

## **Shared parental leave/maternity leave guidance**

**The new law on Shared Parental Leave was introduced on 1 December. Parents whose children are due to be born or being adopted on or after 5 April 2015, and who satisfy eligibility criteria related to their working status, will have access to a fully flexible system of parental leave.**

**This document gives an overview of what the new provisions entail and draws together information from previous UCU briefings and guidance from ACAS and the TUC.**

### **What do the new provisions mean for parents?**

Mothers of babies due on or after 5 April now have the option of converting some of their maternity leave and pay into Shared Parental Leave (SPL). This includes if the mother's partner is not the child's father, but shares the main responsibility for caring for the child, then the leave can be shared with that person. If the mother is not in a relationship with the father of the child, but still shares the main responsibility of caring for the child with him, she can still share her leave with him. A single mother who does not share responsibility for raising her child cannot share her leave with anyone else. Leave cannot be shared with more than one person. The provisions apply to all employees who are parents (whether by birth, adoption or surrogacy), including same sex couples.

## **Objectives of Shared Parental Leave (SPL)**

- To attempt to reconcile family life and work
- To avoid perpetuation of traditional gender roles
- To encourage women to return to the workplace
- Enhance the ease with which fathers or co-parents can take parental leave
- To encourage fathers or co-parents to play a greater role in child rearing

## **Existing forms of family leave**

- Maternity leave/pay: 52 weeks leave and 39 weeks statutory pay; also Maternity Allowance
- Statutory paternity leave and pay: 2 weeks leave at flat rate
- Additional Paternity Leave: right to share some leave after 20 weeks post birth, where children born/adopted after 3 April 2011. Various conditions of eligibility
- Adoption leave/adoption pay: 52 weeks leave and 39 weeks statutory pay
- Unpaid parental leave: 18 weeks unpaid leave per child by 5<sup>th</sup> birthday

The above provisions will remain for those who do not wish to opt for shared parental leave.

## **Shared Parental Leave (SPL) – an overview of key provisions**

- Max 50 weeks leave can be shared between parents from 2 weeks after birth, 39 weeks of which are paid (statutory maternity pay). The first two weeks after the child's birth remain compulsory for the mother to have off
- Each parent must qualify in their own right and as a result of the other parent satisfying conditions
- You can amend agreed leave pattern with notice
- You and your partner can use SPL to be off work at the same time

- SPL is created from untaken Maternity Leave or Adoption Leave
- If opting for SPL, then maternity rights are curtailed - access to the shared system occurs when the mother curtails or brings forward the end of her Maternity Leave and eligibility criteria are met
- SPL must be taken within 1 year of birth or date of adoption placement
- SPL cannot be taken in multiples of less than a week
- You can take a maximum of three blocks of SPL unless your employer agrees to a discontinuous pattern of leave or agrees to accept more than three notices of leave
- You can request a discontinuous pattern for taking SPL from your employer, e.g. two weeks on, two weeks off, but your employer has the right to refuse such a request
- Same rights as during maternity leave apply in regards to return to work
- Extension of unpaid parental leave – the age limit increases from 5 years to 18 years, each parent with the right to up to 18 weeks unpaid parental leave for each child under 18

### **Some important points to note on Shared Parental Pay (ShPP) and Shared Parental Leave (SPL)**

- If you are entitled to contractual maternity pay, you may lose it if you bring your maternity leave to an early end and switch to SPL. You should check with your employer whether they provide contractual pay to employees on SPL before curtailing your maternity leave
- To qualify for ShPP you must also have an entitlement to SMP (statutory maternity pay) to which you have given notice you will bring to an early end
- It is for employers to decide whether or not to enhance contractual pay to employees on shared parental leave, where they already pay enhanced maternity pay. There is no statutory provision requiring them to do so. However, when making such a decision, employers should bear in mind the need to avoid any discrimination
- Maternity leave is also important for mothers to recover from childbirth. Opting for SPL too early could be detrimental to the mother's wellbeing

## **Eligibility criteria**

- Employees and parents who share main responsibility of caring for their child
- Not necessarily a “couple”
- To have worked for the employer for 26 weeks by the end of the 15<sup>th</sup> week before the expected week of birth and continue to be employed by them
- Your partner must have been an employee or a self employed earner for at least 26 out of 66 weeks immediately before the expected week of birth
- If the mother is not an employee, she can still pass on SPL rights to the father
- Can revert back to maternity leave if the relationship breaks down and there is no longer shared care
- Must properly notify employer of entitlement and have provided the necessary declarations and evidence

## **SPLIT days (Shared Parental Leave In Touch days)**

SPLIT days can be used where both sides feel it would be beneficial to keep up to date on any changes within the workplace, to ease the return to work or as part of a phased return. They are voluntary and need to be mutually agreed.

- Employees can work for employer for up to 20 days during SPL without ending leave period
- SPLIT days are in addition to KIT days available during Maternity Leave or Adoption Leave
- Cannot use SPLIT days to extend total SPL beyond 52 weeks
- Employer and employee must agree what work at what rate is undertaken for SPLIT days

## Overview of the Shared Parental Leave process

|   |   |   |
|---|---|---|
| <p>Step 1</p> <p>Becoming aware of a pregnancy or match</p>       | <p>Employee</p> <ul style="list-style-type: none"> <li>➤ Is SPL suitable?</li> <li>➤ Considering what leave arrangements work best</li> </ul> | <p>Employer</p> <ul style="list-style-type: none"> <li>➤ Discussing intentions and other leave options</li> </ul>                   |
| <p>Step 2</p> <p>Choosing SPL and notification of entitlement</p> | <ul style="list-style-type: none"> <li>➤ Notifying the employer of eligibility</li> </ul>   | <ul style="list-style-type: none"> <li>➤ Discussing early intentions</li> <li>➤ Making early preparations and plans</li> </ul>      |
| <p>Step 3</p> <p>Notification of a leave booking</p>              | <ul style="list-style-type: none"> <li>➤ Notifying the employer of a leave booking</li> </ul>   | <ul style="list-style-type: none"> <li>➤ Considering the impact of a leave booking</li> <li>➤ Discussing a leave booking</li> </ul> |
| <p>Step 4</p> <p>Outcome</p>                                      | <ul style="list-style-type: none"> <li>➤ Leave begins or the request is withdrawn</li> </ul>  | <ul style="list-style-type: none"> <li>➤ Confirm and communicate the outcome</li> </ul>   |

## Checklist for members - arranging Shared Parental Leave

| Action   | Completed (insert date and notes) |
|--|-----------------------------------|
| Do you know what your institution's policy is on SPL?  |                                   |
| Have you checked any pay implications of opting for SPL? (e.g. if the institution offers enhanced maternity pay, does this also apply to shared parental leave?) |                                   |

| Action   | Completed (insert date and notes) |
|--|-----------------------------------|
| Has your maternity/adoption leave/pay ended or have you confirmed a date when it will end? |                                   |
| Have you correctly completed a notice of entitlement to take SPL?                          |                                   |
| How much SPL do you have available to take?  |                                   |
| Has a meeting been arranged to discuss possible leave?                                     |                                   |
| Have you given notice to book leave?   |                                   |
| Has a meeting to discuss the notice to book SPL been arranged?                             |                                   |
| Has contact during SPL been discussed?   |                                   |
| Has a response to the notice to book SPL been given within 14 calendar days?               |                                   |
| What leave period has been arranged?   |                                   |
| How many notices to book leave are remaining?  |                                   |
| How much SPL do you still have available to take?  |                                   |

### **Shared parental leave policies**

It is good practice for an employer to have a Shared Parental Leave policy. It can be a stand alone policy or it could be included within a wider maternity and paternity policy.

When developing an SPL policy any existing consultation and/or negotiating arrangements should be followed so that employees or their trade union representatives can contribute to it. A policy should include:

- A statement advising that all notices for a continuous period of leave, from eligible employees, will be accepted and that all requests for

discontinuous leave will be considered (employees have a right to a continuous period of leave, hence it is a case of merely giving notice of this whereas a period of discontinuous leave is not an automatic right and will need to be requested from the employer)

- The amount of notifications to book/vary leave available to the employee
- How employees should inform their employer of their entitlement to SPL, who the notification should be sent to and what should be included in it
- How a notice to book leave will be handled
- The time limits for dealing with a notice to book SPL
- Shared Parental Leave in Touch days and arrangements for payment
- Contact during SPL
- The payments an employee may be entitled to while on SPL, including payment for working a SPLIT day
- Where to find forms and further information

For an example of an SPL policy, go to: [www.acas.org.uk/spl](http://www.acas.org.uk/spl)

### **Other provisions for working parents**

- Unpaid parental leave
  - You must have responsibility for a child and have worked for your employer for a year in order to qualify.
  - The entitlement of 18 weeks' leave per child can be used up to the child's 18<sup>th</sup> birthday.
  - Unpaid parental leave must be taken in blocks of one week or multiples of a week.
- Right to request flexible working
  - All employees with 26 weeks or more service with their employer have the right to request flexible working. Your employer has a duty to consider a request reasonably.
  - You can only make one request per year.

- If your employer agrees to your request it results in a permanent contract change. If you only want a trial period of a temporary variation in working arrangements, then this needs to be clearly stated and agreed in writing.

### **Maternity rights for fixed term contract and casually employed staff**

UCU has produced separate guidance for employees on fixed term and casual contracts.

### **Key points for union negotiators**

Many universities and policies may have policies in place which improve on the statutory minimum. UCU has signed up to the Working Families Manifesto, as part of a Families and Work Group, a coalition of unions and charities working together to jointly develop thinking and co-ordinate policy responses around families and employment. The manifesto, which can be used as a bargaining reference for union negotiators, calls specifically on the government elected in 2015 to:

- Make fathers' leave a day one right, as maternity leave is
- Fathers to have rights to well paid leave which is not tied to their partner's employment status
- Introduce an additional period of parental leave and reserve it for fathers only to use (TUC suggests a month)
- Improve statutory pay rates for all leave takers
- Introduce a paternal/parental allowance for those who don't qualify for statutory pay

And we will also push for:

- Paid SPLIT days
- Policies that offer leave and pay above the statutory minimum where this is not already the case

The full manifesto is available here:

<http://www.workingfamilies.org.uk/campaigns/a-families-work-manifesto-for-2015/>



## **Further information**

### **TUC**

Know your rights: Leave and pay for fathers and partners

<http://www.tuc.org.uk/equality-issues/gender-equality/equal-pay/parents-and-carers/leave-and-pay-fathers-and-partners-know>

Know your rights: Leave and pay for mothers

<http://www.tuc.org.uk/leaveandpayformothers>

### **ACAS**

Shared parental leave: a good practice guide for employers and employees

<http://www.acas.org.uk/media/pdf/1/c/Shared-Parental-Leave-a-good-practice-guide-for-employers-and-employees.pdf>

### **Maternity Action**

[www.maternityaction.org.uk](http://www.maternityaction.org.uk)

### **Working Families**

[www.workingfamilies.org.uk](http://www.workingfamilies.org.uk)

### **University and College Union**

Charlotte Nielsen, equality support official: [cnielsen@ucu.org.uk](mailto:cnielsen@ucu.org.uk)