

## Company Name

### Shared Parental Leave Policy

***Last updated date:***

#### 1. Introduction

Shared Parental Leave (**SPL**) is a type of leave that is available to parents with babies due on or after 5 April 2015 or due to be adopted on or after 5 April 2015. SPL allows eligible parents to choose how to share the care of their child in the first year of birth or adoption by enabling mothers to commit to ending their maternity or adoption leave and pay at a future date, and to share the outstanding balance of leave and pay as SPL and pay with their partner, or to return to work early from maternity leave and opt in to SPL and pay at a later date.

Shared parental leave should not be confused with ordinary parental leave, which is unaffected by shared parental leave.

This policy applies to employees of [**insert Company Name**], whether they are the mother/adopter or the partner. The mother/adopter and the partner should each ensure that they are liaising with their own employer in respect of their requests for SPL.

The Company recognises that, from time to time, employees may have questions or concerns relating to their shared parental leave rights. It is the Company's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the SPL provisions are complex, if an employee wishes to take shared parental leave, he or she should speak to [**insert name and job title OR the HR department**] to clarify the relevant procedures.

#### 2. Aims of the Policy

- 2.1 To provide more flexibility to employees who have children in deciding how best to care for, and bond with, their child during the first year of birth or adoption.
- 2.2 To ensure that the Company complies with [and exceeds] its legal obligations to employees in respect of Shared Parental Leave (SPL).

#### 3. Provision

- 3.1 SPL can only be used by:
  - 3.1.1 The mother/adopter AND
  - 3.1.2 One of the following:
    - 3.1.2.1 The father of the child or
    - 3.1.2.2 The spouse, civil partner or partner of the child's mother/adopter
  - 3.1.3 Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.
- 3.2 In addition, employees seeking to take SPL must satisfy each of the following criteria:
  - 3.2.1 The employee must have been continuously employed by the Company for at least 26 weeks as at the end of the 15<sup>th</sup> week before the child's expected due date/matching date;

- 3.2.2 The employee must still be working for the Company at the start of each period of SPL;
- 3.2.3 The mother/adopter of the child must be/have been entitled to statutory maternity or adoption leave in respect of the child;
- 3.2.4 The mother/adopter of the child must comply/have complied with the relevant maternity leave curtailment requirements (or have returned to work before the end of statutory maternity leave) and SPL notice and evidence requirements; and
- 3.2.5 The employee's partner must meet the 'employment and earnings test' and have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth and have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks.

#### 4. Shared Parental Leave Entitlement

- 4.1 Eligible employees may be entitled to up to 50 weeks' SPL during the child's first year in the family. The amount of shared parental leave to which an employee is entitled will depend on when the mother/adopter brings her maternity or adoption leave period to an end and the amount of leave that the other parent takes in respect of the child. The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which 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.
- 4.2 Shared parental leave must be taken in blocks of at least one week. SPL can only be taken in complete weeks but may begin on any day of the week. The employee can ask to take shared parental leave in **one continuous block** (in which case the Company is required to accept the request, provided that the employee meets the eligibility and notice requirements), or as a **number of discontinuous blocks of leave** (in which case the employee needs the Company's agreement).
- 4.3 A **continuous leave notification** means a notification for a number of weeks taken in a single unbroken period of leave e.g. four weeks in a row. An employee can submit up to three separate notifications for continuous periods of leave.
- 4.4 A notification may also ask 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 will return to work e.g. where an employee takes four weeks of SPL and works every other week for eight weeks.
- 4.5 The Company will consider a discontinuous leave notification but has the right to refuse it. In the event that the leave pattern is refused, the employee may withdraw it within 15 days of giving the notification or take the leave in a single continuous block.
- 4.6 The first two weeks following birth are the compulsory maternity leave period and are reserved for the mother.
- 4.7 Commencement of SPL is as follows:
  - 4.7.1 The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child (see 4.6 above);
  - 4.7.2 The adopter can take SPL after taking at least two weeks of adoption leave;
  - 4.7.3 The father/partner/spouse can take SPL immediately following the birth/placement of the child but may first choose to use up any paternity leave entitlements (NOTE:



the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).

- 4.8 Where a mother/adopter gives notice to curtail their maternity/adoption entitlement, the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.
- 4.9 SPL will usually begin on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice
- 4.10 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).
- 4.11 SPL must come to an 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.

## 5. Notice Requirements for SPL

- 5.1 An employee entitled to, and intending to take, SPL must give **[insert name and job title] OR [their HR Manager]** notification of their entitlement and intention to take to SPL. This notification must be given at least eight weeks before they can take any period of SPL.
- 5.2 Part of the eligibility criteria requires the employee to provide the Company with the correct notification. The following information is required:
  - 5.2.1 the name of the employee;
  - 5.2.2 the name of the other parent;
  - 5.2.3 the start and end dates of any maternity/adoption leave or pay (or maternity allowance) taken in respect of the child and the total amount of SPL available;
  - 5.2.4 the date on which the child is expected to be born and the actual date of birth. In the case of an adopted child, the dates which should be provided are the dates on which the employee was notified of having been matched with the child and the date of placement for adoption;
  - 5.2.5 the amount of SPL the employee and their partner each intend to take;
  - 5.2.6 a non-binding indication of when the employee expects to take the leave.
- 5.3 The employee must provide the Company with a signed declaration stating:
  - 5.3.1 that they meet, or will meet, the eligibility conditions and are entitled to take SPL (see section 3 above);
  - 5.3.2 that the information provided is accurate;
  - 5.3.3 if the employee is not the mother/adopter, they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter;
  - 5.3.4 that in the event that they cease to be eligible, they will immediately inform the Company.
- 5.4 The employee must provide the Company with a signed declaration from their partner confirming:
  - 5.4.1 their name, address and national insurance number;



- 5.4.2 that they are the mother/adopter of the child or they are the father of the child or are the spouse, civil partner or partner of the mother/adopter;
- 5.4.3 that they satisfy the 'employment and earnings test' (see 3.2.5 above), and had, along with the employee, the main responsibility for the child at the date of the child's birth or placement for adoption;
- 5.4.4 that they consent to the amount of SPL that the employee intends to take;
- 5.4.5 that they consent to the Company processing the information contained in the declaration form;
- 5.4.6 that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

## **6. Requesting further evidence of eligibility**

- 6.1 Within 14 days of the SPL entitlement notification being given, the Company may request:
  - 6.1.1 the name and business address of the partner's employer;
  - 6.1.2 a copy of the child's birth certificate, or, 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.
- 6.2 In order to be entitled to SPL, the employee must produce this information within 14 days of the Company's request.

## **7. Booking SPL**

- 7.1 As well as notifying the employer of entitlement to SPL/ShPP, the employee must also give notice to take the leave. Usually, notice to take leave will be given at the same time as the notice of entitlement to SPL.
- 7.2 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.
- 7.3 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 receive Statutory Shared Parental Pay (**ShPP**).
- 7.4 When **[insert name and job title]** OR **[insert name of HR Manager]** receives the leave booking notice, it will be dealt with at the earliest opportunity. In any event, a response will be provided no later than the 14th day after the leave request was made.
- 7.5 All requests for discontinuous leave will be carefully considered, looking at the potential benefits to the employee and to the Company against any adverse impact to the business.
- 7.6 Every 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.
- 7.7 The employee will be informed in writing of the decision as soon as is reasonably practicable,



but no later than the 14th day after the leave notification was made.

- 7.8 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.

## **8. Statutory Shared Parental Pay (ShPP)**

- 8.1 [Either: The Company offers employees [with [e.g. one year's] service] enhanced shared parental pay. The Company pays employees [with the required one year's service] [e.g. their normal pay/ half pay] during any shared parental leave period that they take.]

**NOTE: Employer should be aware that, if they pay enhanced pay to employees on maternity leave, but not to employees on shared parental leave, there is a risk of sex discrimination claims from male employees who take shared parental leave.**

**OR**

[Statutory shared parental pay is available for eligible parents to share between them while on shared parental leave. The number of weeks' statutory shared parental pay available to the parents will depend on how much statutory maternity pay or maternity allowance the mother has been paid when her maternity leave or pay period ends.

A total of 39 weeks' statutory maternity pay or maternity allowance is available to the mother. As there is a compulsory maternity leave period of two weeks, this means that a mother who ends her maternity leave at the earliest opportunity could share up to 37 weeks' statutory shared parental pay with her partner (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).

Any statutory shared parental pay due during shared parental leave will be paid at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

It is up to the parents as to who is paid the statutory shared parental pay and how it is apportioned between them.

- 8.2 In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:
- 8.2.1 the mother/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;
  - 8.2.2 the employee must intend to care for the child during the week in which ShPP is payable;
  - 8.2.3 the employee must have average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child's expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;



- 8.2.4 the employee must remain in continuous employment until the first week of ShPP has begun;
- 8.2.5 the employee must give proper notification in accordance with the rules set out in 8.3 below.

8.3 Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give **[insert name and job title]** OR **[insert name of HR Manager]** written notice advising of their entitlement to ShPP.

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

- 8.3.1 the start and end dates of any maternity/adoption pay or maternity allowance;
- 8.3.2 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;
- 8.3.3 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:

- 8.3.4 their agreement to the employee claiming ShPP and for the Company to process any ShPP payments to the employee;
- 8.3.5 (in the case whether the partner is the mother/ adopter) that they have reduced their maternity/adoption pay or maternity allowance;
- 8.3.6 (in the case whether the partner is the mother/ adopter) that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

## 9. Terms and conditions during Shared Parental Leave

During SPL, all terms and conditions of the employee's contract of employment will continue, except for salary. In particular, contractual annual leave entitlement will continue to accrue.

## 10. Contact during SPL (*Shared Parental Leave in Touch days*)

- 10.1 The Company reserves the right to maintain reasonable contact with employees during SPL. 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.
- 10.2 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.

## 11. Returning to work after Shared Parental Leave

- 11.1 The employee will have been advised in writing by the Company 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 to the contrary.





- 11.2 The employee has the right to resume working in the same job when returning to work from shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory maternity leave or statutory paternity leave taken by the employee in respect of the same child, is 26 weeks or fewer.
- 11.3 If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory maternity or paternity leave taken in respect of the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional maternity leave, the employee has the right to return to the same job unless this is not reasonably practicable. In these circumstances, if it is not reasonably practicable for the Company to allow a return to the same job, the employee has the right to return to another job that is suitable and appropriate for him or her.

**This policy has been approved and authorised by:**

**Name:**

**Position:**

**Date:**

**Signature:**

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