# **An example of a policy on SHARED PARENTAL LEAVE**

## **Purpose and Scope**

This policy and procedure applies to all current employees, whether full or part-time, temporary or fixed-term. It does not apply to agency workers or to self-employed contractors.

The purpose of this policy and procedure is to provide managers and staff with clear information about our shared parental leave (SPL) provisions. This document sets out our policy on SPL, shared parental pay (ShPP) and arrangements surrounding returning to work after SPL. It also sets out the procedures which we need to follow at various stages, before, during and after SPL.

SPL also applies where a child is placed for adoption. The arrangements in relation to adoption are very similar to those that apply in relation to the birth of a child. If you are considering taking SPL in relation to the adoption of a child you should contact the CEO who will provide you with further information regarding eligibility and notice requirements.

## **Policy**

Our policy is to comply with both the spirit and the letter of the law on SPL rights. To this end our aim is to inform you of your rights and provide clear procedures.

## **Summary of SPL**

SPL allows working parents to share periods of leave and/or pay entitlement following the birth or adoption of a child. Up to 50 weeks statutory maternity leave (SML) and up to 37 weeks statutory maternity pay (SMP) may be available to be shared. The leave can be shared so that it is taken at the same time as your partner or at different times.

How much leave or pay can be shared will depend upon how much maternity leave and maternity pay has been used by the child’s mother/primary adopter. It is only the untaken balance that can be taken. If for example the child’s mother/primary adopter is entitled to 52 weeks maternity leave and 39 weeks maternity pay and has taken 16 weeks leave and pay, the balance of 36 weeks leave and 23 weeks’ pay can be shared.

In order for SPL to be taken the child’s mother or main parent must meet the eligibility criteria and bring her/his entitlement to maternity leave or maternity pay or maternity allowance (MA) to an end. However, if you are the child’s birth mother you must take the compulsory 2 weeks maternity leave following birth.

If you are the child’s father or mother’s partner, you must also meet eligibility criteria to take SPL. If the mother/primary adopter and you are not going to take SPL but stay with maternity or adoption leave you may still have an entitlement to statutory paternity leave and pay.

## **Eligibility Criteria**

SPL can only be used by two people:

* The mother/main adopter, and,
* Either the father of the child, 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. The eligibility criteria are outlined in the forms contained as appendices to this policy.

## **Evidence of Entitlement**

Within 14 days of the SPL entitlement notification being given, we will request you to confirm in writing:

* The name and business address of your partner’s employer (where your 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.

To be entitled to SPL, you must produce this information within 14 days of our request.

## **Forms to be Completed**

Mothers opting to take SPL

Please refer to the ACAS website for [Shared Parental Leave Forms](http://www.acas.org.uk/index.aspx?articleid=4911)

Any mother who wants to take SPL will need to give us 3 notices/declarations:

* Leave curtailment notice

This gives us written notice that you will end your maternity leave in favour of taking SPL.

* Opt-in notice

This explains that you are entitled to take SPL and that you intend to take it.

* Period of leave notice

This sets out the start and end dates of your SPL and if you intend to claim ShPP, if applicable.

NOTE: These notices must be received by the organisation at least 8 WEEKS BEFORE YOU INTEND TO TAKE SPL.

Fathers (or partners of mothers) opting to take SPL

You must give us, no later than 8 weeks before you want the SPL to start:

* An opt-in notice and
* A period of leave notice

## **Booking Shared Parental 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. If you return to work between periods of SPL, the next period of SPL can start on any day of the week. SPL can be taken at any time until 12 months after the baby is born. It cannot start until 2 weeks after the birth.

You can choose to take SPL at the same time as your partner or at different times to your partner. You can also choose to take a continuous block of time or you can ask to take it as discontinuous periods.

Continuous leave notifications (known as ‘notices’)

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, 6 weeks in a row).

You have 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 you and that you have given us at least 8 weeks’ notice. You may submit up to 3 separate notifications for continuous periods of leave.

Discontinuous leave notifications (‘notices’)

A single notification may also contain a request for 2 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 you return to work (for example, an arrangement where an employee will take 6 weeks of SPL by working every other week for a period of 3 months).

Where there is concern over accommodating the notification, we may request a meeting with a view to agreeing an arrangement that meets the needs of both parties (see ‘Discussions regarding SPL').

We will consider a discontinuous leave notification but we have the right to refuse it. If the leave pattern is refused, you can either withdraw your request within 15 days of giving it, or you can take the leave in a single continuous block.

You have the right to submit up to 3 notices specifying leave periods you are intending to take. Remember that if you want to change your mind over a period of SPL and submit a variation notice, this will count as another of the 3 notices. If you withdraw a notice for discontinuous leave within 15 days of submitting it, it won’t count as one of the 3 notices.

## **Maximum Number of Blocks of Leave**

The total number of periods of leave which you will be able to take is 3.

## **Responding to a SPL Notification**

Once we receive the leave booking notice, we will deal with it as soon as possible, but a response will be provided no later than the 14th day after the leave request was made. All eligible notices for continuous leave will be acknowledged in writing.

All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to both parties against any adverse impact to the charity.

If we believe that it will be difficult to accommodate a request for discontinuous leave you will be invited to discuss this at a formal meeting. At the meeting you may, if you wish, be accompanied by a workplace colleague or a trade union representative. The purpose of the meeting is to discuss:

* The leave proposed,
* What will happen while you are away from work,
* How the leave proposal could be agreed,
* Whether a modified arrangement would be agreeable, and
* What the outcome may be if no agreement is reached.

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.

You 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. The request may be granted in full or in part: for example, the organisation may propose a modified version of the request.

## **Variations to Arranged SPL**

You have the right to vary or cancel an agreed and booked period of SPL, provided that you advise us in writing at least 8 weeks before the date of any variation. Any new start date cannot be sooner than 8 weeks from the date of the variation request.

A change as a result of a child being born early, or as a result of the charity requesting it be changed, and provided you are agreeable to the change, will not count as one of the 3 notifications. Any variation will be confirmed in writing by the organisation.

## **Shared Parental Pay (ShPP)**

Statutory ShPP of up to 39 weeks (less any weeks of statutory maternity pay claimed by you or the other parent) may be available provided you have at least 26 weeks' continuous employment with us at the end of the Qualifying Week and your average earnings are not less than the lower earnings limit set by the government each tax year. ShPP is paid at a rate set by the government each year.

## **The Effect of SPL on Contractual Benefits**

Your terms and conditions of employment remain in force during SPL, except for the terms relating to pay.

Annual Leave

Annual leave entitlement will continue to accrue at the rate provided under your contract. If your SPL will continue into the next holiday year, any holiday entitlement that cannot reasonably be taken before starting your leave can be carried over. Please discuss your holiday plans with your manager in good time before starting SPL. All holiday dates are subject to approval by your manager.

Pension Scheme

If you are a member of the pension scheme, we will continue to make the employer pension contributions during any period of paid SPL, based on your normal salary, in accordance with the pension scheme rules. Any employee contributions you make will be based on the actual amount of any ShPP you are receiving. You must inform the Charity in writing if you wish to make up any shortfall in employee contributions.

## **Maintaining Contact During SPL**

Some people will choose to have little, if any, contact with work during their SPL while others want to maintain a high level of contact. Before you start your SPL, your manager will meet with you to discuss reasonable contact arrangements during your SPL. Below is a list of the sorts of information you may want to be kept informed about:

* Notes of team and other important meetings
* Details of internal vacancies which arise
* Details of important announcements given in the team meeting
* Details of significant developments to working practices
* Details of changes to the team structure
* Details of any training courses which are offered to the team

There may be occasions when we need to contact you even if you have indicated that you do not wish to be contacted. In these circumstances contact will only be made when there is significant information which might affect you. For example where there are changes proposed to the job you are expected to return to.

## **Shared Parental Leave in Touch (Split) Days**

You may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days during your SPL (SPLIT days). This is in addition to any KIT days that you may have taken during maternity leave. SPLIT days are not compulsory and must be discussed and agreed with your manager. You will be paid at your normal basic rate of pay for time spent working on a SPLIT day, which will be inclusive of any ShPP entitlement.

## **Returning to Work**

If you want to end a period of SPL early, you must give us 8 weeks' prior notice of the return date. It is helpful if you give this notice in writing. If you have already used your three notifications to book and/or vary leave then we do not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

If you want to extend your SPL you must submit a new Period of Leave Notice at least 8 weeks before the date you were due to return to work, assuming you still have SPL entitlement remaining and have not already submitted 3 periods of leave notices. If you are unable to request more SPL you may be able to request annual leave or ordinary parental leave, which will be subject to business need.

You will have been formally advised in writing by us of the end date of any period of SPL. You are expected to return on the next working day after this date, unless you notify us otherwise. If you are unable to attend work due to sickness or injury, the normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

On returning to work after SPL, you are entitled to return to the same job if your aggregated total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less. The same job is the one you occupied immediately before commencing maternity/paternity/ adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if you had not been absent.

If your maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, you are entitled to return to the same job you held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

## **Data protection**

When managing shared parental leave and pay, we will process personal data collected in accordance with the [data protection policy](https://www.xperthr.co.uk/policies-and-documents/data-protection-policy-compliant-with-the-gdpr-/162690/). Personal and or sensitive information is held securely and accessed by, and disclosed to, staff who need to manage shared parental leave and pay. Inappropriate access or disclosure of personal data would breach our data protection policy and should be reported immediately. A data breach may also constitute a disciplinary offence, which will be dealt with under the disciplinary procedure

## **Fraudulent Claims**

Where there is a suspicion that fraudulent information may have been provided or where we have been informed by the HMRC that a fraudulent claim was made, we will investigate the matter further in accordance with the usual disciplinary procedures.

**Important notice**

This is an example of an employment policy designed for a small not-for-profit employer adhering to statutory minimum requirements and does not constitute legal advice. As with all policies it should be consistent with your terms and conditions of employment as well as your culture and aspirations. There is no one size fits all!