



## Shared Parental Leave

### Introduction

This policy outlines the statutory right to take shared parental leave (SPL) to care for a child due to be born or placed for adoption on or after 5th April 2015. It also outlines the arrangements and notification requirements before a period of SPL and the entitlement to pay during SPL.

SPL gives employees with caring responsibilities for babies or newly adopted children the opportunity to share up to 52 weeks' leave should they wish to do so. Parents taking SPL can take leave in separate blocks, returning to work in between blocks, and can be on leave at the same time. Eligible employees are entitled to submit up to three 'period of leave' notices and are entitled to take SPL on those dates if a continuous period of leave is requested.

Employees and managers should where possible have an informal discussion prior to employees giving formal notification of intention to take SPL so that statutory [and contractual] entitlements to other types of leave and pay can be discussed, and to ensure that plans for any discontinuous periods of leave can be considered as early as possible.

Requests for SPL which are not made in accordance with the statutory notification requirements will be given reasonable consideration, but may not be granted.

### Entitlement to Shared Parental Leave

To be entitled to SPL, you must:

- be the mother, father, or main adopter of the child, or the partner of the mother or main adopter (each will be referred to in this policy as a parent);
- have (or share with the other parent) the main responsibility for the care of the child;
- have at least 26 weeks' continuous service at the 15th week before the expected week of birth or at the week in which the main adopter was notified of having been matched for adoption with the child (known as the 'relevant week')
- still be in continuous employment until the week before any SPL is taken.

In addition, the other parent must:

- have at least 26 weeks' employment (employed or self-employed) out of the 66 weeks prior to the relevant week;
- have average weekly earnings of at least £30 during at least 13 of the 66 weeks prior to the relevant week.

If the other parent meets those conditions, but does not qualify for SPL, you may be entitled to the whole SPL period – the main advantage being the ability to request leave in different blocks and return to work in between those blocks.

You must also follow the statutory notification and information requirements detailed below.

### **Amount and Timing Special Parental Leave**

Should there be a need to recruit staff through an agency the same rigorous selection procedure will apply as for

SPL must be taken in blocks of at least one week and within a one year period beginning with the date of the baby's birth or the child's placement for adoption.

The maximum of 52 weeks' SPL will be reduced by the number of weeks' maternity or adoption leave that has already been taken by the mother or main adopter (or the number of weeks' statutory maternity/adoption pay or maternity allowance already taken if the mother or main adopter is not entitled to statutory maternity/adoption leave).

After the birth of a child it is compulsory to take two weeks' maternity leave (four weeks for new mothers who work in a factory), so in the majority of cases working parents will have the opportunity to split 50 weeks of SPL.

SPL is in addition to the statutory right to two weeks' paternity leave for fathers and partners. If you wish to take paternity leave you must do so before you take any SPL.

### **Entitlement to Shared Parental Pay**

In addition to the requirements regarding entitlement to leave outlined above, if you wish to claim shared parental pay (ShPP) you must have average weekly earnings equal to or above the Lower Earnings Limit over the eight week period

A maximum of 39 weeks' ShPP is payable, and this will be reduced by the number of weeks' statutory maternity/adoption pay or maternity allowance already taken by the mother or main adopter. ShPP is a standard weekly rate (or 90% of the employee's normal weekly earnings if this is lower) which is set by government each tax year.

You must follow the statutory notification and information requirements detailed below.

### **Notification requirements**

The notification requirements for SPL and ShPP are very specific and detailed. You will be provided with a form to assist you to provide the required information and declarations.

You must notify the company in writing at least eight weeks before the start date of the first period of SPL. The written notice must contain the following information:

#### Notice of entitlement and intention to take SPL and ShPP

- Your name and the other parent's name;
- The start and end dates of the mother's or main adopter's maternity/adoption leave (or the start and end dates of the statutory maternity/adoption pay or maternity allowance period if the mother/main adopter is not entitled to statutory leave);
- The expected date of birth/placement and the actual date of birth/placement if the written notice is given after the birth/placement;

- The amount of SPL and ShPP available and an indication of how much each parent intends to take (this may be varied by a subsequent written notice signed by both parents);
- An indication of the start and end dates of the periods of SPL and ShPP that you intend to take. This indication is not binding and can be amended at a later date;
- A declaration that you meet the conditions for entitlement to SPL, the information provided is accurate and that you will notify the company immediately if you cease to meet the conditions for entitlement;
- A declaration from the other parent containing his or her name, address and National Insurance number, confirmation that s/he meets the employment and earnings conditions, consents to the amount of leave the employee intends to take and will immediately inform you if s/he ceases to satisfy the employment.

#### Notice of curtailment of statutory maternity/adoption leave and payments

At the same time that a notice of entitlement and intention to take SPL is submitted, the mother/main adopter must give his or her employer a leave and pay curtailment notice giving 8 weeks' notice of the date on which maternity/adoption leave and pay is to end (or the date on which maternity/adoption pay is to end if s/he is not entitled to maternity/adoption leave). If the mother is only entitled to maternity allowance (and not maternity leave) her notice of curtailment must be submitted to Jobcentre Plus. Her maternity allowance cannot be reinstated, so she is in effect giving consent for her partner to take the whole of any ShPP entitlement.

Notice of curtailment is usually binding, but may be revoked in the following circumstances:

- it becomes apparent that neither parent is entitled to SPL or ShPP
- if the curtailment notice was given before the birth and is revoked within six weeks of the birth (in this case another curtailment notice can be submitted)
- if the other parent dies.

#### Notice to take a specific period of SPL and ShPP

In practice, at least the first period of SPL will be identified in the initial notice of entitlement and intention to take SPL. You are entitled to submit a maximum of a further two 'period of leave' notices [*but the company may allow more than three period of leave notices to be submitted in some circumstances*]. Each notice must be given at least eight weeks before the start of a period of leave, stating the dates of the leave and the dates on which ShPP will be claimed, if applicable.

If the first 'period of leave' notice is given prior to the birth of a child, the notice may express the start date in relation to the date of birth, for example 'starting two weeks after the baby is born for a period of four weeks'.

#### **Confirmation of SPL and ShPP**

If a continuous period of leave is requested in each period of leave notice, you will be entitled to take that period of leave and this will be confirmed in writing.

If more than one period of leave is requested in a period of leave notice, your manager will seek to accommodate the request but this cannot be guaranteed. Your manager will discuss the request with you to determine if it can be accommodated. If it cannot be accommodated, there may be an alternative pattern of leave which can be agreed, or the request may be refused. The manager's decision will be confirmed in writing.

If no agreement is reached within two weeks of the period of leave notice being submitted you can:

- take the discontinuous periods of leave requested in one continuous block, beginning on the original start date;
- take the continuous block starting on a new date, as long as the new date is later than the original start date, and you notify the company of the new date within five days of the two week period referred to above;
- withdraw the request at any time up to the 15th day after it was originally made. If the request is withdrawn in these circumstances it will not count as one of your three requests.

### **Varying a period of leave**

You are entitled to submit a request to vary a period of leave in the following ways:

- vary the start or end date as long as the variation is requested at least eight weeks before the original start date and the new start date
- vary or cancel the amount of leave requested at least eight weeks before the original start date
- request that a single period of leave become a discontinuous period of leave, or vice versa.

A variation will count as one of your three period of leave notices unless:

- it is made as a result of the child being born earlier or later than the expected week of childbirth;
- the company has requested the variation;
- the company has agreed to accept more than three period of leave notices.

The usual eight-week notice requirement may be modified if your child is born early and the new start date for the period of leave is the same length of time following the birth as in the original notice. In this case notice to vary the start date should be given as soon as reasonably practicable after the birth of the child.

### **Evidence requirements**

Childhood First may request a copy of the child's birth certificate and the name and address of the other parent's employer.

In the case of adoption, the company may request the name and address of the other parent's employer, along with evidence confirming the following:

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

Any such request may be made by the Charity within 14 days of receiving your notice of entitlement and intention to take SPL and ShPP. You must respond to the request for evidence within 14 days (or within 14 days of the birth of the child if our request was made before the child was born).

If a birth certificate has not yet been issued, you must sign a declaration stating that fact along with the date and location of the child's birth. If the other parent has no employer, this must also be declared.

### **Keeping in touch during SPL**

You may be asked to attend work on occasional days during your SPL period. These days could be for training, to attend department meetings, or just for keeping in touch (KIT). You may work for up to 20 days without bringing the SPL to an end, but work during SPL will not have the effect of extending your SPL period. If you do work, you will be paid your normal rate of pay inclusive of any ShPP entitlement. You are under no obligation to work during SPL, and the company is under no obligation to offer work.

The 20 KIT days available during SPL are in addition to the 10 KIT days available during maternity and adoption leave.

### **Terms and conditions during SPL**

#### Contractual benefits

You will continue to receive your usual contractual benefits during your SPL period (apart from remuneration).

#### Holidays

While you are on SPL your contractual holiday entitlement continues to accrue. Your manager will discuss appropriate arrangements for taking your holiday entitlement with you before your SPL starts.

### **Returning from SPL**

If you wish to return early from SPL, or extend the period of your SPL, you must notify the company at least eight weeks' before both the original end date and the new end date.

If you return to work immediately after a period of SPL which (together with any statutory maternity/adoption leave you may have taken to care for the same child) was 26 weeks or less, you will return to work in the same job that you left.

If you return to work from a period of SPL which (together with any maternity/ adoption leave you may have taken to care for the same child) was 26 weeks or more you will normally be entitled to return to the job in which you were employed before your absence. If that is not reasonably practicable for the company, then you will return to another job which is both suitable and appropriate in the circumstances.

Your right to return means that you return on terms and conditions no less favourable than those that would have been applied if you had not been absent and with the same level of seniority, pension rights and other similar rights.

### **Key legislation:**

- Children and Families Act 2014
- Data Protection Act 2018
- Shared Parental Leave Regulations 2014 (SI 2014/3050)

- Statutory Shared Parental Pay (General) Regulations 2014 (SI 2014/3051)
- Maternity and Adoption Leave (Curtailement of Statutory Rights to Leave) Regulations 2014 (SI 2014/3052)
- Statutory Maternity Pay and Statutory Adoption Pay (Curtailement) Regulations 2014 (SI 2014/3054)
- Shared Parental Leave and Paternity and Adoption Leave (Adoptions from Overseas) Regulations 2014 (SI 2014/3092)
- Statutory Shared Parental Pay (Adoption from Overseas) Regulations 2014 (SI 2014/3093)
- General Data Protection Regulation (2016/679 EU)

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