

## Shared Parental Leave – Frequently Asked Questions

### What is shared parental leave?

Shared parental leave is a way of giving parents more flexibility over how they share childcare between them during the first year of their child's life or following adoption.

As long as both parents meet the eligibility requirements (see below), the mother or primary adopter can end their maternity or adoption leave early and take shared parental leave with their partner. They will then be able to take it in turns to have periods of leave to care for the child, and/or take leave at the same time as each other.

The maximum number of weeks shared parental leave available is 50 weeks (at least two weeks maternity/adoption leave must be taken). An employee can choose to take shared parental leave at any time before the child's first birthday or before the first anniversary of the adoption placement, but all leave must be used within that period.

Parents can take shared parental leave at the same time as each other and can be taken in more than one block

### When does shared parental leave come in?

The Shared Parental Leave Regulations 2014 will apply in relation to babies due on or after 5 April 2015 and children who are placed for adoption on or after 5 April 2015.

### Am I entitled to shared parental leave if my baby is due before 5 April 2015 but is born on or after that date?

No. Shared parental leave is available only in relation to babies whose expected week of birth begins on or after 5 April 2015. The actual date of birth is not relevant for the purposes of eligibility for shared parental leave.

Similarly, if a baby expected on or after 5 April 2015 is actually born before that date, the parents' eligibility for shared parental leave is not affected.

### Can I still take ordinary paternity leave once shared parental leave is in force?

Yes, if you meet the eligibility criteria you will still be able to take one or two weeks' ordinary paternity leave within the first 56 days following the child's birth. This means that you can choose to take both ordinary paternity leave and shared parental leave, **but** the period of ordinary paternity leave must come first.

### How do I know if I am eligible for shared parental leave?

There is a two-stage test for eligibility for shared parental leave: you must be eligible in your own right and your partner must also meet certain eligibility requirements.

1. **If you are the mother or primary adopter** you will be eligible for shared parental leave to care for your child if:

- you have at least 26 weeks' continuous employment by the end of the 15th week before the expected week of childbirth/placement and you remain in continuous employment with the UHB at the start of any period of shared parental leave that you take;
- you have the main responsibility for the care of the child at the date of the birth / placement for adoption (apart from the responsibility of her partner or the child's father);
- you are entitled to statutory maternity / adoption leave in respect of the child;
- you have curtailed your statutory maternity/adoption leave by giving the relevant notice and
- have complied with the relevant notice and evidence requirements (see below).

In addition, your partner (i.e. the child's father or your spouse, civil partner or partner) must:

- have been employed or self-employed during at least 26 of the 66 weeks before the expected week of childbirth/placement;
- have average weekly earnings of at least £30 (in 2015/16) for any 13 of those 66 weeks; and
- have the main responsibility for the child at the date of the birth / placement for adoption (apart from the responsibility of the mother).

**2. If you are the father of a child**, or the partner of the child's mother/primary adopter you will be eligible for shared parental leave to care for the child if:

- you have at least 26 weeks' continuous employment by the end of the 15th week before the expected week of childbirth / placement and remain in continuous employment with the UHB until the week before any period of shared parental leave that you take;
- you have the main responsibility for the care of the child at the date of the birth / placement for adoption (apart from the responsibility of the mother); and
- you have complied with the relevant notice and evidence requirements.

In addition, the child's mother must:

- have been employed or self-employed during at least 26 of the 66 weeks before the expected week of childbirth / placement;
- have average weekly earnings of at least £30 (in 2015/16) for any 13 of those 66 weeks;
- have the main responsibility for the child at the date of the birth /placement for adoption (apart from the responsibility of the employee);
- be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and
- have curtailed her statutory maternity leave, or if she is not entitled to statutory maternity leave, curtailed her statutory maternity pay or maternity allowance.

### **Can same-sex couples take shared parental leave?**

Yes. An employee can take shared parental leave with his or her spouse, civil partner or partner. A partner is defined as someone (whether of a different sex or the same sex) who lives with the employee in an enduring family relationship (but who is not his or her child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew).

## **How do I apply for shared parental leave?**

The process for applying for shared parental leave is fairly complex because the notices which parents are legally required to give to their employer are made up of three elements. They are:

- a "curtailment notice" from the mother /adopter setting out when they propose to end their maternity /adoption leave (unless they have already returned to work from maternity or adoption leave);
- a "notice of entitlement and intention" from the employee giving an initial, non-binding indication of each period of Shared Parental Leave that they are requesting; and
- a "period of leave notice" from the employee setting out the start and end dates of each period of Shared Parental Leave that they are requesting.

To make the process as straightforward as possible these three elements have been incorporated into one Shared Parental Leave Application form ([hyperlink](#))

You can choose to complete these three sections separately or at the same time, but once part 3 (period of leave notice) is completed the application is treated as binding. All parts of the application process must be completed at least 8 weeks before the date you wish to commence Shared Parental Leave.

You are strongly encouraged to discuss the dates you wish to take as shared parental leave with your line manager as early in the process as possible, and certainly before completing part 3 of the application form.

## **How much notice do I need to give to take shared parental leave?**

You must give your line manager at least eight weeks' notice to take a period of shared parental leave. However, there are three elements of notice to be given, and the process can be complex so you are strongly advised to start discussions with your manager as early as possible and to give as much notice as possible.

This should be done by completing the Shared Parental leave Application Form ([hyperlink](#)).

## **Can a mother's partner begin a period of shared parental leave while the mother is still on maternity leave?**

Yes, if the mother has provided her employer with a maternity leave curtailment notice, and all the relevant eligibility criteria and notice requirements are satisfied, the mother's partner can begin a period of shared parental leave while the mother is still on maternity leave.

## **Can both parents take shared parental leave at the same time?**

Yes, both parents can be absent from work on shared parental leave at the same time.

The amount of shared parental leave that the parents can share is 50 weeks, minus the amount of maternity leave taken by the mother, or adoption leave taken by the primary adopter. All leave must

be taken before the child's first birthday, or before the first anniversary of the day on which the child was placed for adoption.

**Under the shared parental leave rules, can both parents have a period back at work at the same time, before taking further periods of leave, or does at least one parent have to remain on leave?**

Both parents can be back at work at the same time and still retain the right to shared parental leave.

Shared parental leave is aimed at giving parents more flexibility over how they share childcare between them during the first year. The leave does not have to be taken in one continuous block; one or both parents can return to work and then take a further period of shared parental leave, provided that they comply with the notice requirements. The parents could decide to arrange alternative childcare and both return to work for a period at the same time.

**Can I take shared parental leave if my partner is self-employed?**

Yes, you can be eligible to take shared parental leave if your partner is self-employed, as long as your partner meets the relevant requirements relating to employment and earnings.

Your partner must have:

- been engaged in employment either as an employed or self-employed earner for any part of the week in at least 26 of the 66 weeks immediately before the expected week of birth (or the week of notification of matching for adoption); and
- average weekly earnings of at least £30 (in 2015/16) in any 13 of those 66 weeks

**What is "discontinuous leave"?**

Discontinuous leave is when an employee takes a period of shared parental leave, then returns to work, then takes a further period of shared parental leave.

Shared parental leave must be taken in blocks of at least one week and all leave must be taken before the child's first birthday, or before the first anniversary of the adoption placement.

When you provide your 'period of leave notice' (i.e. part 3 of the application form), you can request either a single block of leave or 3 discontinuous blocks of leave.

Managers cannot refuse an application for continuous shared parental leave, but they can refuse a request for discontinuous leave or suggest an alternative pattern. There is more information on what happens in this situation below.

Employees can submit up to three separate leave notices but must give at least 8 weeks' notice on each occasion.

**Can my line manager refuse a request to take shared parental leave or require me to take it at a different time?**

This depends on the pattern of leave that you have requested when submitting your "period of leave notice" (part 3 of the application form).

If you submit a period of leave notice (part 3 of the application form) requesting one continuous period of leave, your line manager must allow you to take your leave on the dates requested. They

cannot require you take it at a different time, for example to prevent you being absent during a particularly busy time for the department or when other employees are also absent.

However, if you submit a period of leave notice requesting discontinuous periods of leave (e.g. two weeks' leave beginning on 1 June, four weeks' leave beginning on 1 August and four weeks' leave beginning on 1 December) your line manager can refuse the request as long as they have a good reason for doing so. The line manager can suggest alternative dates for a period or periods of leave, but is not obliged to do so.

If your request for discontinuous leave is refused, you have up to two weeks to withdraw the notice or agree alternative dates with your manager. If you have not done either of these within two weeks of the date of the notice, you must either withdraw the notice at that point or take the total amount of leave requested in the leave notice as a continuous period of leave (ie one period of 10 weeks' leave, in the example above). In this case you can choose a start date for the continuous period of leave that is no less than eight weeks from the date of the leave notice.

However, you can submit up to a maximum of three notices. Therefore you could request three separate periods of continuous leave, and your manager would not be able to refuse them provided that you give the required 8 weeks' notice.

### **Can I change my mind about when I intend to take shared parental leave, for example my partner's employer does not agree to the requested pattern?**

Yes, you can change your mind about when you intend to take shared parental leave at various stages in the procedure.

- You can vary or cancel your proposed shared parental leave dates after submitting a notice of entitlement and intention (part 1 of the application form), which gives an indication of the leave pattern that you intend to take but is non-binding until you provide a period of leave notice (part 3 of the application form) in relation to the particular period of leave. There is no limit on the number of variations of notice of entitlement and intention (part 1 of the application form) that you can make.
- Once you have submitted a period of leave notice (part 3 of the application form), you can vary or cancel your shared parental leave dates by providing your employer with at least eight weeks' written notice. To do this you should complete the Variation of Notice Form ([hyperlink](#)). However, a variation of notice would count toward the maximum of three separate period of leave notices you can submit.
- If you have submitted a period of leave notice requesting discontinuous leave and your manager has refused the request or no agreement has been reached within a two-week period as to when the leave will be taken, you may withdraw the period of leave notice. In this instance it would not count towards the maximum of three requests for leave that you can make because it has been withdrawn before it has been agreed.

Therefore, if you submit a request for a discontinuous period of leave and you have to change your plans because your partner's employer does not agree to the leave pattern, you will be able to either withdraw the notice and submit an amended request, or, if you and your line manager have already agreed to the request, submit a variation notice, provided that you have not already submitted the maximum three leave or variation notices.

### **Can I take keeping-in-touch days while on shared parental leave?**

Yes, you and your line manager can agree up to 20 keeping-in-touch days during shared parental leave without bringing the leave to an end. These are called Shared-Parental-Live-in-Touch or SPLIT days.

Your manager has no right to require you to carry out any work, and is under no obligation to offer you any work, during your Shared Parental Leave. Any SPLIT days undertaken are a matter for agreement between you and your line manager.

SPLIT days can be used either to undertake work or, for instance, to attend meetings, team events or training. Both parents have up to 20 keeping-in-touch days each, which can be taken as single days or in blocks of days. This is in addition to the 10 keeping-in-touch days available to the mother or primary adopter during maternity leave or adoption leave.

If you work a SPLIT day your Shared Parental Pay will be made up to full pay for those hours worked. If you are on unpaid Shared Parental Leave you will be paid at your normal hourly rate.

### **Can I use periods of shared parental leave to reduce my hours over a period, for example by working for two days a week and taking shared parental leave for three days a week?**

No, shared parental leave must be taken in blocks of at least one week at a time. Therefore, you cannot take shared parental leave in blocks of one or two days to reduce your working hours.

However, if the curtailment notice was submitted before the birth of your baby, it may be withdrawn without a reason for up to 6 weeks following the birth.

### **Can I opt back into maternity leave once I have given notice to end it early?**

No, once you have opted to end your maternity leave you cannot opt back in. The curtailment notice is binding except in very exceptional circumstances.

### **Will I receive pay while on shared parental leave?**

As well as meeting the eligibility requirements for shared parental leave, to claim shared parental pay you must satisfy the following criteria:

- the mother/adopter must be entitled to statutory maternity or adoption pay (or allowance) and must have reduced their maternity/adoption pay period or maternity allowance period;
- you must intend to care for the child during the week in which Shared Parental Pay is payable;
- you must have an average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the child's expected due date/matching date which are not less than the lower earnings limit in force for national insurance contributions;
- you must remain in continuous employment until the first week of Shared Parental Pay has begun;
- you must give proper notification in accordance with the rules set out below.

Where you are entitled to receive shared parental pay you must, at least eight weeks before receiving any shared parental pay, give your line manager written notice advising of your

entitlement to shared parental pay. This should be done by completing part two of the application form. ([hyperlink](#))

### **How much shared parental pay will I be entitled to?**

There is up to 37 weeks' statutory shared parental pay available for parents to share between them while on shared parental leave, but how you choose to use this is between you and your partner.

The mother of a child can choose to curtail her maternity leave and statutory maternity pay (SMP) and take shared parental leave and statutory shared parental pay with her partner, or the child's father. The amount of statutory shared parental pay that is available for the parents to share is 39 weeks, minus the amount of SMP or maternity allowance taken by the mother. There is a compulsory 2 week maternity leave period, so the maximum amount of shared parental pay available is 37 weeks. Similar provisions apply for parents taking shared parental leave in an adoption situation.

### **Will my shared parental pay be enhanced?**

No, there is no entitlement to occupational maternity or adoption pay while on shared parental leave.

Statutory shared parental pay is paid at a flat rate (currently £138.18, or 90% of the employee's normal earnings if this is less). Unlike SMP, there is no provision for employees to be paid 90% of their earnings for the first six weeks of their statutory shared parental pay period where this is higher than the statutory rate.

### **How will statutory shared parental pay be divided between me and my partner if we take shared parental leave at the same time as each other?**

There are no rules as to how entitlement to statutory shared parental pay should be divided between parents. This is for agreement between you and your partner.

The total amount of statutory shared parental pay available for eligible parents to share is 37 weeks, minus the amount of statutory maternity pay or maternity allowance paid to the mother (or minus the amount of statutory adoption pay paid to the primary adopter). Parents can be on shared parental leave at the same time as each other and can receive statutory shared parental pay at the same time.

You are required to notify your manager of how many weeks of shared parental pay you are entitled to and how you will split it with your partner. This should be done by completing part 2 of the application form.

### **Do I have the right to return to the same job after taking a period of shared parental leave?**

Yes, you are entitled to return to work to your original job under your original contract and on no less favourable terms and conditions. If this is not reasonably practicable you will be found suitable alternative employment, where the terms and conditions are not substantially less favourable than your original job.

**Do I continue to accrue annual leave during a period of shared parental leave?**

Yes, shared parental leave is granted in addition to your normal annual holiday entitlement.

Wherever possible you should take the leave in the year that it is earned. Where a shared parental leave period overlaps two leave years you should consider how your annual leave entitlement can be used to ensure that it is not untaken at the end of the leave year.

**I have a Term Time Only Contract. Can I take periods of leave during term time and "return to work" during school holidays?**

Yes, as long as you meet the eligibility requirements and give your manager the correct notice, you can choose when to take your shared parental leave.

**What is the difference between shared parental leave and additional paternity leave?**

Additional paternity leave is being abolished and replaced by shared parental leave. Shared parental leave will apply in relation to babies due on or after 5 April 2015. Additional paternity leave will continue to be available only in relation to babies due before 5 April 2015.

**Are there any changes to the regime for 18 weeks' unpaid parental leave as a result of the introduction of shared parental leave?**

No, there are no changes to ordinary unpaid parental leave as a result of the introduction of shared parental leave.

Eligible employees can currently take up to 18 weeks' ordinary parental leave in relation to a child before his or her eighteenth birthday. Ordinary parental leave is unpaid. Entitlement to ordinary parental leave will not be affected by whether or not employees decide to take shared parental leave.