



Keele University

Shared Parental Leave and Pay Policy and Procedure

Human Resources Department

Lead Director: Director of Human Resources and Student Support
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Shared Parental Leave and Pay Policy and Procedure

1. Introduction

- 1.1. For babies due on or after 5 April 2015, this policy and procedure outlines the University's provisions for shared parental leave and pay. The policy and procedure will be regularly reviewed and updated in order to ensure that it reflects best practice and any legislative changes.
- 1.2. This policy and procedure applies to all members of University staff irrespective of funding source.
- 1.3. Shared parental leave should not be confused with ordinary parental leave, which is unaffected by shared parental leave. Ordinary parental leave is the entitlement to up to 18 weeks' unpaid leave. [The University provides a separate policy on ordinary parental leave.]
- 1.4. This Policy should be read in conjunction with the University's Staff Paternity/Partner Leave and Pay Policy.

2. What is Shared Parental Leave?

- 2.1 Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with their child.
- 2.2 All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. This policy sets out the statutory rights and responsibilities of employees who wish to take Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).
- 2.3 The University recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. The University encourages open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the shared parental leave provisions are complex, if an employee wishes to take shared parental leave, they should clarify the relevant procedures with their link Human Resources team to ensure that they are followed correctly.

3. Eligibility for Shared Parental Leave

- 3.1 SPL can only be used by two people:
 - The birth parent / parent by surrogacy / main adopter, henceforth referred to as **parent-1**, and

- One of the following:
 - Other biological parent (in the case of birth and in some cases, surrogacy) or
 - the spouse, civil partner or partner (regardless of gender) of the child's birth parent / parent by surrogacy / main adopter.
 henceforth, referred to as **parent-2**.

Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.

3.2 Additionally, an employee seeking to take SPL must satisfy each of the following criteria:

- **parent-1** must be/have been entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
- the employee must still be working for the organisation at the start of each period of SPL;
- the employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date;
- the employee's partner must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned an average of the minimum earnings limit set annually by the Department for Work and Pensions in any 13 of those weeks; The up to date minimum earnings limit can be found at: <https://www.gov.uk/shared-parental-leave-and-pay/eligibility>
- the employee must correctly notify the University of their entitlement and provide evidence as required.

4. Shared Parental Leave Entitlement

- 4.1 Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using **parent-1'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 Shared Parental Leave system and take any remaining weeks as SPL.
- 4.2 **Parent-1** may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.
- 4.3 If **parent-1** is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by **parent-1**.
- 4.4 SPL can commence as follows:

- The birth parent can take Shared Parental Leave after taking the legally required two weeks of maternity leave immediately following the birth of the child.
 - The adopter can take SPL after taking at least two weeks of adoption leave.
 - **Parent-2** can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity/partner's leave entitlements which cannot otherwise be taken after any SPL has been taken or ShPP received.
- 4.5 Where **parent-1** gives notice to curtail their maternity/adoption entitlement then **parent-1's** partner can take leave while **parent-1** is still using their maternity/adoption entitlements.
- 4.6 Shared Parental Leave will generally commence on the employee's chosen start date, specified in their leave booking notice, or in any subsequent variation notice.
- 4.7 If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period (see Section 13 below "Shared Parental Pay" below).
- 4.8 Shared Parental Leave 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.

5. Notification

- 5.1 An employee entitled and intending to take SPL must give the University notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL. The individual should notify their line manager and complete form ShPL(a) (Notification of intention to take Shared Parental Leave) before sending this to the Human Resources Department. Form ShPL(a) can be found at <http://www.keele.ac.uk/hr/forms/>
- 5.2 Part of the eligibility criteria requires the employee to provide the University with the correct notification. Notification must be in writing on the ShPL(a) form and requires each of the following:
- the name of the employee;
 - the name of the other parent;
 - 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 Shared Parental Leave available;
 - the date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption;
 - the amount of SPL the employee and their partner each intend to take
 - a non-binding indication of when the employee expects to take the leave.

The employee must also complete Section 6 of the form ShPL(a), which contains a declaration stating:

- that they meet, or will meet, the eligibility conditions and are entitled to take SPL;
- that the information they have given is accurate;

- if they are not **parent-1** (the birth parent/adopter of the child) they must confirm that they are **parent-2** *i.e.* either the other biological parent of the child or the spouse, civil partner or partner (regardless of gender) of **parent-1**;
- that should they cease to be eligible they will immediately inform the University.

5.3 The employee must provide the organisation with a signed declaration from their partner. This can be done by forwarding a completed form ShPL(b) to Human Resources. The employee's partner will be asked to confirm:

- their name, address and national insurance number (or a declaration that they do not have a national insurance number);
- that they are **parent-1** (the birth parent/adopter of the child) or they are **parent-2** *i.e.* either the other biological parent of the child or are the spouse, civil partner or partner (regardless of gender) of **parent-1**;
- that they satisfy the 'employment and earnings test' (see section 3.2 above), and had at the date of the child's birth or placement for adoption the main responsibility for the child, along with the employee;
- that they consent to the amount of SPL that the employee intends to take;
- that they consent to the University processing the information contained in the declaration form; and
- (in the case where the partner is **parent-1**), that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

6.0 Requesting Further Evidence of Eligibility

6.1 The University's Human Resources Department may, within 14 days of receipt of the ShPL(a), request:

- the name and business address of the partner's employer (where the employee's 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

In order to be entitled to SPL, the employee must produce this information within 14 days of the University's request.

6.2 Fraudulent claims

The University reserves the right to further investigate the circumstances surrounding an employee's notification of their intention to take SPL if it is suspected that fraudulent information has been provided. Any investigation will be in accordance with the University's Disciplinary and Appeals Procedures.

7.0 Informal Discussions Regarding Shared Parental Leave

- 7.1 An employee considering/taking SPL is encouraged to discuss their intention to take this type of leave with their line manager as early as possible. In addition, the employee may wish to contact their link Human Resources team to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the University to support the individual in the best way.
- 7.2 In any event, upon receipt of the ShPL(a) the employee may be contacted by a member of their link Human Resources team to arrange an informal discussion to talk about their intentions and how they currently expect to use their SPL entitlement.

8.0 Notification of Booking Shared Parental Leave

- 8.1 In addition to completing the ShPL(a) form, the employee is required to complete a Shared Parental Leave Booking Notice ShPL(c), which provides firm details of when the individual intends to take Shared Parental Leave. The individual should notify their line manager of the period of leave they intend to take, before returning the form ShPL(c) to Human Resources without delay.
- 8.2 Upon receipt of the ShPL(c) form the employee's line manager, supported by a member of the Human Resources team will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can without further discussion be approved in the terms stated in the employee's leave booking notice, a meeting may not be necessary.
- 8.3 At the meeting the employee may, if they wish, be accompanied by a workplace colleague or a trade union representative.
- 8.4 The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the University, and what the outcome may be if no agreement is reached.
- 8.5 The employee has the right to submit three ShPL(c) notifications specifying the leave periods they are intending to take. Each notification may contain either:
- (a) a single period of a number 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.
- 8.6 Shared Parental Leave 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. Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

- 8.7 The employee must book SPL by giving the correct notification (form ShPL(c)) at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

9.0 Continuous leave notifications

- 9.1 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, six weeks in a row).
- 9.2 An employee has 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 them (specified in the notice of entitlement) and the University has been given at least eight weeks' notice. An employee may submit up to three separate notifications for continuous periods of leave.

10.0 Discontinuous leave notifications

- 10.1 A single Shared Parental Leave Booking Notice (ShPL(c)) form may also contain a request 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 returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).
- 10.2 Where there is concern over accommodating the notification, the University or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the organisation (see Section 7 above).
- 10.3 The University will consider a discontinuous leave notification, but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block, which cannot be refused by the University. Employees wishing to withdraw a Shared Parental Leave Booking Notice ShPL(c) must do so in writing to their line manager, ensuring that their notification is dated appropriately. The individual's line manager should forward this on to Human Resources without unnecessary delay.

11.0 Responding to a Shared Parental Leave notification

- 11.1 Once the line manager receives the leave booking notice form ShPL(c), it will be dealt with as soon as possible, but a response will be provided no later than 14 days after the leave request was made. All notices for continuous leave will be confirmed in writing.
- 11.2 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 to the business. 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.
- 11.3 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. The request may be granted in full or in part: for example, the University may propose a modified version of the request.
- 11.4 If a discontinuous leave pattern is refused, the employee may withdraw the Shared Parental Leave Booking Notice form ShPL(c) 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 ShPL(c) 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.

12.0 Variations to arranged Shared Parental Leave

- 12.1 The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the University in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.
- 12.2 Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. 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.

13.0 Statutory Shared Parental Pay (ShPP)

- 13.1 Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which **parent-1** reduces their maternity/adoption pay period or maternity allowance period.
- 13.2 ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.
- 13.3 In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:
- **parent-1** 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;
 - the employee must intend to care for the child during the week in which ShPP is payable;
 - the employee must have an 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;
 - the employee must remain in continuous employment until the first week of ShPP has begun;
 - the employee must give proper notification in accordance with the rules set out below.
- 13.4 Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL (Form ShPL(a))
- 13.5 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:
- the start and end dates of any maternity/adoption pay or maternity allowance;
 - 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;
 - 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 organisation should they cease to be eligible.
- 13.6 It must be accompanied by a signed declaration from the employee's partner confirming:
- their agreement to the employee claiming ShPP and for the organisation to process any ShPP payments to the employee;
 - (in the case where the partner is **parent-1**) that they have reduced their maternity/adoption pay or maternity allowance;

- (in the case where the partner is **parent-1**) that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

Any ShPP due will be paid at a rate set by the Government for the relevant tax year.

14.0 Terms and conditions during Shared Parental Leave

14.1 During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a company car, laptop and mobile phone) will continue and contractual annual leave entitlement will continue to accrue.

14.2 Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the organisation's contributions will be based on the salary that the employee would have received had they not been taking SPL.

15.0 Annual Leave

SPL is granted in addition to an employee's normal annual leave entitlement. Employees are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's holiday year.

16.0 Contact during Shared Parental Leave

16.1 Before an employee's SPL begins, their line manager will discuss the arrangements for them to keep in touch during their leave. The University reserves the right in any event to maintain reasonable contact with the employee from time to time during their SPL. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work, or simply to update them on developments at work during their absence.

17.0 Shared Parental Leave in Touch days

17.1 An employee can 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.

17.2 The University 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 University and the employee. An employee taking a SPLIT day will receive full pay for the hours worked on any particular day. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives full pay for the

hours worked on the day in question. Any SPLIT days worked do not extend the period of SPL.

- 17.3 An employee, with the agreement of the University, may use SPLIT days to work part of a week during SPL. The University and the employee may use SPLIT days to effect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.
- 17.4 Working for part of a day during Shared Parental Leave will count as a whole SPLIT day, although payment will only be made, for the actual number of hours worked.

18.0 Returning to work after Shared Parental Leave

- 18.1 The employee will have been formally advised in writing by Human Resources 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 University otherwise. If they are unable to attend work due to sickness or injury, the University's normal arrangements for sickness absence reporting will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.
- 18.2 If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the University at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their 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.
- 18.3 On returning to work after SPL, the employee is entitled to return to the same job if the employee's aggregate total statutory maternity/paternity & partner/adoption leave and SPL amounts to 26 weeks or less, they will return to the same job. The same job is the one they 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 they had not been absent.
- 18.4 If the employee's maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they 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.
- 18.5 If the employee also takes a period of unpaid parental leave of 4 weeks or less this will have no effect on the employee's right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.
- 18.6 If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

19.0 Special Circumstances and further information

19.1 In certain situations an employee's rights and requirements regarding SPL and ShPP may change. In these circumstances the University will abide by any statutory obligations and an employee should refer to the documents listed below and/or clarify any issues or queries with their link Human Resources team.

19.2 Law relating to this document:

- The Shared Parental Leave Regulations 2014
- The Shared Parental Pay (General) Regulations 2014
- The Maternity and Adoption Leave (Curtailement of Statutory Rights to Leave) Regulations 2014
- Employment Rights Act 1996
- Child and Families Act 2014
- Equality Act 2010