

Shared Parental Leave Policy and Procedure

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This policy will be reviewed periodically to ensure compliance with changes in employment law and equality and diversity legislation. In the event that this policy or procedure is not compliant, the relevant legislation shall prevail.

Changes to this policy will be subject to consultation with the University's recognised Trade Unions before implementation

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1. INTRODUCTION

Brunel University London is fully committed to helping working parents balance the needs of work and family life and appreciates the importance of providing greater choice for parents in how they arrange parental care during the first year of a child's life or following their adoption. This policy and procedure is aimed at giving parents flexibility over how they share childcare during the first year of the child's life/placement.

The University is also committed to supporting good practice in relation to parental rights, recognising the value of achieving a gender diverse workforce and retaining and promoting talent. In support of this, the University provides parental benefits, including Shared Parental Pay (ShPP), that are above the statutory minimum.

A 'Glossary of Terms' has been made available in [Appendix A](#).

Entitlements and arrangements for Shared Parental Leave can be complex and so examples of parents' entitlements to Shared Parental Leave and Shared Parental Pay under different scenarios is included in [Appendix B](#).

2. SCOPE

This policy and procedure applies to all eligible employees of the University, including married couples, couples in a civil partnership and same sex partners. Where both parents are employed by the University, this policy and procedure covers both.

If it is the birth mother/primary adopter who is employed by the University, their partner must (where relevant) submit any notifications to take Shared Parental Leave (SPL) to their own employer, if they want to take a period of SPL.

Similarly, if it is the partner who is employed by the University, the birth mother/primary adopter must (where relevant) submit any notifications to take SPL to her own employer.

3. GENERAL PRINCIPLES

The following general principles apply:

- Each parent has to qualify separately to be able to be eligible for SPL.
- A birth mother cannot start SPL until after their 2 week period of compulsory maternity leave has ended. Similarly, a primary adopter cannot start SPL until after their 2 week period of compulsory adoption leave has ended.
- The birth mother or primary adopter's partner can take SPL immediately following the birth of the child or placement for adoption, but may first choose to exhaust any paternity/partner leave entitlements. SPL is in addition to any paternity/partner entitlement, but any untaken paternity/partner leave will be lost once the partner starts a period of SPL.
- All eligible parents can take up to a maximum of 50 weeks as SPL (52 weeks maternity/adoption leave minus 2 weeks compulsory maternity/adoption leave), and a

maximum of 37 weeks ShPP (39 weeks statutory maternity/adoption pay minus 2 weeks payment during compulsory leave period).

- Parents can decide how they split up to a maximum of 50 weeks leave between them; they can choose to be off work at the same time and/or take it in turns to have periods of leave to look after the child. To share leave, the birth mother/primary adopter will need to reduce (curtail) their entitlement to maternity/adoption leave.
- 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.
- SPL must be taken in blocks of at least one week.
- Where the birth mother/primary adopter intends on combining maternity/adoption leave with SPL this policy should be read in conjunction with the University's Maternity Policy and Adoption Policy so that a decision can be made by the employee on the most suitable arrangement for their needs.

4. ENTITLEMENT AND ELIGIBILITY TO TAKE SHARED PARENTAL LEAVE (SPL)

SPL can only be used by two people; the birth mother or primary adopter and either the father of the child (in the case of birth) or the partner of the child's birth mother or primary adopter.

As outlined in the glossary, the father or partner of the child's mother/primary adopter is referred to as the partner throughout this policy and procedure.

In order for an **employee** of the University to qualify for SPL, they must meet the following conditions:

- have worked for the University continuously for at least 26 weeks by the end of the 15th week before the expected week of childbirth (EWC) or placement date;
- will remain employed by the University at the start of the week in which each period of SPL is to be taken;
- will share responsibility for the care of the child;
- have correctly notified the University of their entitlements to SPL and provided evidence as required (see section 6.2).

In addition, the **employee's partner** with whom they will share their leave with must:

- have worked for 26 weeks (not necessarily continuously) in the period of 66 weeks leading up to the week in which the child is due (or matched for adoption) and have met the 'employment and earnings test'¹.

5. ENTITLEMENT AND ELIGIBILITY TO SHARED PARENTAL PAY

The maximum amount of Shared Parental Pay that is available is 37 weeks. During the first 2 weeks, the birth mother/primary adopter will be in receipt of maternity pay/adoption pay hence Shared Parental Pay is not paid for 39 weeks. The last 13 weeks that can be taken during the SPL period is unpaid.

¹ <http://www.acas.org.uk/index.aspx?articleid=5005>

If both parents' take SPL at the same time, only one parent will be in receipt of Shared Parental Pay (this applies to both ShPP and UShPP).

In order for either parent to claim Shared Parental Pay, the birth mother/primary adopter must curtail their entitlement to contractual or, Statutory Maternity Pay (SMP)/Statutory Adoption Pay (SAP) or, Maternity Allowance (MA) and provide the University with a binding notice of the date on which the maternity/adoption pay period will end (see section 6.2).

5.1 Statutory Shared Parental Pay (ShPP)

In order to qualify for ShPP, an employee must meet the following conditions:

- have met the qualifying requirement for SPL (see section 4), and have a partner who meets the employment and earnings test (see section 4);
- have average earnings at or above the lower earnings limit for National Insurance contributions².

ShPP is paid at the lower of 90% of the employee's weekly earnings or the statutory weekly rate.

5.2 University Shared Parental Leave Pay (UShPP)

An employee who is eligible for UShPP will be entitled up to 16 weeks full contractual rate of pay (or if pay is variable, their average pay over the eight weeks up to and including the qualifying week. Weeks where no work was carried out will be ignored for the purposes of this calculation, and earlier weeks used instead). These 16 weeks are included within the 37 weeks Shared Parental Pay period, which is available for both parents to share.

UShPP contains the ShPP elements (ShPP is not an additional payment).

In order to qualify for UShPP, employees must meet the following conditions:

- have worked for the University for at least one year by the end of the 15th week before the expected week of childbirth;
- remain employed by the University at the start of the week in which each period of SPL is to be taken;
- will share responsibility for the care of the child;
- have correctly notified the University of their entitlements to SPL and provided evidence as required (see section 6.2);
- will return to work (50% of time or more is expected) for a period of at least three months following SPL.

With the exception of an employee who works on a fixed term contract which expires during their SPL, if an employee fails 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 rights to reclaim this sum directly from the employee. If an employee is unsure about returning to work after their period of SPL, they may defer taking their UShPP until their return to work. Employees will need to notify Human Resources should they decide to defer their UShPP.

Subject to how much maternity/adoption leave that has been taken and how leave and pay are to be shared between the parents, an example of how UShPP may be paid to eligible employees is as follows:

² Please refer to www.gov.uk for the Lower Earnings Limit

- Weeks 3 – 18 of SPL: 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)
- Weeks 19– 39 of SPL: 21 weeks at the standard rate of ShPP or 90% of average weekly earnings, whichever is the lesser amount)

All other remaining leave periods will be unpaid.

A summary of statutory and University Shared Parental Payments is provided in [Appendix C](#).

Human Resources will issue all employees with an individual summary of their Shared Parental Pay entitlement once written notification of SPL has been received.

Statutory and University Shared Parental Pay will be paid in the same way as other earnings and will be subject to tax, national insurance and pension contributions, where applicable.

6. APPLYING FOR SPL AND SHARED PARENTAL PAY

6.1. Applying for SPL: What Should the Employee Do?

Understand whether they and/or their partner (or both) are entitled to Shared Parental Leave (SPL) and Shared Parental Pay (ShPP). The following steps assume that at least one parent is entitled to SPL.

Decide what arrangements will best suit their particular circumstances in terms of sharing the care for their child. Questions the employee may want to ask themselves are:

- Is the birth mother/primary adopter prepared to reduce their maternity/adoption leave?
- What will be the financial impact?
- What will be the impact for each parent in terms of work, and any particular projects they are or might be involved in?
- How might SPL work for the employee with or alongside other arrangements they may have in place or that may be possible, such as flexible working and annual leave?
- What sort of share pattern will best suit them?

Discuss - For the purpose of planning, employees are encouraged to have early informal discussions with their Manager regarding their intention to take SPL as this will help them to understand what options are available and what considerations the Manager may have in mind.

6.2 Notifying Manager and Human Resources of Entitlement

At least 8 weeks before the intended start date of the SPL, employees are required to provide their Manager and Human Resources with notice of their intention to take SPL by completing the ['Notification of Entitlement to Shared Parental Leave'](#) form.

The relevant sections of the Notification of Entitlement to Shared Parental Leave form must be completed by the employee. For the birth mother/primary adopter this will include providing details of their intention to curtail their maternity/adoption leave and, pay (if applicable), and for the partner, giving notice that their partner has or will curtail their maternity/adoption leave and, pay (if applicable).

To claim ShPP, employees must also complete the relevant section of the 'Notification of Entitlement to Shared Parental Leave' form and provide this to their Manager and Human Resources **at least 8 weeks** before the intended start date of SPL.

6.3 Further Evidence of Eligibility Requested by the University

The University will normally operate on a 'trust' basis when managing SPL. However, it is able to request the following additional information from employees and must do so **within 14 days** of receiving a notification form:

- the name and business address of their partner's employer (where their 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 date and place of birth);
- in the case of adoption, 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.

To meet eligibility to SPL employees must produce this information **within 14 calendar days** of the University request.

6.4 Arrangements for Booking SPL

Employees may request to take their SPL in continuous or in discontinuous blocks. However, each period of leave must last no less than a week or the relevant portion of a week if the employee works part-time. SPL can begin on any day of the week.

To book a period of leave, employees must complete the [Request to Book Shared Parental Leave](#) form and provide this to their Manager and Human Resources **at least 8 weeks** before the first period of leave is due to start. An employee can book more than one period of leave at the same time.

An employee can submit up to a **maximum of 3 notices** to book SPL. This includes varying a previously agreed pattern of leave.

Continuous Leave - This is a notification of a number of weeks taken in a single unbroken period of leave, for example, six weeks in a row. If an employee requests a single continuous block of leave, the University will approve the leave of the dates requested providing that **at least 8 weeks'** notice was provided.

Human Resources will confirm the dates of the continuous leave to the employee in writing **no later than 14 days** after the original booking request was received.

Discontinuous Leave - Should an employee request a discontinuous period of leave (that is, to take a period of leave, then a period back at work, followed by another period of leave: 4 weeks off / 4 weeks on / 4 weeks off, for example) the University has the right to refuse this request.

In these circumstances, the Manager should request a meeting with the employee to discuss the proposed pattern of leave **within 14 days** of receiving the original request.

A meeting does not need to take place if a proposed pattern of discontinuous leave is agreed.

The meeting will provide both parties with an opportunity to discuss the proposed pattern of leave, whether a modified arrangement would be agreeable to the employee and the University, and what the outcome may be if no agreement is reached.

6.5 Reaching a Decision

Outcome of continuous leave request - All notices for continuous leave will be confirmed in writing by Human Resources usually within **14 days** after the leave notification is received.

Outcome of discontinuous leave request - 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 and 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 University expects everyone to be provided with a written response to their discontinuous leave request within **14 days** after the leave notification is received. However, if a response is delayed then the **default provisions** will apply until the University confirms otherwise. The default provisions are set out as follows:

- The total amount of leave must be taken as one continuous block unless, by the **15th day** after the date the employee issued their request, they withdraw their notice and submit a new request. If the employee withdraws their request it will not count as one of the three notices to book leave; employees should ensure they withdraw their request in writing;
- If an employee does not withdraw their request, the discontinuous leave notification automatically defaults to a period of continuous leave;
- Within 19 calendar days of the original notification, the employee can choose when the continuous leave will commence, although leave cannot start sooner than eight weeks from the date the original notification was given. If the employee does not confirm the commencement date, the default start date will be the date the requested discontinuous leave would have first started.

6.6 Variations to a Period of SPL

Employees can request to vary an agreed and booked period of SPL by giving **at least 8 weeks'** notice to their Manager and Human Resources. The request should be made in writing using the ['Request to Vary or Cancel Shared Parental Leave'](#) form.

A request for variation can be to change the start or end of the leave, to vary the amount of leave, amend a request from a period of discontinuous to continuous leave or vice versa, or to cancel a period of leave.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as having used one of the employee's three notices to book or vary leave. 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.

7. EMPLOYMENT TERMS AND CONDITIONS DURING SPL

During SPL the following conditions will remain in place:

- A period of SPL counts as continuous service and an employee's continuous service rights are not affected.
- Employees are entitled to receive any increments and/or cost of living increases, which they would have been due, had they not been on SPL.
- Employees will continue to benefit from all their contractual terms and conditions – except for salary which will be paid in accordance with an employee's eligibility under SPL (see section 6) – throughout the 50 week period. In particular, any benefits in kind (such as use of a laptop or mobile phone) will continue.
- Employees will continue to accrue annual leave, including bank holidays whilst on SPL. However, annual leave cannot be taken during a period of SPL. Employees are encouraged to take any accrued annual leave before or after their SPL. Where a period of SPL spans two holiday years, then employees should consider how their annual leave can be managed. Upon returning to work, the Head of Department can approve for the employee to carry forward up to a maximum of 5 days annual leave to the new holiday year.

8. PENSION CONTRIBUTIONS DURING SPL

During SPL employee pension contributions will continue to be made and will be based on actual pay received and not salary payments prior to taking SPL.

Once Shared Parental Pay ends, it may have an impact on the pension contributions for both the employee and employer. As rules vary between the Pension Schemes that the University offers, it is advised that you contact Pensions@Brunel.ac.uk for guidance on your personal situation.

9. CONTACT DURING SPL AND LEAVE IN TOUCH DAYS (SPLIT)

Employees and their Manager are encouraged to maintain reasonable contact during the SPL period. Shortly before the employee starts SPL, the Manager should discuss the arrangements for them to keep in touch with the employee during SPL. Contact may be made, for example, to discuss the employee's plans to return to work, to ensure that they are aware of any possible job opportunities, to discuss any special arrangements to be made or training to be given to ease the employee's return to work or simply to update them on developments at work during their absence.

Employees may 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.

If both birth mother/primary adopter and their partner are employed by the University, each person is entitled to 20 days SPLIT days.

The University has no right to require employees to carry out any work and is under no obligation to offer any work during 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 SPL. If a SPLIT day occurs during a week when employees are receiving ShPP, this will be effectively 'topped up' so that they receive full pay for the day in question.

Employees may, with the agreement of the University, use SPLIT days to work part of a week during SPL. The use of SPLIT days can be used to affect an employee's gradual return to work towards the end of a long period of SPL or to trial a possible flexible working pattern.

10. RETURNING TO WORK

10.1 Return to Work Interview Checklist

The '[Return to Work Interview Checklist](#)' form provides a useful tool for Managers to assist employees in making a successful transition back into work. This may be used on the employees' return or during keeping in touch days in the lead up to their return to work.

10.2 Changing Return Date

Unless notified otherwise, it will be assumed that an employee's return to work date from a period of SPL is as originally stated and confirmed by Human Resources.

However, if an employee wishes to return to work earlier than agreed, they may provide a written notice to vary using the 'Request to Vary or Cancel Shared Parental Leave' form and must give **at least 8 weeks' notice** of their date of early return. This will count as one of the employee's notification. If the employee has already used 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.

If an employee is 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.

11. FLEXIBLE WORKING REQUEST

If an employee wants to change their hours or other working arrangements on return from SPL they should make a request under the university's Flexible Working Policy. It is helpful if such requests are made as early as possible.

If a Flexible Working request is not yet finalised on an employee's expected return date to work, the employee will be required to return to work on their current terms and conditions until such time that the request is concluded.

12. LEAVING THE UNIVERSITY

Should an employee choose not to return to work after SPL, they will need to give written notice of resignation to the University as soon as possible and in accordance with the terms/notice period in their contract of employment.

If an employee does not return to work after SPL for 50% or more of their contracted hours of work, or if they leave within 3 months of their return to work after SPL, the University has the right to recover any payment made in excess of USHPP. This provision shall not apply to employees on a fixed term contract that expires either before their return to work or within a

period of 3 months from return to work. UShPP will be paid up until the end of their contract and thereafter ShPP (if applicable) will continue to be paid through the University.

13. SICKNESS AT THE END OF SPL PERIOD

Should an employee be ill and unable to return to work at the end of a period of SPL, the normal contractual arrangements and reporting procedures for sickness absence will apply.

GLOSSARY OF TERMS

Continuous leave	A period of leave that is taken in one block i.e. four weeks leave
Curtail/curtailment	Where an eligible mother brings their maternity/adoption leave and, if appropriate, pay or allowance entitlement to an end early
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
Employment Earnings Test	Earning a minimum average amount in 13 of the 66 weeks leading up to the week in which child is due or matched for adoption. Please see www.gov.uk for the minimum average earnings amount.
EWC	Expected week of childbirth
Match	When an adopter is approved to adopt a named child or children
Birth mother	The parent who gives birth to a child
Parents	Applies to both mother and partner
Partner	The child's biological father or the partner of the birth mother/primary adopter. This can be a spouse, civil partner; or a partner who is living in an enduring relationship with the mother and child
Primary adopter	The primary adopter means the person who is eligible for adoption leave and/or pay and can include same sex partners
Shared Parental Pay	Refers to both USHPP and ShPP
SPL	Shared Parental Leave
SPLIT	Shared Parental Leave in Touch Days
ShPP	Statutory Shared Parental Pay
USHPP	University Shared Parental Pay

EXAMPLES OF BOTH PARENTS' ENTITLEMENT TO SPL AND SHARED PARENTAL PAY

1) Both parents entitled to SPL (Combining Maternity Leave with SPL)

Debbie has worked for the University for four years and her partner Jonathan has worked for his employer for six years. They decide that initially that Debbie will take maternity leave of 12 weeks, starting a month before her due date, and Jonathan will take his paternity/partner leave of 2 weeks when the baby is born. After her 12 weeks maternity leave, Debbie will return to work for 6 weeks so that she can complete a project which she is working on. Jonathan will take 6 weeks SPL. That still leaves them with 34 weeks. They decide they would like to have some time off together, a further 8 weeks – this takes 16 weeks of their total parental leave (8 weeks' each, taken at the same time). That leaves 18 weeks, of which Debbie takes 12 and then returns to work. In total, they have taken 34 weeks of SPL, 2 weeks of paternity/partner leave and 12 weeks of maternity leave. The SPL and maternity leave together are 46 weeks – so there are 6 weeks they decided not to take.

2) Both parents entitled to SPL (Combining Adoption Leave with SPL)

Sean has worked for the University for four years and his partner Greg has worked for his employer for seven years. As the primary adopter, they decide that Greg will take 26 weeks adoption leave, and Sean will take the remaining 26 weeks as SPL. During his leave, Sean will receive ShPP for the first 13 weeks of this leave. Thereafter, his leave will be unpaid.

3) Only Father is entitled to SPL

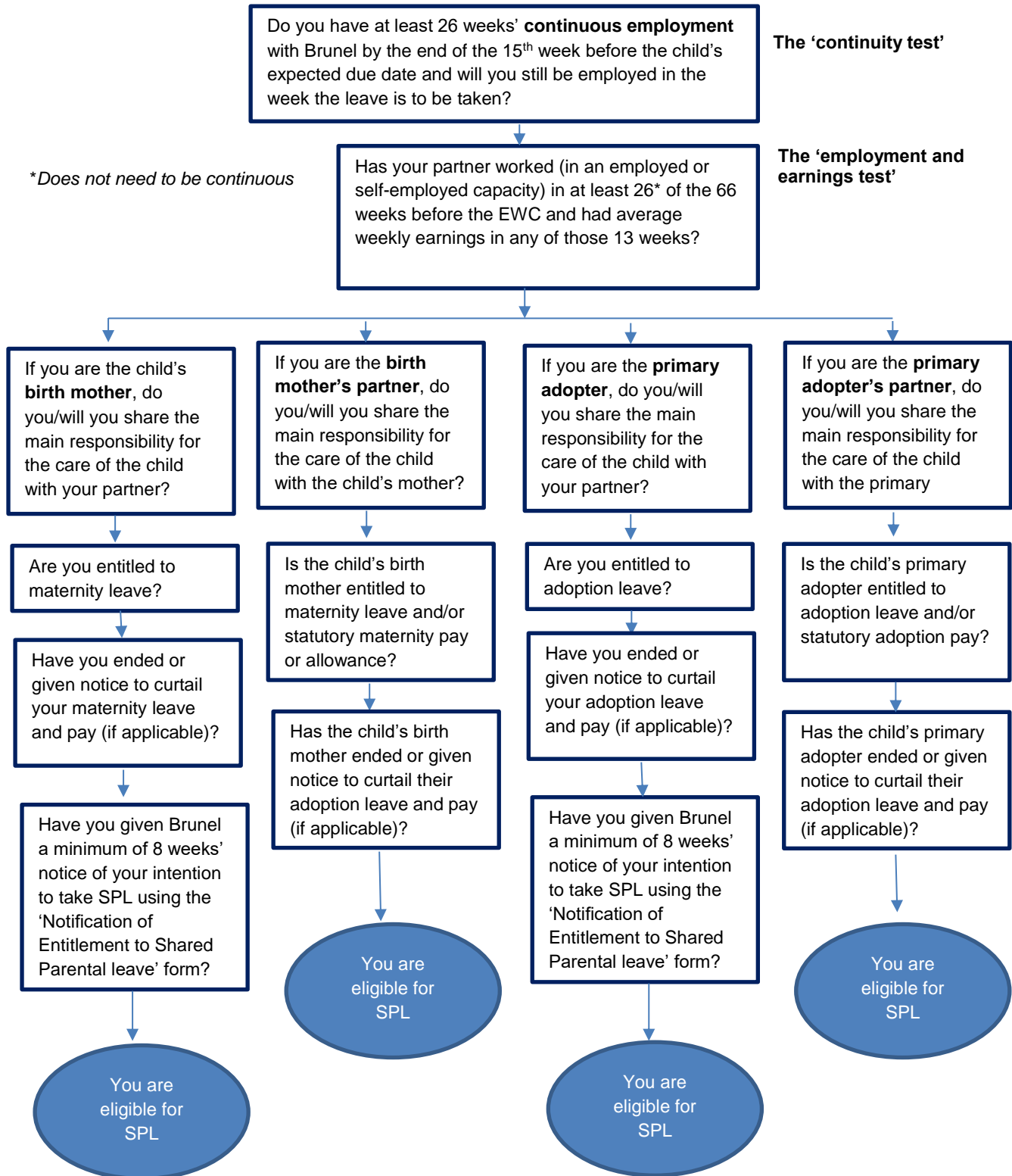
Manoj has been employed by the University for 3 years. His partner Reema is a self-employed hairdresser, who meets the employment and earnings conditions. Reema decides to take 17 weeks off and gets Maternity Allowance (MA). She gives notice to Jobcentre Plus that she will be ending her MA early. Manoj takes his paternity/partner leave and then takes 15 weeks off at the same time as Reema. As Reema's job doesn't involve travelling, it is easier for her to return to work, so at this point Manoj takes a further 7 weeks of SPL. They decide not to take any more SPL as it would be unpaid.

4) Only Mother is entitled to SPL

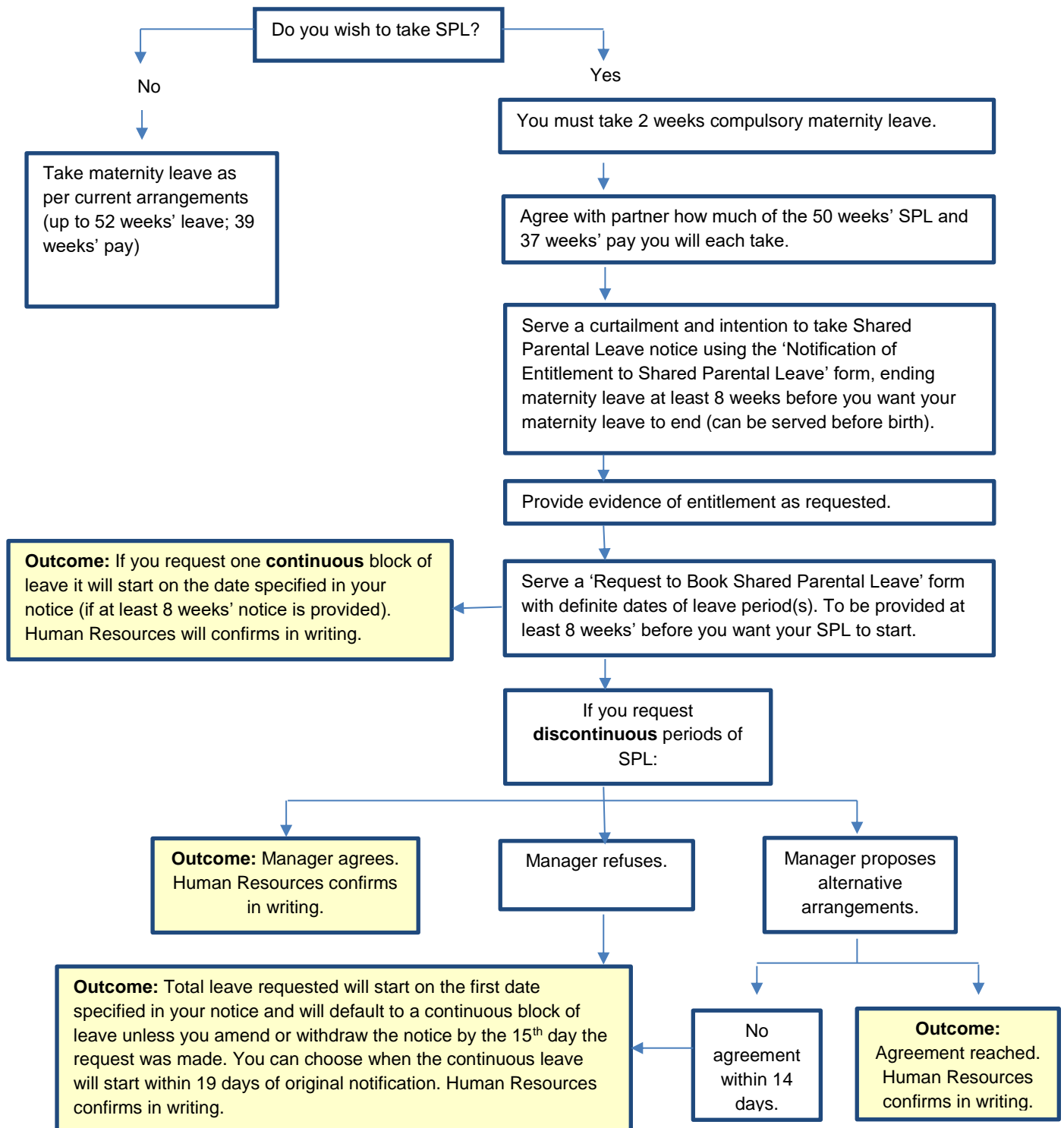
Adeyola works for the University and meets the conditions for maternity leave and Statutory Maternity Pay. Her partner Nathan is self-employed and meets the employment and earnings conditions. That means only Adeyola is entitled to SPL, if she wishes to take it. Nathan is not entitled to any paid leave and will have to decide how much time he can afford to take.

FLOWCHART: ASSESSING ELIGIBILITY FOR SHARED PARENTAL LEAVE

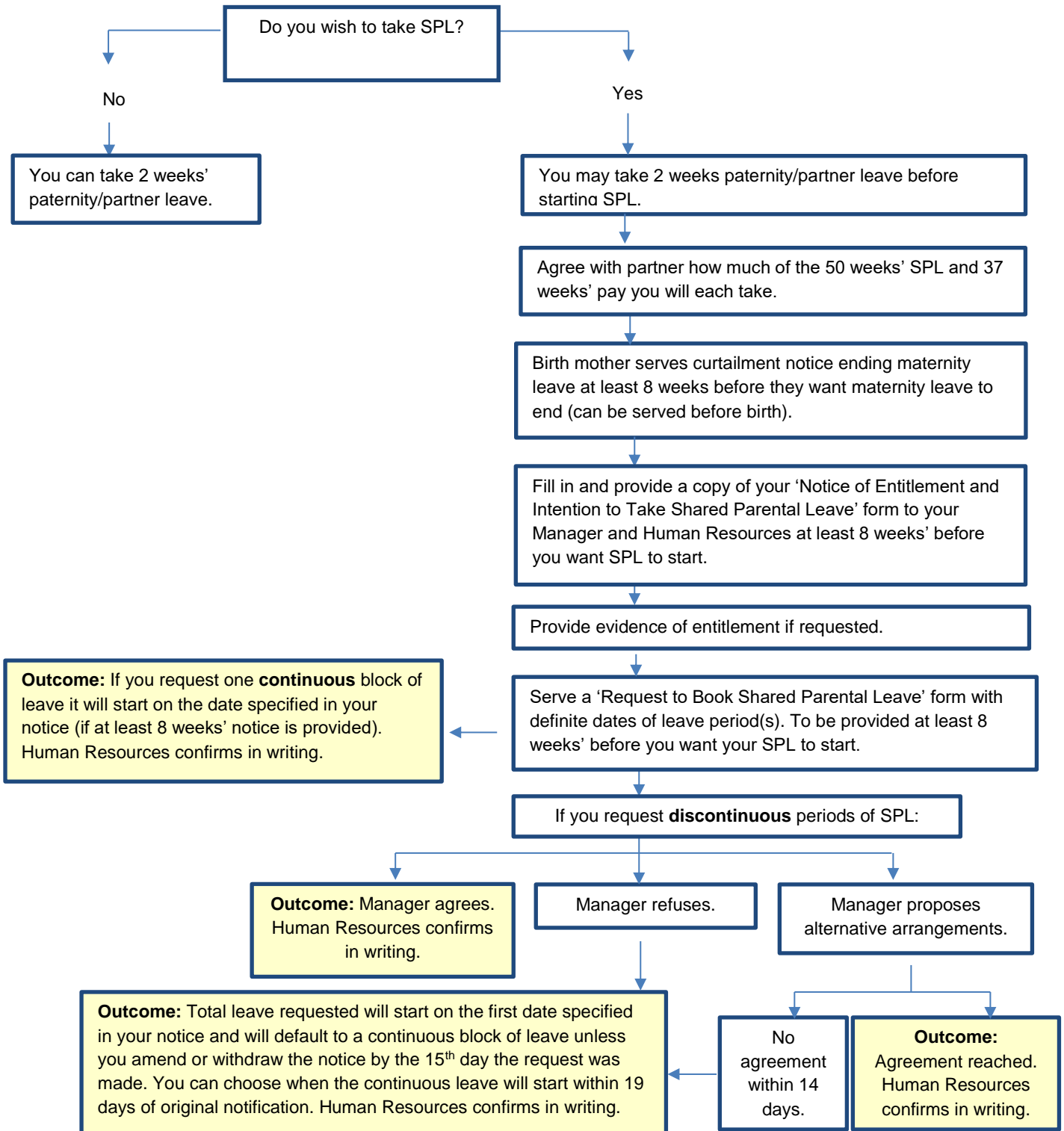
To progress, you need to answer yes to each question.



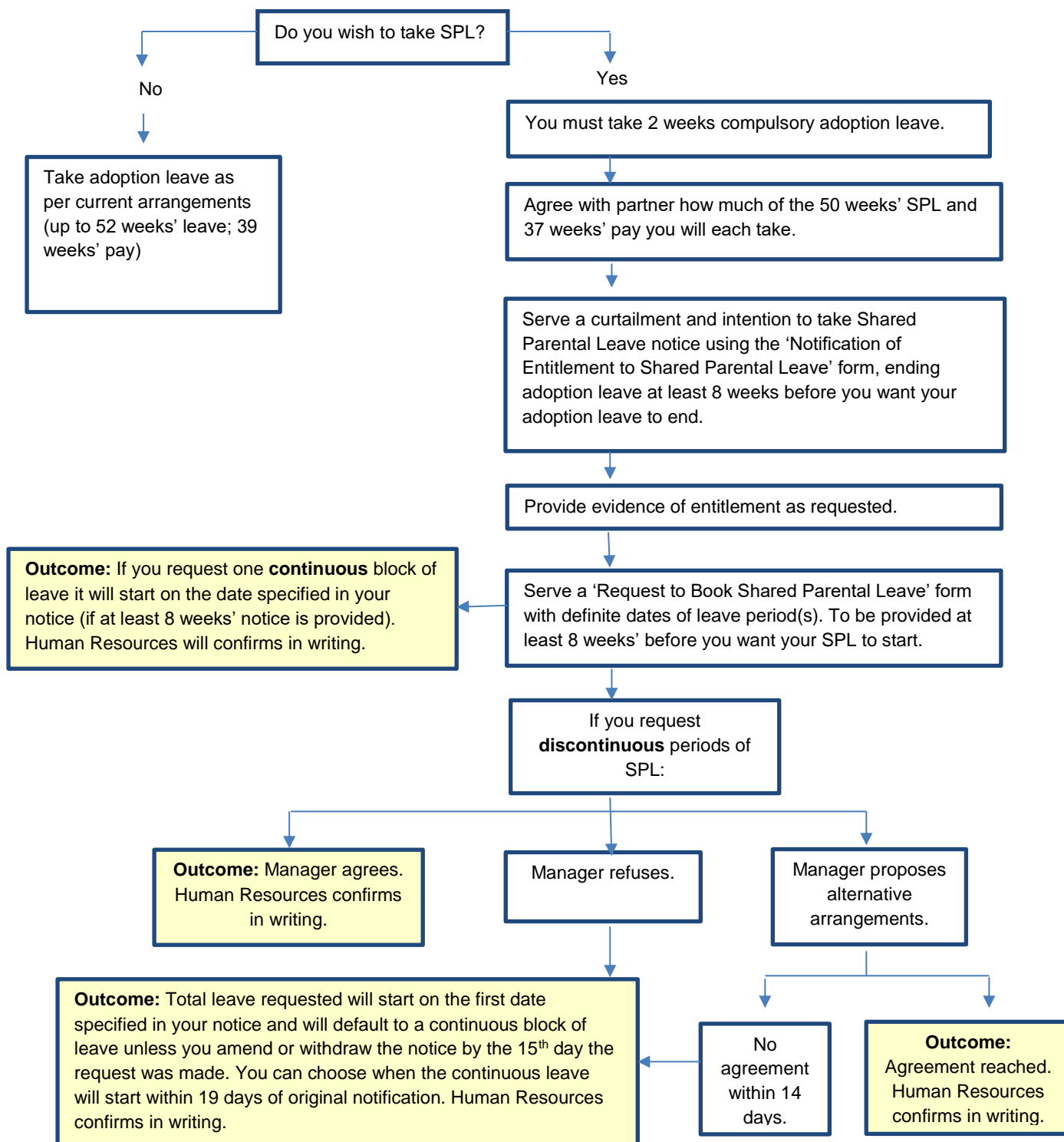
FLOWCHART: PROCESS FOR TAKING SHARED PARENTAL LEAVE: BIRTH MOTHER



FLOWCHART: PROCESS FOR TAKING SPL: BIRTH PARTNER



FLOWCHART: PROCESS FOR TAKING SPL: PRIMARY ADOPTER



FLOWCHART: PROCESS FOR TAKING SPL: PRIMARY ADOPTER'S PARTNER

