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Shared Parental Leave Template Policy

Shared Parental Leave – Template Policy

The new shared parental leave (SPL) regime represents a huge step forward for parents whose child is due to be born on or after 5 April 2015 and who want to share childcare arrangements between them.

The new regime means that parents will be able to share up to 50 weeks leave during the first year of their child's life. Both parents can take SPL either individually or simultaneously and can take it in discontinuous blocks.

The new provisions will enable parents to be flexible about the way in which a new child is cared for with the aim of enabling more women to stay in the workplace. Parents can decide which one of them will take the main caring role depending on their preferences and circumstances.

The new SPL regime is available to the child's mother and father or the mother's spouse, partner or civil partner or a partner who is living in an enduring relationship with the mother.

The regime in brief

SPL applies on both the birth and adoption of a child. This note refers to the birth of a child but the same provisions apply to those adopting a child.

SPL may be taken from the time of the child's birth until the child's first birthday. A mother must take 2 weeks compulsory maternity leave after the birth of her child but the remaining 50 weeks can then be taken as SPL and shared with her partner. Both parents can take SPL provided that they satisfy the eligibility requirements. For example, a mother may take 30 weeks maternity leave and then share the remaining 20 as SPL.

What should employers do to prepare for the new right to SPL?

Employers will need to be aware of the detail of the new regime and ensure that staff are aware of their rights. Employers should ensure they have a shared parental leave policy in place which clearly explains the process.

To find out how we can help you please contact our Drinks, Hospitality & Leisure specialists:



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Shared Parental Leave Policy

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ABOUT THIS POLICY

1. This policy outlines the arrangements for shared parental leave and pay in relation to the birth of a child. If you are adopting a child please see the Shared Parental Leave (Adoption) Policy instead.
2. This policy applies to employees. It does not apply to agency workers or self-employed contractors.
3. This policy does not form part of any employee's contract of employment and we may amend it at any time.

FREQUENTLY USED TERMS

The definitions in this paragraph apply in this policy.

Expected week of childbirth (EWC)	the week, beginning on a Sunday, in which the doctor or midwife expects your child to be born;
Parent	One of two people who will share the main responsibility for the child's upbringing (and who may be either the mother, the father, or the mother's partner if not the father);
Partner	your spouse, civil partner or someone living with you in an enduring family relationship, but not your sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew;
Qualifying Week	the fifteenth week before the EWC.

WHAT IS SHARED PARENTAL LEAVE?

1. Shared parental leave ("SPL") is a form of leave that may be available if your child is expected to be born on or after 5 April 2015.
2. It gives you and your partner more flexibility in how to share the care of your child in the first year after birth than simply taking maternity and paternity leave. Assuming you are both eligible, you will be able to choose how to split the available leave between you, and can decide to be off work at the same time or at different times. You may be able to take leave in more than one block.

ENTITLEMENT TO SPL

1. You are entitled to SPL in relation to the birth of a child if:

- 1.1. you are the child's mother, and share the main responsibility for the care of the child with the child's father or with your partner;
 - 1.2. you are the child's father and share the main responsibility for the care of the child with the child's mother; or
 - 1.3. you are the mother's partner and share the main responsibility for the care of the child with the mother (where the child's father does not share the main responsibility with the mother).
2. The following conditions must also be fulfilled:
- 2.1. you must have at least 26 weeks continuous employment with us by the end of the Qualifying Week, and still be employed by us in the week before the leave is to be taken;
 - 2.2. the other parent must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the EWC and had average weekly earnings of at least £30 during 13 of those weeks; and
 - 2.3. you and the other parent must give the necessary statutory notices and declarations as summarised below, including notice to end any maternity leave, statutory maternity pay (SMP) or maternity allowance (MA) periods.
3. The total amount of SPL available is 52 weeks, less the weeks spent by the child's mother on maternity leave (or the weeks in which the mother has been in receipt of SMP or MA if she is not entitled to maternity leave).
4. If you are the mother you cannot start SPL until after the compulsory maternity leave period, which lasts until two weeks after birth [or four weeks for factory workers].
5. If you are the child's father or the mother's partner, you should consider using your two weeks' paternity leave before taking SPL. Once you start SPL you will lose any untaken paternity leave entitlement. SPL entitlement is additional to your paternity leave entitlement.

OPTING IN TO SHARED PARENTAL LEAVE AND PAY

1. Not less than eight weeks before the date you intend your SPL to start, you must give us a written opt-in notice giving:
 - 1.1. your name and the name of the other parent;
 - 1.2. if you are the child's mother, the start and end dates of your maternity leave;
 - 1.3. if you are the child's father or the mother's partner, the start and end dates of the mother's maternity leave, or if she is not entitled to maternity leave, the start and end dates of any SMP or MA period;

- 1.4. the total SPL available, which is 52 weeks minus the number of weeks' maternity leave, SMP or MA period taken or to be taken;
- 1.5. how many weeks of the available SPL will be allocated to you and how many to the other parent (you can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- 1.6. if you are claiming statutory shared parental pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of the SMP or MA period taken or to be taken);
- 1.7. how many weeks of available ShPP will be allocated to you and how much to the other parent. (You can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- 1.8. an indication of the pattern of leave you are thinking of taking, including suggested start and end dates for each period of leave (see Paragraph 9 and Paragraph 10 for information on taking leave). This indication will not be binding at this stage, but please give as much information as you can about your future intentions; and
- 1.9. declarations by you and the other parent that you both meet the statutory conditions to enable you to take SPL and ShPP.

ENDING YOUR MATERNITY LEAVE

1. If you are the child's mother and want to opt into the SPL scheme, you must give us at least eight weeks' written notice to end your maternity leave (a "curtailment notice") before you can take SPL. The notice must state the date your maternity leave will end. You can give the notice before or after you give birth, but you cannot end your maternity leave until at least two weeks after birth.
2. You must also give us, at the same time as the curtailment notice, a notice to opt into the SPL scheme (see Paragraph 5) or a written declaration that the other parent has given their employer an opt-in notice and that you have given the necessary declarations in that notice.
3. The other parent may be eligible to take SPL from their employer before your maternity leave ends, provided you have given the curtailment notice.
4. The curtailment notice is binding and cannot usually be revoked. You can only revoke a curtailment notice if maternity leave has not yet ended and one of the following applies:

- 4.1. if you realise that neither you nor the other parent are in fact eligible for SPL or ShPP, in which case you can revoke the curtailment notice in writing up to eight weeks after it was given;
 - 4.2. if you gave the curtailment notice before giving birth, you can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or
 - 4.3. if the other parent has died.
5. Once you have revoked a curtailment notice you will be unable to opt back into the SPL scheme, unless Paragraph 6.4.2. applies.

ENDING YOUR PARTNER'S MATERNITY LEAVE OR PAY

1. If you are not the mother, but the mother is still on maternity leave or claiming SMP or MA, you will only be able to take SPL once she has either:
 - 1.1. returned to work;
 - 1.2. given her employer a curtailment notice to end her maternity leave;
 - 1.3. given her employer a curtailment notice to end her SMP (if she is entitled to SMP but not maternity leave); or
 - 1.4. given the benefits office a curtailment notice to end her MA (if she is not entitled to maternity leave or SMP).

EVIDENCE OF ENTITLEMENT

1. You must also provide on request:
 - 1.1. A copy of the birth certificate (or if you have not yet obtained a birth certificate, a signed declaration of the child's date and place of birth); and
 - 1.2. The name and address of the other parent's employer (or a declaration that they have no employer).]

BOOKING YOUR SPL DATES

1. Having opted into the SPL system, you must book your leave by giving us a period of leave notice. This may be given at the same time as the opt-in notice or later, provided it is at least eight weeks before the start of SPL.

2. The period of leave notice can either give the dates you want to take leave or, if the child has not been born yet, it can state the number of days after birth that you want the leave to start and end. This may be particularly useful if you intend to take paternity leave starting on the date of birth and wish to take SPL straight afterwards.
3. Leave must be taken in blocks of at least one week.
4. If your period of leave notice gives a single continuous block of SPL you will be entitled to take the leave set out in the notice.
5. If your period of leave notice requests split periods of SPL, with periods of work in between, we will consider your request as set out in Paragraph 10, below.
6. You can give up to three period of leave notices. This may enable you to take up to three separate blocks of SPL (although if you give a notice to vary or cancel a period of leave this will in most cases count as a further period of leave notice; see Paragraph 11) . [In exceptional circumstances we may allow you to give more than three period of leave notices but there is no obligation for us to do so.]

PROCEDURE FOR REQUESTING SPLIT PERIODS OF SPL

1. In general, a period of leave notice should set out a single continuous block of leave. We may be willing to consider a period of leave notice where the SPL is split into shorter periods with periods of work in between. It is best to discuss this with your manager and HR in good time before formally submitting your period of leave notice. This will give us more time to consider the request and hopefully agree a pattern of leave with you from the start.
2. If you want to request split periods of SPL, you must set out the requested pattern of leave in your period of leave notice. We will either agree to the request or start a two-week discussion period. At the end of that period, we will confirm any agreed arrangements in writing. If we have not reached agreement, you will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in your notice (for example, if you requested three separate periods of four weeks each, they will be combined into one 12-week period of leave). Alternatively, you may:
 - 2.1. choose a new start date (which must be at least eight weeks after your original period of leave notice was given), and tell us within five days of the end of the two-week discussion period; or

- 2.2. withdraw your period of leave notice within two days of the end of the two-week discussion period (in which case the notice will not be counted and you may submit a new one if you choose).

CHANGING THE DATES OR CANCELLING YOUR SPL

1. You can cancel a period of leave by notifying us in writing at least eight weeks before the start date in the period of leave notice.
2. You can change the start date for a period of leave by notifying us in writing at least eight weeks before the original start date and the new start date.
3. You can change the end date for a period of leave by notifying us in writing at least eight weeks before the original end date and the new end date.
4. You can combine split periods of leave into a single continuous period of leave by notifying us in writing at least eight weeks before the start date of the first period.
5. You can request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between. We will consider any such request as set out in Paragraph 10.
6. A notice to change or cancel a period of leave will count as one of your three period of leave notices, unless:
 - 6.1. the variation is a result of your child being born earlier or later than the EWC;
 - 6.2. the variation is at our request; or
 - 6.3. we agree otherwise.

PREMATURE BIRTH

1. Where the child is born early (before the beginning of the EWC), you may be able to start SPL in the eight weeks following birth even though you cannot give eight weeks notice. The following rules apply:
 - 1.1. If you have given a period of leave notice to start SPL on a set date in the eight weeks following the EWC, but your child is born early, you can move the SPL start date forward by the same number of days, provided you notify us in writing of the change as soon as you can. (If your period of leave notice already contained a start date which was a set number of days after birth, rather than a set date, then no notice of change is necessary.)

- 1.2. If your child is born more than eight weeks early and you want to take SPL in the eight weeks following birth, please submit your opt-in notice and your period of leave notice as soon as you can.

SHARED PARENTAL PAY

1. You may be able to claim Statutory Shared Parental Pay (ShPP) of up to 39 weeks (less any weeks of SMP or MA claimed by you or your partner) if 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 by employers at a rate set by the government each year.
2. You should tell us in your period of leave notice(s) whether you intend to claim ShPP during your leave (and if applicable, for what period). If it is not in your period of leave notice you can tell us in writing, at least eight weeks before you want ShPP to start.
3. [You will qualify for company shared parental pay if you have been continuously employed during the [12]-month period ending with the Qualifying Week [and did not take any maternity, adoption or shared parental leave during the [12] months ending with the Qualifying Week].]
4. [Company shared parental pay is paid at the full rate of your normal basic salary for the first [[NUMBER] weeks OR months] [and at half basic salary for the next [[NUMBER] weeks OR months]]. Any period of company maternity or paternity pay for the same child will count towards your company shared parental pay entitlement.]
5. [Company shared parental pay is only paid if you are receiving ShPP for the same period, and includes the ShPP due.]
6. [Payment of company shared parental pay is conditional upon you confirming in writing, before starting SPL, that you intend to return to work for at least [six] months after the end your SPL. If you later decide not to return to work for this minimum period, you must repay any company shared parental pay (but not ShPP).]

OTHER TERMS DURING SHARED PARENTAL LEAVE

1. Your terms and conditions of employment remain in force during SPL, except for the terms relating to pay.
2. 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 [and must be taken immediately before returning to work unless your manager agrees otherwise]. [You should try to limit carry over to one week's holiday or less. Carry over of more than one week is at your manager's discretion]. Please discuss your holiday plans with your manager in good time before starting SPL. All holiday dates are subject to approval by your manager.

3. If you are a member of the pension scheme, we will make 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 amount of any shared parental pay you are receiving, unless you inform [the Human Resources Department OR the Pensions Administrator] that you wish to make up any shortfall.

KEEPING IN TOUCH

1. We may make reasonable contact with you from time to time during your SPL although we will keep this to a minimum. This may include contacting you to discuss arrangements for your return to work.
2. You may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days (KIT days) during your SPL. This is in addition to any KIT days that you may have taken during maternity leave. KIT days are not compulsory and must be discussed and agreed with [your line manager OR the Human Resources Department].
3. You will be paid at your normal basic rate of pay for time spent working on a KIT day and this will be inclusive of any shared parental pay entitlement. [Alternatively, you may agree with [your line manager OR the Human Resources Department] to receive the equivalent paid time off in lieu.]

RETURNING TO WORK

1. If you want to end a period of SPL early, you must give us eight weeks' written notice of the new return date. If have already given us three period of leave notices you will not be able to end your SPL early without our agreement.
2. If you want to extend your SPL, assuming you still have unused SPL entitlement remaining, you must give us a written period of leave notice at least eight weeks before the date you were due to return to work. If you have already given us three period of leave notices you will not be able to extend your SPL without our agreement. You may instead be able to

request annual leave or ordinary parental leave (see our Parental Leave Policy), subject to the needs of the business.

3. You are normally entitled to return to work in the position you held before starting SPL, and on the same terms of employment. However, if it is not reasonably practicable for us to allow you to return into the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances:
 - 3.1. if your SPL and any maternity or paternity leave you have taken adds up to more than 26 weeks in total (whether or not taken consecutively); or
 - 3.2. if you took SPL consecutively with more than four weeks of ordinary parental leave.
4. If you want to change your hours or other working arrangements on return from SPL you should make a request under our Flexible Working Policy. It is helpful if such requests are made as early as possible.
5. If you decide you do not want to return to work you should give notice of resignation in accordance with your contract. [This will have an impact on your entitlement to company shared parental pay (see Paragraph 13).]