter who is not entitled to maternity/adoption leave wishing to allow a partner access to SPL/ShPP
- SPL Form 3 - Booking Notice (Notice to Take Leave).