

Document control

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Policy and Process Guidelines

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**Shared Parental Leave and Pay Policy**

1. **Policy and Procedure Approval**

Council approval and endorsement of this policy was given on (date). This policy will be reviewed by the Human Resources Department if the statutory regulations change.

1. **Glossary**

|  |  |
| --- | --- |
| EWC | Expected week of childbirth |
| UShPP | University Shared Parental Pay |
| ShPP | Statutory Shared Parental Pay |
| SPL | Shared Parental Leave |
| SPLIT | Shared Parental Leave in Touch Days |
| Mother | The woman who gives birth to a child or the adopter (the adopter means the person who is eligible for adoption leave and/or pay. They can be a man or woman. |
| Partner | The child’s biological father or the partner of the mother/adopter. This can be a spouse, civil partner; or a partner who is living in an enduring relationship with the mother and child. |
| Continuous leave | A period of leave that is taken in one block i.e. four weeks leave. |
| Discontinuous leave | A period of leave that is arranged around weeks where the employee will return to work i.e. an arrangement where an employee will work every other week for a period of three months. |
| Match | When an adopter is approved to adopt a named child or children. |
| Curtail | Where an eligible mother brings their maternity/adoption leave and, if appropriate, pay or allowance entitlement to an end early. |
| SMP | Statutory Maternity Pay |
| MA | Maternity Allowance |

1. **Synopsis**

This policy outlines the arrangements for Shared Parental Leave and Pay. This policy is in addition to the Statutory and University Maternity Leave and pay provisions. Both policies should be read and then it is for the employee to decide which arrangements would suit them best. Shared parental leave i.e. effectively a reduction of maternity leave. However the first two weeks of maternity leave are statutory and this remains in force for the mother. An employee can then either claim shared parental leave or maternity leave but cannot use both. Ordinary Paternity Leave remains, however Additional Paternity Leave will be abolished from the 5th April 2015.

1. **Who the policy applies to**

The policy applies to all staff employed at the University, for babies due on or after the 5th April 2015 or who are matched for adoption from that date and who have worked for the University for 26 weeks, by the end of the 15th week before the expected weeks of childbirth or matching date.

1. **Training implications**

All managers with a responsibility for the management of staff will need to be aware of the requirements of this policy and related policies and should ensure that their direct reports are familiar with its contents. The raising of manager’s awareness of the requirements of this policy will be undertaken through the opportunity to attend training and dissemination of the policy.

1. **Monitoring**

There will be an Impact Assessment of the Policy in respect of Equality and Diversity.

1. **Inappropriate use**

The University will monitor and investigate instances of unfair treatment and take appropriate corrective action, where necessary.

1. **What is Shared Parental Leave?**

Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their children. 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). If a woman opts into SPL, this will bring to an end their maternity leave. If a woman does not opt into

SPL, they retain the right to 52 weeks maternity leave, subject to satisfying the relevant conditions. Fathers/partners are still entitled to two weeks ordinary paternity leave, unless they have already taken SPL, however additional paternity leave will be abolished from the 5th April 2015.

1. **Who is eligible for shared parental leave?**

The SPL can only be used by two people, the mother/adopter **and** one of the following:

• The father of the child (in the case of birth) or

• The spouse, civil partner or partner of the child's mother/ 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 mother/adopter of the child must be entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;

• the employee must still be working for the University at the start of each period of SPL;

• the employee must have a minimum of 26 weeks' service at the end of the 15th week before the child’s expected due date/matching date;

• the employee must correctly notify the University of their entitlement and provide evidence as required;

• the employee’s partner must in the 66 weeks leading up to the child’s expected due date/matching date have worked for at least 26 weeks and earned an average of at least £30 (this is correct as of 2015 but may change annually) a week in any 13 of those weeks.

1. **The Shared Parental Leave entitlement**

Eligible employees are entitled to take up to 50 weeks SPL during the child’s first year in their family (as the mother must at least two weeks leave after their baby is born). The mother’s/adopter’s entitlement to maternity/adoption leave, allows them to take up to 52 weeks’ leave. If they reduce 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.

A mother/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.

If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 weeks. If they do this, their partner will be entitled to up to 50 weeks of SPL.

SPL can commence as follows:

• The mother can take SPL after she has 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 father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).

Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter’s partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.

SPL will generally commence on the employee's chosen start date specified in their leave booking form, 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.

1. **Notification**

An employee entitled and intending to take SPL must give their line manager notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL.

Part of the eligibility criteria requires the employee to provide the University with correct notification. Notification must be made on the Shared Parental leave request from (SPL1). The employee must provide the University with a signed declaration stating alongside a signed declaration from their partner.

1. **Requesting further evidence of eligibility**

The HR Department within 14 calendar days of the SPL entitlement notification being received will request:

• the name and business address of the partner’s employer (where the employee’s partner is no longer employed or is self-employed their contact details must be given instead)

• 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.

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

1. **Fraudulent claims**

The University can, where there is a suspicion that fraudulent information could have been provided or where the University has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the disciplinary procedures, without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010. This may involve contacting the partner’s employer to check their eligibility to leave.

1. **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 University, to support them.

The line manager may upon receiving a notification of entitlement to take SPL seek to arrange an informal discussion with the employee to talk about their intentions and how they expect to use their SPL entitlement.

1. **Booking Shared Parental Leave**

An employee has the right to submit up to three notifications to book and/or vary 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.

The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

**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 the notice of entitlement) 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.

**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).

Where there is concern over accommodating the notification, the line manager or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and University.

The University 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 calendar days of giving it, or can take the leave in a single continuous block.

1. **Responding to a Shared Parental Leave notification**

Once the line manager receives the leave booking notice (with a copy sent to HR), it will be dealt with as soon as possible, but a response will be provided no later than 14 calendar days after the leave request was received by HR.

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

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

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.

The employee will be informed in writing of the decision of a discontinuous leave request, as soon as is reasonably practicable, but no later than 14 calendar days after the leave notification is received by HR. The request may be granted in full or in part: for example, the University or the line manager may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

1. **Variations to arranged Shared Parental Leave**

An employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise their line manager (with a copy to HR) 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 University 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 University.

1. **Statutory Shared Parental Pay**

Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. ShPP is treated as earnings and is therefore subject to the normal statutory deductions. The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

Any ShPP due will be paid at a rate set by the Government for the relevant tax year.

1. **University Shared Parental Pay**

Employees, who have been continuously employed by the University for at least one year ending with the qualifying week, have an entitlement to University Shared Parental Pay (UShPP). Rate of UShPP will be up to 16 Weeks - full contractual rate of pay (or if pay is variable, average pay over the eight weeks up to and including the qualifying week). Additionally, a further 21 Weeks at the standard rate of Statutory Shared Parental Pay (ShPP) or 90% of average weekly earnings, whichever is the lesser amount.

ShPP/UShPP is paid through payroll in the normal way. UShPP contains the ShPP elements (ShPP is not an additional payment). This payment is made on the understanding that the member of staff will return to work (50% of time or more is expected) for a period of at least three months. Should the employee fail to return to work or leaves the University before the end of three months, the employee must reimburse the University the UShPP, excluding ShPP, (after PAYE deductions) that have been received and the University reserves the right to reclaim this sum directly from the employee. As both UShPP and ShPP are paid on a weekly basis the employee’s salary will be variable depending on whether it is a 4 week or 5 week month.

All other remaining leave periods will be unpaid.

1. **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 laptop or 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 University’s contributions will be based on the salary that the employee would have received had they not been taking SPL.

1. **Annual leave**

SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday 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.

1. **Contact during Shared Parental Leave**

Before an employee's SPL begins, their line manager will discuss the arrangements for them to keep in touch during their leave. The University 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 job 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

1. **Shared Parental Leave In Touch days**

An employee can agree to work for the University (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 University 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, including the amount of salary paid for any work done on SPLIT days, will be agreed with the employee in advance. Any SPLIT days worked do not extend the period of Shared Parental Leave. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively ‘topped up’ so that the individual receives full pay for the day in question.

An employee, with the agreement of the University, may use SPLIT days to work part of a week during SPL. The University and the employee may 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.

1. **Returning to work after Shared Parental Leave**

The employee will have been formally advised in writing by the HR Department 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 otherwise. If they are unable to attend work due to sickness or injury, 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, they may provide a written notice to vary the leave and must give 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 University does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so i.e. if cover arrangements have been fixed.

1. **Special circumstances and further information**

In certain situations an employee’s rights and requirements regarding SPL and ShPP may change. In these circumstances the University will abide by any statutory

obligations and an employee should refer to the documents listed below and/or clarify any issues or queries with their HR representative.

Law relating to this document:

• The Shared Parental Leave Regulations 2014

• The Shared Parental Pay (General) Regulations 2014

• The Maternity and Adoption Leave (Curtailment of Statutory Rights to Leave) Regulations 2014

• Employment Rights Act 1996

• Child and Families Act 2014

• Equality Act 2010

For further guidance please go to the ACAS website:

<http://www.acas.org.uk/index.aspx?articleid=4911>

**Flowchart – Process to agree start date with the University**

Employee submits Shared Parental Leave booking request form at least eight weeks prior to start date.

If leave is booked in a single block, the employee has the right to take the leave on the date specified.

If notice contains discontinuous periods of leave, the HR department (in conjunction with the line manager) within 14 calendar days of receiving the request will:

Agree to leave pattern

Refuse discontinuous leave request

Propose alternative dates

Does employee withdraw notice

Does the employee agree to alternative dates?

Leaves begins on the 1st date given in the notice

If no agreement reached SPL/ShPP is taken in a single block starting on the date chosen by the employee

Process re-starts

**Shared Parental Leave – Booking request conditions**

Process re-starts

To qualify for Shared Parental Leave (SPL) you must:

* be an employee;
* have a partner with whom you share the main responsibility for the care of the child
* meet a duration of employment test;
* have a partner who meets an employment and earnings test.

To qualify for Statutory Shared Parental Pay (ShPP) you must:

* be an employee or an agency worker
* have a partner with whom you share the main responsibility for the care of the child
* the mother must have qualified for Statutory Maternity Pay or Maternity Allowance;
* you must meet a duration of employment test and have normal weekly earnings of at least the Lower Earnings Limit for a fixed period;
* you must have a partner that meets an employment and earnings test.

If you are both employees and both meet the duration of employment test and you both meet the employment and earnings test then you will both be entitled to shared parental leave.

If you are both employees or agency workers and you meet the normal earnings requirement, then you will both be entitled to ShPP.

Each parent intending to take SPL will need to complete a non-binding indication of when they expect to take SPL.

At least eight weeks’ notice must be given to the University of any SPL or ShPP that the employee will take.

**PLEASE COMPLETE THE FOLLOWING INFORMATION**

**Mother’s entitlement to SPL and ShPP: Form for the mother SPL1**

Mother’s name………………………………………………………………………………..

Expected due date of child………………………………………………………………….

Child’s actual birth date (if the birth has already taken place)…………………………..

Date maternity leave started………………………………………………………………..

Date statutory maternity pay or maternity allowance started……………………………

*Either:*

Date you have given notice to end your maternity leave and pay………………………

*OR*

Date you returned to work……………………………………………………………………

How many weeks of maternity leave did you take/will you have taken?............................................................................................................................

Have you or your partner previously taken any weeks of SPL with respect to this child?.............................................................................................................................

Have you or your partner previously taken any weeks of ShPP with respect to this child?.............................................................................................................................

**Sharing the leave and pay**

How many weeks of SPL do you intend to take?..........................................................

How many weeks of SPL does your partner intend to take?.........................................

How many weeks of ShPP do you intend to take?........................................................

How many weeks of ShPP does your partner intend to take?.......................................

**Declaration by the mother:**

I declare:

That the information I have given is correct:

That I intend to care for the child during each week that I am on shared parental leave and/or statutory shared parental pay is paid to me

That I meet the duration of employment test,

That I am, or will be, entitled to:

Statutory Maternity Pay or Maternity Allowance

[Delete as applicable]

OR

I am not entitled to Statutory Maternity Pay or Maternity Allowance

in respect of the birth of the child

that I have notified the end of the maternity pay or allowance period before the 38th week of first receiving it

that I will be absent from work in each week that ShPP is paid to me

that I am entitled to SPL and I will be absent from work on SPL for each week in which ShPP is paid to me; or

that I have no entitlement to SPL

I confirm the information I have given is accurate

**Signature of mother………………………………. Date………………………………….**

**Declaration by partner:**

Name…………………………………………………………………………………………..

Address………………………………………………………………………………………..

NI number……………………………………………………………………………………..

I am the child’s father/mother’s husband/mother’s civil partner/mother’s partner living in an enduring relationship with the child’s mother and the child

I confirm that in the 66 weeks leading up to the [child’s EWC] I have worked for 26 weeks in Great Britain and I have worked as an employed or self-employed earner in 13 of those weeks and have earned an average of £30 a week and paid national insurance contributions (or I hold an emption certificate for those weeks)

I confirm that I consent to the mother’s claim for statutory shared parental pay

I confirm that I will immediately inform the mother I cease to have responsibility for the child or I discover I do not meet the employment and earnings test

I consent to the processing of the information I give by the mother’s employer in connection with the payment of ShPP to the mother

I confirm the information I have given is accurate

**Signature of child’s father or mother’s partner………………………………………..**

**Date…………………………………………………………………………………………….**

----------------------------------------------------------------------------------------------------------------

**For HR use:**

Copy of birth certificate requested within 14 days? Yes/no

Copy of birth certificate or declaration by mother of date and location of birth provided within 14 days of request? Yes/no

Name/address of partner’s employer requested within 14 days? Yes/no

Name/address of partner’s employer provided within 14 days of request? Yes/no