



Department for  
Business, Energy  
& Industrial Strategy

# PARENTS' GUIDE TO SHARED PARENTAL LEAVE AND PAY

February 2018

## Contents

Contents.....	2
Introduction .....	7
Summary of key points.....	8
Where do Shared Parental Leave and Statutory Shared Parental Pay come from? .....	9
How do parents find out if they are eligible for Shared Parental Leave and/or Statutory Shared Parental Pay? .....	9
Key Tests that parents need to meet to be eligible for Shared Parental Leave and/or Statutory Shared Parental Pay .....	10
Tests for Birth Parents.....	10
The 'Continuity of Employment Test' .....	10
The Normal Weekly Earnings Test .....	10
The Work and Earnings Test.....	11
Tests for adopters .....	11
The 'Continuity of Employment Test' .....	11
The Normal Weekly Earnings Test .....	12
The Work and Earnings Test.....	12
How much Shared Parental Leave is available?.....	12
Mothers/adopters must use at least 2 weeks of their maternity/adoption entitlement ...	13
Paternity Leave .....	14
Examples of 'creating' Shared Parental Leave .....	14
How much Statutory Shared Parental Pay (ShPP) is available? .....	14
Statutory Paternity Pay.....	14
Examples of 'creating' Statutory Shared Parental Pay.....	15
Ending Maternity or Adoption Leave early to take Shared Parental Leave .....	15
What if the parents change their mind about taking Shared Parental Leave? .....	16

Circumstances when a Maternity Leave Curtailment Notice can be withdrawn.....	16
Ending Statutory Maternity or Adoption Pay early to take Statutory Shared Parental Pay	17
What if the parents change their mind about taking Statutory Shared Parental Pay .....	18
Circumstances when notice to end Statutory Maternity Pay (SMP) can be withdrawn .	18
Ending Maternity Allowance early to enable the father/partner to take Shared Parental Leave and/or Statutory Shared Parental Pay .....	18
Model Notices and Declarations .....	18
Evidence which must be provided to employer on request .....	20
Information that employers can request from birth parents: .....	20
Information that employers can request from adopters: .....	20
Information that employers can request from the intended parents in a surrogacy arrangement:.....	20
Booking Shared Parental Leave and/or Statutory Shared Parental Pay .....	21
Employees who change their Shared Parental Leave plans .....	21
When Shared Parental Leave and Pay can be taken .....	21
Shared Parental Leave-in-Touch Days (SPLiT Days).....	22
Further information on Shared Parental Leave and Pay .....	22
<b>Questions and Answers .....</b>	<b>23</b>
Who can take Shared Parental Leave and/or Pay? .....	23
Who can the mother/adopter share leave and pay with? .....	23
When can the father/ partner access Shared Parental Leave and Pay? .....	23
Ending maternity or Adoption Leave and Pay early .....	23
What is a Curtailment Notice? .....	23
Maternity Leave Curtailment Notice.....	24
Maternity Pay Curtailment Notice .....	24
Adoption Leave Curtailment Notice .....	24

Adoption Pay Curtailment Notice.....	24
Where can I find a model ‘Maternity Leave/Pay Curtailment Notice’? .....	24
Where can I find a model ‘Adoption Leave/Pay Curtailment Notice’? .....	24
What happens if the mother withdraws her ‘Maternity Leave Curtailment Notice’ within 6 weeks of birth and the father/partner has already taken or ‘booked’ Shared Parental Leave? .....	25
What happens if the mother withdraws her Maternity Pay Curtailment Notice within 6 weeks of birth and the father/partner has already started or ‘booked’ Statutory Shared Parental Pay?.....	25
If a mother withdraws her Maternity Leave Curtailment Notice can the parents take Shared Parental Leave at a later date? .....	25
If the mother withdraws her Maternity Leave Curtailment Notice within 6 weeks of birth, and subsequently decides to take Shared Parental Leave, does this affect the number of weeks of leave that are available?.....	26
What happens if the parents discover they are not entitled to Shared Parental Leave within 8 weeks of the mother giving her employer a ‘Maternity Leave Curtailment Notice’? .....	26
What happens if the parents discover they are not entitled to Shared Parental Leave more than 8 weeks after the mother has given her employer a ‘Maternity Leave Curtailment Notice’? .....	26
What happens to Statutory Maternity Pay or Maternity Allowance if the mother returns to work? .....	26
How to calculate the number of weeks of Shared Parental Leave or Pay that are available .....	27
Examples of calculating the number of weeks of Shared Parental Leave and Pay .....	27
Notification Requirements – Birth parents who do not intend to use the Model Notices and Declarations (Birth Parents) .....	29
Mother’s Notice and Declarations to her employer .....	29
Father’s/Partner’s Notice and Declarations to her/his employer .....	32
Notification Requirements – Adoptive parents who do not intend to use the Model Notices and Declarations (Adopters).....	35
What if the parents change their minds about how the Shared Parental Leave and/or Pay should be divided? .....	36

When do I have to tell my employer that I want to be absent from work on Shared Parental Leave? ..... 36

What information should the 'Period of Leave Notice' contain? ..... 36

Do parents have a legal right to take Shared Parental Leave that they have 'booked'? 36

What if I want to book discontinuous Shared Parental Leave? ..... 37

Can I withdraw a 'Period of Leave Notice'? ..... 37

Patterns of Shared Parental Leave..... 38

    What happens if my employer wants to refuse the pattern of leave that I have proposed? ..... 38

    Will I always have to give 8 weeks' notice before I take Shared Parental Leave?..... 38

    What happens if my employer refuses a pattern of Shared Parental Leave that I proposed? ..... 38

    Can I secure a pattern of leave by submitting separate 'booking notices' for each period of leave? ..... 39

    What happens if my employer agrees to my proposed leave pattern, but my partner's employer doesn't agree to their proposed leave pattern? ..... 40

    Can I change an agreed pattern of Shared Parental Leave? ..... 40

    What if my partner and I want to transfer weeks of Shared Parental Leave between us? ..... 41

    How can an employer require leave to be taken in a single block?..... 41

    Does the limit of 3 'Period of Leave Notices mean Shared Parental Leave can only be taken in up to 3 blocks?..... 41

    What happens if an employer doesn't respond to a 'Period of Leave Notice'?..... 41

    How long has an employer got to consider a request for a discontinuous pattern of leave? ..... 42

    If my partner and I decide to transfer all of the Shared Parental Leave to one parent does the right to 3 'Period of Leave Notice's transfer as well? ..... 42

    How is a notice to my employer served? ..... 42

Early and late births ..... 43

Changes to the notification arrangements in the event of an early birth.....	43
What happens if I have given ‘Notice of Entitlement and Intention’ and a ‘Period of Leave Notice’ and my baby is born early? .....	43
What happens if I have given ‘Notice of Entitlement and Intention’ to my employer but have not yet given them a ‘Period of Leave Notice’ and my baby is born early?.....	43
What happens if I have not given ‘Notice of Entitlement and Intention’ and my baby is born early? .....	44
What happens if a mother specifies a date in her ‘Maternity Leave Curtailment Notice’ and the baby is born later than expected? .....	44
Employment rights whilst on Shared Parental Leave.....	44
Do I accrue contractual annual leave while on Shared Parental Leave?.....	44
What terms and conditions apply during Shared Parental Leave? .....	44
What employment protections apply in relation to Shared Parental Leave? .....	45
Do I have the right to return to the same job after taking Shared Parental Leave? .....	45
Contractual rights to Shared Parental Leave and Pay .....	46
Can an employee take Shared Parental Leave whenever he or she wants? .....	46
What happens if my employer will not let me take Shared Parental Leave or Statutory Shared Parental Pay? .....	46
Employees who have more than one job.....	47
What happens if I have 2 jobs? .....	47
How much Shared Parental Leave am I entitled to if I have 2 jobs? .....	47
Calculation of amount of Shared Parental Leave available where you have more than one employer .....	47
Cases of maternal, paternal or infant death.....	48
What happens if death occurs before Maternity Leave and/or Pay is curtailed? .....	48
What happens if death occurs after Maternity Leave and/or Pay is curtailed? .....	49
Shared Parental Leave in Touch (“SPLiT”) Days.....	50
Is there an equivalent of Keeping-in-Touch (“KIT”) days for Shared Parental Leave?..	50

Can I work part-time whilst on Shared Parental Leave? .....	50
Payment for Shared Parental Leave in touch (“SPLiT”) days.....	50
The interaction between Shared Parental Leave and Pay and sick leave and pay .....	51
Can I take sickness absence while on Shared Parental Leave? .....	51
Am I entitled to Statutory Shared Parental Pay if I am claiming sick pay? .....	51
Occupational schemes .....	51
Can mothers on Shared Parental Leave continue to be part of an occupational maternity scheme? .....	51
Does my employer have to provide occupational pay for men and women on Shared Parental Leave? .....	52
Miscellaneous .....	52
Will my employer know if I qualify for Shared Parental Leave or pay? .....	52
Do the parents’ employers need to contact each? .....	52
Is my employer able to get in touch with me while I am off on Shared Parental Leave? Are there rules around this? .....	52
Does my employer need to arrange payroll to pay me for days worked when I am taking discontinuous blocks of Shared Parental Leave? .....	52
What if I separate from my child’s other parent?.....	53
How much is Statutory Shared Parental Pay and who pays it? .....	53

## Introduction

The Parents’ Guide to Shared Parental Leave and Pay is part of a suite of tools which are intended to help parents understand and access Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP). The guidance is not intended to be a definitive statement of the law and if your particular circumstances do not appear to fit with the guidance you should speak to your employer and/or take independent advice.

The guidance will be updated from time to time and if you have any suggestions for improving it or suggestions for additional Questions and Answers please contact: [lm.correspondence@beis.gov.uk](mailto:lm.correspondence@beis.gov.uk)

All of the tools and guidance for parents who are thinking of taking SPL and/or ShPP can be found at: <https://www.gov.uk/guidance/shared-parental-leave-and-pay-guidance-and-tools-for-parents>

## Summary of key points

Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) enable eligible parents to share up to 50 weeks of leave and up to 37 weeks of pay in the first year.

In the case of birth parents the SPL and/or ShPP must be taken by the child's 1<sup>st</sup> birthday. In the case of adoptive parents the SPL and/or ShPP must be taken within a year of the child being placed with the family for adoption.

If the parent is eligible for ShPP they will receive the *lower of* 90% of their average earnings or the statutory flat rate (£140.98 in 2017-18) for each week that they claim ShPP. The ShPP is paid to employee by their employer (who can 'claim' at least 92% of this back from HM Revenue and Customs).

Employers may, at their own discretion, offer more generous occupational packages, for example, they may offer more weeks of occupational SPL and/or enhance ShPP to an earnings related rate of pay (i.e. provide occupational ShPP). Parents should check if their employer offers an occupational package.

SPL and ShPP are very flexible. Both parents can each take up to 3 blocks of SPL and/or ShPP (more if their employer allows) and are able to return to work between periods of SPL, e.g. to complete a particular project or undertake training, if they wish.

Parents can be off work together for up to 6 months (including two weeks of Paternity Leave) and/or alternatively stagger their leave and pay so that one of them is always at home with their child in the first year.

Parents can apply for SPL and/or ShPP whilst the mother is still off work on Maternity Leave (ML) or before she goes off work on ML. They can also apply once the mother has returned to work providing that she still has not used all of her entitlement to 52 weeks of ML and 39 weeks of Statutory Maternity Pay (SMP). The same principles apply to individuals who qualify for Adoption Leave and/or Pay.

SPL and ShPP must be taken by the child's first birthday or within a year of the child being placed with the family for adoption. Any SPL and ShPP that has not been taken by this time cannot be carried over to future years and will be lost.

To qualify for SPL or ShPP each of the child's parents must meet certain conditions as the scheme applies to couples. Parents can check if one or both of them is eligible for SPL or ShPP using the Eligibility Checklists on Gov.UK.

To qualify for and take SPL and/or ShPP a parent needs to provide their employer with certain information in the form of written notices and declarations. Parents can give the required information to their employer using the Model Notices and Declarations on Gov.UK if they wish. (Some employers may prefer parents to use the employers own 'application forms'. There is no legal requirement for parents to do this but parents should check whether this would be convenient for them and their employer).

## **Where do Shared Parental Leave and Statutory Shared Parental Pay come from?**

If the mother does not intend to use all of her maternity entitlement she can end or commit to ending this early to 'create' Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) for herself and/or the father/partner to take.

Note: the entitlement to SPL and/or ShPP only arises where the mother is willing to give up some of her maternity entitlement. The leave and pay is not in addition to the mother's maternity entitlement – it is simply another (more flexible) way of using the mother's maternity entitlement.

The same principle applies to parents who qualify for Adoption Leave and/or Pay as a result of them being matched with a child for adoption or because they intend to apply for a Parental Order in respect of a child which they are having with the help of a surrogate mother (see: <https://www.gov.uk/adoption-pay-leave>).

## **How do parents find out if they are eligible for Shared Parental Leave and/or Statutory Shared Parental Pay?**

Parents can check if one or both of them is eligible for Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) by using the Eligibility Checklists on Gov.UK. The checklists set out the conditions that the parent who wishes to take SPL and/or ShPP has to meet and also the conditions that the child's other parent (whether they are the mother, father or mother's partner) has to meet.

To take SPL you must be an employee but self-employed mothers who qualify for Maternity Allowance (MA) can 'create' SPL and/or ShPP for an employed father or partner to take (subject to them meeting the eligibility criteria) if they do not plan to use their full entitlement to up to 39 weeks of MA.

Agency workers who are entitled to Statutory Maternity Pay (SMP) are not eligible for SPL themselves (unless they are employees) but can 'create' SPL and/or ShPP for an employed father or partner to take (subject to them meeting the eligibility criteria) if they do not plan to use their full entitlement to up to 39 weeks of SMP.

Agency workers and/or the child's other parent may also be entitled to ShPP.

The same principles apply to parents who qualify for Adoption Leave (AL) or Statutory Adoption Pay (SAP).

Employed mothers who qualify for MA cannot take SPL or ShPP themselves but can 'create' SPL and/or ShPP for an employed father or partner to take (subject to them meeting the eligibility criteria) if they do not plan to use their full entitlement to up to 39 weeks of MA.

## **Key Tests that parents need to meet to be eligible for Shared Parental Leave and/or Statutory Shared Parental Pay**

### **Tests for Birth Parents**

#### **The 'Continuity of Employment Test'**

The parent who plans to take Shared Parental Leave (SPL) or Statutory Shared Parental Pay (ShPP) must meet the 'Continuity of Employment Test'. In the case of birth parents this means that they must have:

- (i) Been continuously employed by the same employer for a period of at least 26 weeks ending with the 15<sup>th</sup> week before the expected week of childbirth (EWC). This broadly means that they will have started working for their current employer before the mother got pregnant; and
- (i) Remained in continuous employment with that employer until the week before any period of SPL/ShPP the parent plans to take.

#### Example:

The EWC starts on the Sunday of the week that the baby is due. So if the baby is due on 2 April 2018, the EWC starts on Sunday 1 April 2018 and the parent must have started working for their current employer before 1 July 2017.

Birth parents can use the Quick Date Checker (Birth Parents) on Gov.UK to check when they needed to have started working for their current employer.

#### **The Normal Weekly Earnings Test**

In addition to meeting the 'Continuity of Employment Test' a parent who wishes to claim Statutory Shared Parental Pay (ShPP) must have had average gross weekly earnings of not less than the lower earnings limit (£113 a week in 2017-18) over an 8 week period.

The 8 week period will normally end on the employee's normal pay day in the 'relevant week' (the 15<sup>th</sup> week before the expected week of childbirth (EWC)).

Example:

If the baby is due on 1 March 2018, the EWC starts on Sunday 25 February 2018 and to be eligible for ShPP the parent must have earned at least £113 a week (on average) in the 8 week period ending with their normal pay date in the 'relevant week' (the 15<sup>th</sup> week before the expected week of childbirth (EWC)).

Birth parents can use the Quick Date Checker (Birth Parents) on Gov.UK to check when the 8 week period for the Normal Weekly Earnings Test starts and ends.

## **The Work and Earnings Test**

For a parent to take Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) they must meet the 'Continuity of Employment Test' (see above) and the child's other parent must meet the 'Work and Earnings Test'.

The 'Work and Earnings Test' is a low threshold test which requires the individual to have worked in an employed and/or self-employed capacity for at least 26 weeks in the 66 period leading up to the expected week of childbirth (EWC) and to have earned, or be treated as having earned, at least £30 a week on average (i.e. £390 in total) over the 13 highest earning weeks in the 66 weeks immediately before the EWC. The weeks of work and earnings do not need to be consecutive weeks and can be a mixture of earnings from employment and self-employed earnings.

Self-employed mothers who qualify for Maternity Allowance (MA) will automatically meet the 'Work and Earnings Test' as it is modelled on the test for MA.

Parents can use the Quick Date Checker (Birth Parents) on Gov.UK to check when the 66 week period covered by the 'Work and Earnings Test' starts and ends.

## **Tests for adopters**

### **The 'Continuity of Employment Test'**

The parent who plans to take Shared Parental Leave (SPL) or Statutory Shared Parental Pay (ShPP) must meet the 'Continuity of Employment Test'. In the case of adopters this means that they must have:

- (ii) Been continuously employed by the same employer for a period of at least 26 weeks ending with the week in which they were notified of having been matched with a child for adoption; and
- (ii) Remained in continuous employment with that employer until the week before any period of SPL/ShPP the parent plans to take.

### **The Normal Weekly Earnings Test**

In addition to meeting the 'Continuity of Employment Test' a parent who wishes to claim Statutory Shared Parental Pay (ShPP) must have had normal weekly earnings of not less than the lower earnings level limit (£1113 a week in 2017-18) over an 8 week period.

The 8 week test period will normally end on the employees normal pay day in the 'relevant week'. For adoptive parents this will normally be the last normal pay day before the first day of the week after the week in which they are notified of being matched with the child for adoption.

### **The Work and Earnings Test**

For a parent to take Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) they must meet the 'Continuity of Employment Test' and the child's other parent must meet the 'Work and Earnings Test'.

The 'Work and Earnings Test' is a low threshold test which requires the partner of the adopter to have worked in an employed and / or self-employed capacity for at least 26 weeks in the 66 period leading up to the week in which the adopter was notified that they had been matched with a child for adoption; and to have earned, or be treated as having earned, at least £30 a week on average (i.e. £390 in total) over the 13 highest earning weeks in the 26 weeks (or more) worked. The weeks of work and earnings do not need to be consecutive weeks and can be a mixture of earnings from employment and self-employment.

Parents can use the Quick Date Checker (Adopters) on Gov.UK to check when the 66 week period covered by the 'Work and Earnings Test' starts and ends.

## **How much Shared Parental Leave is available?**

It depends on how much of her maternity entitlement the mother plans to take or, in the case of individuals who qualify for Adoption Leave and/or Pay, how much of their adoption entitlement they plan to take.

Up to 50 weeks of Shared Parental Leave (SPL) are potentially available, but any weeks of Maternity Leave (ML) or Adoption Leave (AL) taken by the mother or adopter will reduce the 'pot' of leave that can potentially be taken as SPL.

Similarly any weeks of SPL taken by one parent will reduce the 'pot' of SPL that is available for the other parent to take or for the parents to take at a later date.

Mothers who do not qualify for ML (e.g. because they are self-employed or not an employee) can 'create' SPL for an employed father/partner to take (subject to them meeting the eligibility criteria) by committing to end their Statutory Maternity Pay (SMP). The same principle applies to adopters who do not qualify for Adoption (AL) but qualify for Statutory Adoption Pay (SAP).

Similarly mothers who do not qualify for ML (e.g. because they are self-employed or not an employee) can 'create' SPL for an employed father/partner to take (subject to them meeting the eligibility criteria) by committing to end their Maternity Allowance (MA) early.

Any weeks of ML, SMP or MA taken by the mother will reduce the 'pot' of leave that is available to the father/partner to take as SPL.

Any weeks of AL or SAP taken by the adopter will reduce the 'pot' of leave that is available to their partner to take as SPL.

### **Mothers/adopters must use at least 2 weeks of their maternity/adoption entitlement**

For health and safety reasons, mothers who qualify for Maternity Leave (ML) must take at least 2 weeks of Compulsory Maternity Leave immediately after birth (4 weeks if they work in a factory or workshop) before starting any Shared Parental Leave (SPL) – so a maximum of 50 weeks of SPL can be 'created' (52 weeks less 2 weeks of SMP).

The father/partner can start their SPL as soon as the child has been born and whilst the mother is still on ML if they wish providing that the mother has committed to end her ML early (i.e. take less than 52 weeks of ML) by giving her employer a 'Maternity Leave Curtailment Notice'. Fathers/partners may wish to take Paternity Leave (PL) before starting their SPL.

If the mother does not qualify for ML, she can end her Statutory Maternity Pay (SMP) early (i.e. take less than 39 weeks of SMP) to 'create' SPL for an employed father/partner to take but the date on which the SMP ends needs to be at least 2 weeks after the birth – so a maximum of 50 weeks of SPL can be 'created' (52 weeks less 2 weeks of SMP).

A mother who does not qualify for ML or SMP can 'create' SPL for an employed father/partner to take proving that the mother has committed to end her Maternity Allowance (MA) early (i.e. take less than 39 weeks). If she wishes to do this she must notify Jobcentre Plus.

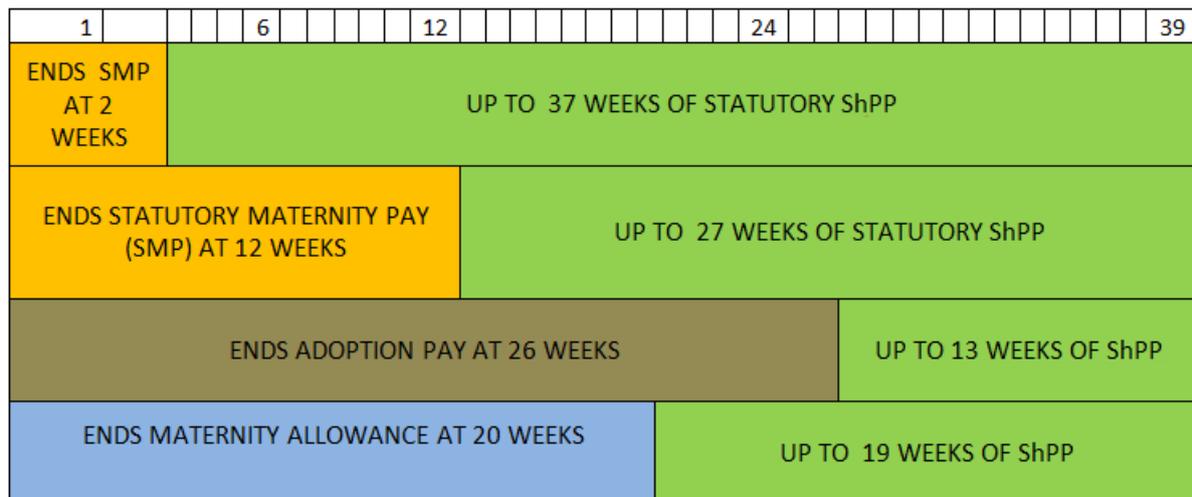
This is why a maximum of 50 weeks of SPL (52 weeks of ML minus the 2 weeks of Compulsory Maternity Leave or 2 weeks of SMP) are available.



Fathers and partners who are eligible for Statutory Shared Parental Pay (ShPP) will also be eligible for Statutory Paternity Pay (SPP) - which must be taken within the first 8 weeks of the child's birth or placement with the family for adoption.

SPP taken by the father/partner will not reduce the total amount of ShPP that is available but the SPP must be taken before the father/partner starts ShPP (the entitlement SPP will be lost if the father/partner takes ShPP first).

### Examples of 'creating' Statutory Shared Parental Pay



Eligible parents can use the Shared Parental Leave and Pay Planner on Gov.UK to plan when they will take SPL and/or ShPP.

If both parents are eligible for SPL and/or ShPP they can also use the planner to help them decide how to share the available leave and/or pay between them.

### Ending Maternity or Adoption Leave early to take Shared Parental Leave

If one or both of the parents are eligible for and intend to take Shared Parental Leave (SPL) a mother who qualifies for Maternity Leave (ML) needs to end or commit to ending her ML early (i.e. take less than 52 weeks of ML). The mother can end her Maternity Leave early in one of 2 ways:

- By returning to work (employers need at least 8 weeks' notice of the planned return to work date); or
- By giving written notice to her employer that she would like her ML to end on a specified date of the mother's choice. This is called a Maternity Leave Curtailment Notice.

A 'Maternity Leave Curtailment Notice' can be given before or after the child has been born but must be given at least 8 weeks' before the mother and/or the father/partner plan to be off work on SPL.

The 'Maternity Leave Curtailment Notice' must be accompanied by 'Notice of Entitlement and Intention' (i.e. written notice that one or both of the parents is eligible for SPL and intends to take it) and the relevant declarations from each of the parents to be binding.

The mother can give her employer all of the required notices and declarations, including the required declaration from the other parent, using the Model Notices and Declarations (Birth Parents) on Gov.UK if she wishes.

The same principles apply to individuals who qualify for Adoption Leave (AL). They can end their AL by returning to work or giving their employer an 'Adoption Leave Curtailment Notice'.

Further information on who is eligible for Adoption Leave and/or Pay can be found at: <https://www.gov.uk/adoption-pay-leave>

## **What if the parents change their mind about taking Shared Parental Leave?**

Once a mother has returned to work, her Maternity Leave (ML) comes to an end and cannot be re-started. The same principle applies to Adoption Leave (AL).

### **Circumstances when a Maternity Leave Curtailment Notice can be withdrawn**

Once a mother has given notice to her employer that she will end her ML on the date the mother specified in the 'Maternity Leave Curtailment Notice' she can only change her mind if:

- The mother has not already returned to work;
- The date specified in the 'Maternity Leave Curtailment Notice' (i.e. the date that the mother said she would end her ML on) has not passed; and
- One or more of the following 3 circumstances apply:
  1. The father/partner has died.
  2. Neither of the parents are eligible for SPL.
  3. The Maternity Leave Curtailment Notice was given by an expectant mother before the birth of her child and the mother changes her mind about ending her ML in the first six weeks following the birth of her baby.

If the mother wishes to revoke (withdraw) her 'Maternity Leave Curtailment Notice' in any of the above circumstances she must give written notice of this to her employer. Special rules apply where the father/partner has already taken SPL.

The same principles apply to individuals who qualify for AL where they have given their employer an 'Adoption Leave Curtailment Notice' with the exception of the 3<sup>rd</sup> point which only applies to birth mothers.

If a mother or adopter/Parental Order Parent withdraws a 'curtailment notice' in either of the first two circumstances above, there is no further opportunity to take SPL at a later date in respect of the same child.

A mother who withdraws her 'Maternity Leave Curtailment Notice' within 6 weeks of the birth can however decide to end her ML early (i.e. take less than 52 weeks of ML) at a later date if the parents decide that one or both of them would like to take SPL.

Where a 'Maternity Leave Curtailment Notice' or an 'Adoption Leave Curtailment Notice' is withdrawn the mother/adopter/Parental Order parent remains on ML or AL.

## **Ending Statutory Maternity or Adoption Pay early to take Statutory Shared Parental Pay**

If one or both parents are eligible for and intend to claim Statutory Shared Parental Pay (ShPP) a mother who qualifies for Statutory Maternity Pay (SMP) needs to give written notice to her employer to commit to ending her SMP on a specified date of her choice. This is called a 'Maternity Pay Curtailment Notice'.

This Maternity Pay Curtailment Notice is required even if the mother has already returned to work as, in contrast to Maternity Leave (ML), SMP does not end when the mother returns to work and continues to 'run in the background'.

A 'Maternity Pay Curtailment Notice' can be given before or after the child has been born but must be given at least 8 weeks' before the mother and/or the father/partner plan to claim ShPP.

The mother can give her employer all of the required notices and declarations, using the Model Notices and Declarations (Birth Parents) on Gov.UK if she wishes.

If the mother doesn't qualify for SMP she cannot claim ShPP herself but she can give notice to end her SMP early to enable an employed father/partner to claim ShPP.

The same principles apply to individuals who qualify for Statutory Adoption Pay (SAP). They can end their SAP by giving their employer an 'Adoption Pay Curtailment Notice'.

Further information on who is eligible for Adoption Leave and/or Pay can be found at: <https://www.gov.uk/adoption-pay-leave>

## What if the parents change their mind about taking Statutory Shared Parental Pay

### Circumstances when notice to end Statutory Maternity Pay (SMP) can be withdrawn

Once a mother has given notice to her employer that she will end her Statutory Maternity Pay (SMP) she can only change her mind if:

- The date specified in the notice (i.e. the date that the mother said she would end her SMP on) has not passed; and
- One or more of the following 3 circumstances apply:
  1. The father/partner has died.
  2. The notice was given by an expectant mother before the birth of her child and the mother changes her mind about ending her SMP in the first six weeks following the birth of her baby.

If the mother wishes to cancel the notice to end her SMP in any of these circumstances she must give written notice of this to employer. Special rules apply where the father/partner has already claimed ShPP.

## Ending Maternity Allowance early to enable the father/partner to take Shared Parental Leave and/or Statutory Shared Parental Pay

If the mother isn't eligible for Maternity Leave (ML) she will not be able to take Shared Parental Leave (SPL) herself.

If the mother isn't eligible for Statutory Maternity Pay (SMP) she will not be able to claim Statutory Shared Parental Pay (ShPP) herself.

Mothers who are eligible for Maternity Allowance (MA) can, however, commit to ending their MA early (i.e. take less than 39 weeks of MA) to 'create' SPL and ShPP for an employed father/partner to take.

If the mother wishes to end her MA early she must notify the Department for Work and Pensions (i.e. Jobcentre Plus) at least 8 weeks' before she wishes to stop claiming MA and tell them that she would like to end her claim for MA early to enable the father/partner to take SPL and/or ShPP.

## Model Notices and Declarations

At least 8 weeks before they take their first block of Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP), employed parents must give their employer:

- **Notice of Entitlement and Intention**– This is written notice to the employer confirming that their employee (i.e. the parent) is eligible for SPL and/or ShPP.
- A non-binding indication of when their employee (i.e. the parent) intends to take SPL.
- A **Maternity Leave Curtailment Notice** (if they are the mother and have not already returned to work) or confirmation that the mother has given this notice to her employer (fathers and partners). A ‘Maternity Leave Curtailment Notice’ is written notice to the mother’s employer that she intends to end her Maternity Leave (ML) early to ‘create’ SPL. It is only required if the mother has not already ended her ML by returning to work.
- A **Maternity Pay Curtailment Notice** (if they are the mother) or confirmation that the mother has given this notice (fathers and partners). A ‘Maternity Pay Curtailment Notice’ is written notice to the mother’s employer that she will end her Statutory Maternity Pay (SMP) early to ‘create’ ShPP. <sup>1</sup>The mother needs to give her employer this notice even if she has already returned to work.
- A **declaration from each of the parents** containing certain information, including confirmation that each parent meets the conditions in the eligibility criteria that apply to them. The declaration from the other parent<sup>2</sup> will also confirm that they consent to the parent who plans to take SPL and/or ShPP taking the leave and pay indicated in their notice to their employer.
- A binding **Period of Leave Notice** when they have firmed up the dates that they would like to take SPL - this should set out the start and end dates of each period of SPL (eligible parents can take up to 3 blocks of SPL each – more if their employer(s) allows).

Parents wishing to take SPL and/or ShPP can give all of the required notices and declarations on the Model Notices and Declarations on Gov.UK

The same principles apply to individuals who qualify for Adoption Leave and/or Pay. Again there is no need to give written notice to end Adoption Leave (AL) where the parent who is eligible for AL has already returned to work.

Where the adopter wishes to end their AL early without returning to work they need to give their employer an ‘**Adoption Leave Curtailment Notice**’.

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<sup>1</sup> If the mother is not entitled to Maternity Leave she can end her SMP early to create ShPP as well as SPL.

<sup>2</sup> In the case of birth parents the other parent is the child’s mother or father; their spouse; civil partner; or a partner who lives with the mother and child in an enduring family relationship. In the case of adoptions the other parent is the adopter’s spouse; civil partner; or a partner who lives with the adopter and child in an enduring family relationship.

Where an adopter wishes to end the Statutory Adoption Pay (SAP) early they must give their employer an '**Adoption Pay Curtailment Notice**'.

Parents wishing to take SPL and/or ShPP can give their employer all of the required information, notices and declarations, including the required declaration from the child's other parent, using the Model Notices and Declarations on Gov.UK if they wish.

## **Evidence which must be provided to employer on request**

Employers are able to ask for supplementary evidence (if they wish) within 14 days of them receiving the 'Notice of Entitlement and Intention' (i.e. notice that their employee (whether the mother, father or partner) is eligible for and intends to take Shared Parental Leave and/or Pay). The information must be provided within 14 days of the employer requesting it.

### **Information that employers can request from birth parents:**

- A copy of the child's birth certificate (or if the certificate hasn't been issued yet, a signed declaration from one of the parents stating this and containing details of the date and place of). If the child hasn't been born this must be provided within a reasonable time of birth.
- The name and address of the other parent's employer or confirmation that there is no employer if the other parent is not employed (e.g. they may be self-employed or unemployed at the time the parent responds to the request for additional information).

### **Information that employers can request from adopters:**

- Evidence in the form of documents issued by the adoption agency of: the name and address of the adoption agency; the date that the parent(s) were notified of having been matched with a child; and the date on which the adoption agency expects to place the child with the family.
- The name and address of the other parent's employer or confirmation that there is no employer if the other parent is not employed (e.g. they may be self-employed or unemployed at the time the parent responds to the request for additional information).

### **Information that employers can request from the intended parents in a surrogacy arrangement:**

- Evidence that the intended parents are eligible for and intend to apply for a Parental Order making them the child's legal parents within 6 months of the child's birth.

- The name and address of the other parent's employer or confirmation that there is no employer if the other parent is not employed (e.g. they may be self-employed or unemployed at the time the parent responds to the request for additional information).

## **Booking Shared Parental Leave and/or Statutory Shared Parental Pay**

Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) are very flexible and both the leave and pay can be taken in up to 3 blocks (more if the parent(s) employer(s) allows).

Both SPL and ShPP must be taken in blocks of one or more weeks; each parent has up to 3 'Period of Leave Notices' which they can use to book one or more blocks of consecutive weeks of SPL.

If a 'Period of Leave Notice' is used to 'book' a single block of consecutive weeks of SPL and the parent is eligible for the SPL they plan to take and has given the required notice to their employer (8 weeks) the parent has a legal right to take the block of SPL that they want to 'book'. Special rules apply where a single 'Period of Leave Notice' is used to book more than one block of leave; in essence the employer can agree, refuse or suggest alternative dates.

Parents who are eligible for ShPP must be off work caring for their child during any week in which ShPP is claimed (if they are eligible for SPL, they must be on SPL in the week that they claim ShPP).

## **Employees who change their Shared Parental Leave plans**

Leave arrangements that have been notified ('booked') can be changed. Parents can use a 'Period of Leave Notice' to change or cancel dates for Shared Parental Leave (SPL) that have already been 'booked' or to aggregate a number of discontinuous weeks of SPL into a single block of continuous weeks of SPL.

A notice to vary or cancel agreed SPL usually counts towards the cap of 3 'Period of Leave Notice's that each parent has.

## **When Shared Parental Leave and Pay can be taken**

Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) cannot begin before the birth (or placement for adoption) and must be taken within 1 year of the birth or, in the case of adoptions, within 52 weeks of the child being placed with

the family (i.e. the day before the child's first birthday or the first anniversary of the placement of an adopted child).

## **Shared Parental Leave-in-Touch Days (SPLiT Days)**

Each parent has 20 Shared Parental Leave-in-Touch Days ("SPLiT Days") which they can use during a week that they are on Shared Parental Leave (SPL) to work for their employer on that day without bringing their SPL to an end. The SPLiT Days are in addition to the 10 Keeping-in-Touch (KiT Days) that the mother has whilst she is on Maternity Leave.

Like KiT Days, SPLiT Days are permissive and can only be worked if the parent and employer consent to this. If both agree, SPLiT Days can be used to enable the parent to have a phased return to work or trial a different working pattern, e.g. working part-time for a period of weeks in the period before they finish all of their SPL and return to work.

### Example:

A mother wishes to have a phased return to work and uses all of her 20 SPLiT days to work for 2 days a week during the last 10 weeks that she is on SPL to achieve this.

## **Further information on Shared Parental Leave and Pay**

Further information on a range of scenarios which parents may encounter is provided in the Questions and Answers section of this guidance. You can go straight to the answer to questions of particular interest from the contents page at the front of this guidance.

# Questions and Answers

The Questions and Answers (Q & A) section of the Parents' Guide to Shared Parental Leave and Pay is not intended to be read from cover to cover and many of the Q & A will only apply to a small number of parents. Parents can link to questions that are of particular interest to them from the contents page at the front of this guidance.

## Who can take Shared Parental Leave and/or Pay?

### Who can the mother/adopter share leave and pay with?

Subject to the parents meeting the eligibility requirements for Shared Parental Leave and/or Pay, a mother share leave and pay with:

- the child's father;
- her spouse;
- her civil partner
- a partner (including a same sex partner) who lives with the mother and the child in an enduring family relationship but is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

The same principles apply to adopters and individuals who are having a baby with the help of a surrogate mother where one of the parents qualifies for Adoption Leave and/or Pay.

### When can the father/ partner access Shared Parental Leave and Pay?

If you are the father or mother's partner, you can only access Shared Parental Leave and/or Pay if the mother ends, or commits to ending, her maternity entitlement early.

The same principles apply where one of the parents is eligible for Adoption Leave and/or Pay – they must end, or commit to ending, their adoption entitlement early.

## Ending maternity or Adoption Leave and Pay early

### What is a Curtailment Notice?

'Curtailment' is the legal/technical term for the notice that the employee gives to their employer to commit to end their maternity/adoption entitlement early. The entitlement will end on the date specified in the notice and this date is chosen by the mother/adopter.

The mother/adopter needs to curtail their entitlement to Maternity/Adoption Leave if they have not already returned to work and they or the other parent want to take Shared Parental Leave (SPL). There is no need to give the employer a 'curtailment notice' if they have already returned to work.

The mother/adopter needs to curtail their entitlement to Statutory Maternity/Adoption Pay to enable them or the other parent to claim Statutory Shared Parental Pay (ShPP) even if they have already returned to work.

Mothers who are not entitled to Maternity Leave need to curtail their Statutory Maternity Pay or Maternity Allowance to enable an employed father/partner to take SPL and/or ShPP.

### **Maternity Leave Curtailment Notice**

A 'Maternity Leave Curtailment Notice' is a written notice to the mother's employer committing to end her Maternity Leave (ML) on a specified date of the mother's choice (i.e. she is committing to take less than 52 weeks of ML).

### **Maternity Pay Curtailment Notice**

A 'Maternity Pay Curtailment Notice' is a written notice to the mother's employer committing to end her Statutory Maternity Pay (SMP) on a specified date of the mother's choice (i.e. she is committing to take less than 39 weeks of SMP).

### **Adoption Leave Curtailment Notice**

An 'Adoption Leave Curtailment Notice' is a written notice to the employer of the individual who qualifies for Adoption Leave (AL) committing to end their AL on a specified date of the individual's choice (i.e. they are committing to take less than 52 weeks of AL).

### **Adoption Pay Curtailment Notice**

An 'Adoption Pay Curtailment Notice' is a written notice to the employer of the individual who qualifies for Statutory Adoption Pay (SAP) committing to end their SAP on a specified date of the individual's choice (i.e. they are committing to take less than 39 weeks of SAP).

### **Where can I find a model 'Maternity Leave/Pay Curtailment Notice'?**

The Model Notices and Declarations (Birth Parents) include:

- A model 'Maternity Leave Curtailment Notice'.
- A model 'Maternity Pay Curtailment Notice'.

Mothers who qualify for Maternity Allowance do not have to give Jobcentre Plus a 'Curtailment Notice' but they must tell them that they would like to end their MA on the date the mothers specifies.

### **Where can I find a model 'Adoption Leave/Pay Curtailment Notice'?**

The Model Notices and Declarations (Adopters) include:

- A model 'Adoption Leave Curtailment Notice'.
- A model 'Adoption Pay Curtailment Notice'.

## **What happens if the mother withdraws her 'Maternity Leave Curtailment Notice' within 6 weeks of birth and the father/partner has already taken or 'booked' Shared Parental Leave?**

If the mother withdraws her 'Maternity Leave Curtailment Notice' within 6 weeks of the birth, entitlement to Shared Parental Leave (SPL) ceases with immediate effect and the father/partner must tell his/her employer that he/she is no longer entitled to SPL. The mother can only withdraw her 'Maternity Leave Curtailment Notice' if the date that she said she would end her ML on in the notice has not already passed.

The father's/partner's employer may require him/her to take the SPL s/he has booked for up to 8 weeks from the date on which the father's/partner's employer is informed that the mother has withdrawn her 'Maternity Leave Curtailment Notice' if the notice is withdrawn either:

- While the father/partner is on SPL; or
- Within 8 weeks of a period of SPL that has been 'booked' being due to start. (SPL is only 'booked' if the parent has given their employer a "Period of Leave Notice".

This is to enable the father's/partner's employer to have 8 weeks' to stand down any cover arrangements that might have put in place and is subject to negotiation with the father's/partner's employer.

If the father's/partner's employer requires their employee to be absent from work, the absence is treated as SPL (even though there is no longer an entitlement).

## **What happens if the mother withdraws her Maternity Pay Curtailment Notice within 6 weeks of birth and the father/partner has already started or 'booked' Statutory Shared Parental Pay?**

If the mother withdraws her Maternity Pay Curtailment Notice in the 6 weeks following birth, the father's/partner's entitlement to Statutory Shared Parental Pay (ShPP) ceases with immediate effect and the father/partner must tell his/her employer that he/she is no longer entitled to ShPP. The mother can only withdraw her 'Maternity Pay Curtailment Notice' if the date that she said she would end her SMP on in the notice has not already passed.

If the father/partner is required by their employer to be absent from work on Shared Parental Leave (SPL) for up to 8 weeks the father/partner will not be entitled to ShPP in that period.

If the father/partner claimed ShPP before the mother withdrew her 'Maternity Pay Curtailment Notice' in the father/partner is entitled to keep the ShPP they have received as they were entitled to it when it was paid.

## **If a mother withdraws her Maternity Leave Curtailment Notice can the parents take Shared Parental Leave at a later date?**

If the mother gave her employer a 'Maternity Leave Curtailment Notice' prior to the birth of her child, she can withdraw this notice within 6 weeks of birth and stay on ML

(providing that the date she said her ML would end on in the notice has not already passed). If she withdraws her 'Maternity Leave Curtailment Notice' in this 6 week window she/the other parent can take Shared Parental Leave (SPL) at a later date - subject to them being eligible for SPL.

If the mother withdraws her 'Maternity Leave Curtailment Notice' because it transpires that the parents are not entitled to SPL or because the father/partner has died, there is no further opportunity to take SPL as the mother is no longer eligible.

### **If the mother withdraws her Maternity Leave Curtailment Notice within 6 weeks of birth, and subsequently decides to take Shared Parental Leave, does this affect the number of weeks of leave that are available?**

If the mother gives her employer a 'Maternity Leave Curtailment Notice' before the birth of her child and then withdraws it in the 6 weeks following the birth and before the date she said she would end her ML on in the notice, she may decide at a later date to take Shared Parental Leave (SPL) with the same father/partner.

Any SPL taken by the father/partner in the period between birth and when the mother withdrew her Maternity Leave Curtailment Notice must be deducted from the 'pool' of SPL that is available to take.

Similarly, any SPL that an employer requires the father/partner to take after the mother withdraws her Maternity Leave Curtailment Notice must also be deducted from the 'pool' of SPL that is available to take.

### **What happens if the parents discover they are not entitled to Shared Parental Leave within 8 weeks of the mother giving her employer a 'Maternity Leave Curtailment Notice'?**

If the parents discover neither of them is entitled to Shared Parental Leave (SPL) in the 8 weeks following the mother giving her employer a 'Maternity Leave Curtailment Notice', the mother may withdraw the notice and remain on Maternity Leave (ML).

### **What happens if the parents discover they are not entitled to Shared Parental Leave more than 8 weeks after the mother has given her employer a 'Maternity Leave Curtailment Notice'?**

We don't expect this to happen, but it is a theoretical possibility. Should this occur, a mother's Maternity Leave (ML) has to end on the date she specified in the 'Maternity Leave Curtailment Notice' (i.e. on the date she said her ML would end).

If the mother is eligible for Statutory Maternity Pay (SMP) or Maternity Allowance (MA) her entitlement to SMP or MA does not end.

### **What happens to Statutory Maternity Pay or Maternity Allowance if the mother returns to work?**

The 39 weeks that a mother is entitled to Statutory Maternity Pay (SMP) or Maternity Allowance (MA) is called the Maternity Pay period or the Maternity Allowance period.

When a mother returns to work before the end of the SMP or MA period her entitlement to pay/allowance does not end but continues to 'run in the background'.

So if the mother is absent from work for whatever reason in the 39 week period in which her SMP period continues running, her employer must pay her SMP.

Similarly, if the mother is entitled to MA, this will be payable through Jobcentre Plus if she is absent from work for whatever reason whilst the 39 week MA period continues to run.

So in order to create an entitlement to Statutory Shared Parental Pay (ShPP) for herself and/or the father/partner, the mother must end her SMP period by giving written notice to her employer (i.e. give them a Maternity Pay Curtailment Notice) or end her MA period by notifying Jobcentre Plus.

## How to calculate the number of weeks of Shared Parental Leave or Pay that are available

### Examples of calculating the number of weeks of Shared Parental Leave and Pay

#### Example 1: Jean and Pete

7 weeks before having her baby, and 3 weeks before her Maternity Leave (ML) and Statutory Maternity Pay (SMP), Jean gives her employer a 'Maternity Leave Curtailment Notice' and a 'Maternity Pay Curtailment Notice' telling her employer that she will end her ML and SMP after taking 10 weeks of each.

At the same time, the baby's father, Pete, gave his employer notice to start 26 weeks of Shared Parental Leave(SPL) and Statutory Shared Parental Pay (ShPP) following on from his Paternity Leave and Pay.

5 weeks after the birth, Jean realises she is not ready to return to work so soon and she withdraws her notice to curtail her ML and SMP. At that point, Pete ceases to be entitled to SPL and ShPP as Jean has withdrawn her 'Curtailment Notices'. He has already taken 3 weeks of SPL. Pete's employer has recruited a new person to do Pete's job while he was away, expecting him to be away for 6 months. Pete's employer requires Pete to take compulsory SPL for 8 weeks until week 11 after the birth.

Jean then decides at a later date to curtail her ML and SMP after 26 weeks and gives her employer a further 'Maternity Leave Curtailment Notice' and a further 'Maternity Pay Curtailment Notice'. This creates the following entitlement:

#### Shared Parental Leave (SPL):

52 weeks of ML, minus:

- The 30 weeks of ML taken (4 weeks before birth and 26 weeks after)
- 3 weeks of SPL taken by Pete before Jean withdrew the first 'curtailment notice' minus
- The 8 weeks of absence (treated as SPL) that Pete's employer required him to take.

Total weeks of SPL that remain available = 52 weeks minus (30+3+8 weeks) = 11 weeks

#### Statutory Shared Parental Pay (ShPP):

39 weeks of SMP minus:

- The 30 weeks of SMP taken by Jean.
- The 3 weeks of ShPP taken by Pete prior to Jean's revocation of her 'Maternity Pay Curtailment Notice'.

Total weeks of ShPP that remain available = 39 weeks minus (30+3 weeks) = 6 weeks.

#### **Example 2: Salma and Abdullah**

Salma started her Maternity Leave (ML) 4 weeks before the birth of her child. At that time she wanted to return to work at 12 weeks after the birth and she expected to have taken 16 weeks of ML and 16 weeks of Statutory Maternity Pay (SMP) at that point.

As she knows what she wants to do, Salma gives her employer a 'Maternity Leave Curtailment Notice' and a 'Maternity Pay Curtailment Notice' 2 weeks after the birth specifying that she wants to end her ML and SMP 12 weeks after the date of the birth (and 16 weeks after her ML and SMP began). At the date her maternity entitlement ends, she will have taken 16 weeks of ML and 16 weeks of SMP.

The effect of the 'Curtailment Notices' that Salma gave 2 weeks after birth was to 'create' 36 weeks of SPL (52 weeks of ML minus 16 weeks) and 23 weeks of ShPP (39 weeks of SMP minus 16 weeks).

However, in the event, Salma decides to go back to work before her maternity entitlements end and she gives her employer 8 weeks' notice of the date of her return to work. Her early return to work does not change the number of weeks of SPL and ShPP to which she and her husband, Abdullah, are entitled: this was determined by the date Salma specified she would end her ML and SMP on in her 'Curtailment Notices' and is unaffected by her early return to work.

#### **Example 3: Shakia and Leroy**

Shakia goes into early labour with her child and starts her Maternity Leave (ML) the day following the birth. She returns to work after 12 weeks, not planning to take any SPL and ShPP as her mother will look after the child whilst Shakia works. However, 3 weeks after her return to work Shakia contracts shingles and is off work on sick leave for 2 weeks, during which time she is paid Statutory Maternity Pay (SMP).

After she returns to work, Shakia's mum falls and breaks her leg and can no longer look after her granddaughter. Shakia and her husband, Leroy, decide that the easiest thing will be for Leroy to take some SPL and stay at home until the baby is about 10 months old.

Shakia gives her employer a 'Maternity Pay Curtailment Notice' to end her SMP period and tells her employer that Leroy will take SPL and ShPP. (She does not need to give her employer a 'Maternity Leave Curtailment Notice' as she has already ended her ML by returning to work).

Shakia's SMP period ends on the last day of the pay week in which the 'Maternity Pay Curtailment Notice' was given. Leroy gives his employer 'Notice of Entitlement and Intention' to SPL and ShPP as he intends to take both in 8 weeks' time.

Shakia and Leroy are entitled to 40 weeks of SPL. This is because Shakia returned to work after 12 weeks of ML and these 12 weeks are deducted from the total available (52 weeks).

Shakia and Leroy are entitled to 27 weeks of ShPP calculated as follows:  
The total of 39 weeks available minus:

- The 12 weeks in which she received SMP following the birth of the child.

The 2 weeks of SMP paid to Shakia whilst she was absent from work with shingles is disregarded for the purpose of calculating entitlement to the weeks of ShPP.

## **Notification Requirements – Birth parents who do not intend to use the Model Notices and Declarations (Birth Parents)**

If you do not intend to use the Model Notices and Declarations for birth parents you need to give your employer the following information.

### **Mother's Notice and Declarations to her employer**

Up to 6 notices/declarations are required depending on whether the mother is eligible for and plans to take Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) herself; whether the father/partner is eligible for and plans to take SPL and/or ShPP.

- Notice of Entitlement and Intention
- Non-binding indication of Shared Parental Leave dates
- Declaration by mother
- Declaration by father/partner to mother's employer
- Period of Leave Notice(s)
- Maternity Leave Curtailment Notice
- Maternity Pay Curtailment Notice

All of the above notices and declarations must be given in writing at least 8 weeks before the mother and/or the father/partner plans to take SPL and/or ShPP.

### **Mother's Notice of Entitlement and Intention**

The mother's written notice of her entitlement to and intention to take Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) must include the following:

- Her name.
- The name of the father/the mother's partner.
- The start and end dates of her Maternity Leave (ML) if the mother is eligible for ML
- The start and end dates of her Statutory Maternity Pay (SMP) if the mother is eligible for SMP.
- The total amount of SPL available (52 weeks – minus any ML taken/to be taken by the mother. If the mother is not eligible for ML this is 52 weeks – minus any weeks of SMP or Maternity Allowance (MA) that the mother has claimed or intends to claim).
- The total amount of ShPP available (39 weeks – minus any SMP taken/to be taken by the mother)
- The expected week of birth of the baby (or the actual date of birth if the child has already been born).
- The number of weeks of SPL and/or ShPP that will be allocated to the mother (if any).
- The number of weeks of SPL and/or ShPP that will be allocated to the father/partner (if any).

### **Non-binding indication of Shared Parental Leave Dates**

If the mother is eligible for an intends to take Shared Parental Leave (SPL) herself she must give her employer an indication of when she plans to be off work on SPL. The mother is not committing to this dates until such time as she gives her employer a formal Period of Leave Notice(s).

If the mother is eligible for Statutory Shared Parental Pay (ShPP) there is no requirement for a non-binding indication of ShPP dates but she will need to tell her employer which weeks she intends to claim ShPP to enable the employer to pay the mother ShPP on behalf of government.

### **Declaration by mother**

The Declaration that the mother makes to her employer must confirm that she has:

- Been continuously employed by the employer for a period of at least 26 weeks ending with the 15<sup>th</sup> week before the expected week of childbirth (EWC). This broadly means that she will have started working for her current employer before the mother got pregnant; and
- Remained or will remain in continuous employment with that employer until the week before any period of Shared Parental Leave (SPL) or Statutory Shared Parental Pay (ShPP) that she intends to take.

- The main responsibility for caring for her child (together with the father/partner) at the date of the child's birth and will be caring for her child during any weeks that she is on SPL or claims ShPP. The mother must immediately inform her employer if this changes or if she is no longer eligible for SPL and/or ShPP for some other reason.
- An entitlement to Maternity Leave (ML) and plans to end this early (i.e. take less than 52 weeks of ML) to 'create' SPL for her or the father/partner to take. If the mother is not entitled to ML she will not be able to take SPL herself but she can 'create' SPL and ShPP for an employed father/partner to take (subject to them being eligible for SPL and/or ShPP).
- An entitlement to Statutory Maternity Pay (SMP) and plans to end this early (i.e. take less than 39 weeks of SMP) to 'create' ShPP for her or the father/partner to take and/or (where the mother is not entitled to ML) she plans to end this early to 'create' SPL for the father/partner to take.
- Given her employer a 'Maternity Leave Curtailment Notice' or ended her ML early (i.e. taken less than 52 weeks of ML) by returning to work (the mother is required to give her employer at least 8 weeks' notice of her return to work date).
- Given her employer a 'Maternity Pay Curtailment Notice'. This is required even if the mother has returned to work.
- Provided the required information to her employer and that this is correct.

### **Declaration by father/partner to mother's employer**

The Declaration that the father/partner makes to the mother's employer must confirm that:

- The information about the father/partner in the Mother's Notice of Entitlement and Intent (including her/his: name and address and National Insurance (NI) number, or the statement that they do not have a NI number) is correct.
- They meet the 'Work and Earnings Test'. This is a low threshold test which requires the father/partner to have worked in an employed and/or self-employed capacity for at least 26 weeks in the 66 period leading up to the expected week of childbirth (EWC) and to have earned, or be treated as having earned, at least £30 a week on average (i.e. £390 in total) over the 13 highest earning weeks in the 66 week period. The weeks of work and earnings do not need to be consecutive weeks and can be a mixture of earnings from employment and self-employed earnings.
- She/he is the father of the child, and/or the mother's spouse; civil partner; or a partner living with the mother and child in an enduring relationship.
- She/he will have the main responsibility for caring for the child (together with the mother) at the date of the child's birth.
- She/he consents to mother taking the amount of Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) that the mother has indicated she will take.
- The information contained in the Father's/Partner's Declaration is correct.
- She/he consents to the mother's employer processing the information about her/him included in the mother's Notice of Entitlement and the Father's/Partner's Declaration.

### **Period of Leave Notice(s)**

- At least 8 weeks before the mother intends to be off work on Shared Parental Leave (SPL) she must give her employer a Period of Leave Notice. This is 'binding notice' to 'book' the dates that she will be off work on SPL.
- The mother is entitled to give her employer up to 3 Period of Leave Notices (more if the employer allows) and can use these to book one or more blocks of consecutive weeks of leave.
- Special rules apply if the mother uses a single Period of Leave Notice to book more than one block of SPL. But if she uses each of the 3 Period of Leave Notices that are available to book a single block of SPL she is legally entitled to take this (subject to her being eligible for SPL and giving sufficient notice of SPL dates). This means that the mother can secure up to 3 separate periods of time off work (SPL) by using 3 separate Period of Leave Notices if she wishes.
- The mother can cancel or vary a Period of Leave notice that she has given her employer but the notice to cancel/vary will count towards the cap of 3 Period of Leave Notices (unless the employer allows the mother to give an additional notice).
- There is no requirement for a period of pay notice but the mother needs to give her employer at least 8 weeks written notice of the dates that she will claim ShPP to enable her employer to pay the mother ShPP on behalf of government.

### **Maternity Leave Curtailment Notice**

A 'Maternity Leave Curtailment Notice' is a written notice to the mother's employer committing to end her Maternity Leave (ML) on a specified date of the mother's choice (i.e. she is committing to take less than 52 weeks of ML). The mother only needs to give her employer a Maternity Leave Curtailment Notice if she has not already returned to work.

### **Maternity Pay Curtailment Notice**

A 'Maternity Pay Curtailment Notice' is a written notice to the mother's employer committing to end her Statutory Maternity Pay (SMP) on a specified date of the mother's choice (i.e. she is committing to take less than 39 weeks of SMP). The date that the mother will end her Maternity Leave (ML) on must be specified in the notice. The mother needs to give her employer a Maternity Pay Curtailment Notice even if she has already returned to work.

### **Father's/Partner's Notice and Declarations to her/his employer**

Up to 4 notices/declarations are required depending on whether the father/partner is eligible for and plans to take Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) themselves; and whether the mother is eligible for and plans to take SPL and/or ShPP.

- Notice of Entitlement and Intention
- Non-binding indication of Shared Parental Leave dates
- Declaration by father/partner
- Declaration by mother to father's/partner's employer

- Period of Leave Notice(s)

All of the above notices and declarations must be given in writing at least 8 weeks before the mother and/or the father/partner plans to take SPL and/or ShPP.

### **Father's/Partner's Notice of Entitlement and Intention**

The father's/partner's written notice of her/his entitlement to and intention to take Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) must include the following:

- Her/his name.
- The name of the mother.
- The start and end dates of the mother's Maternity Leave (ML) if the mother is eligible for ML
- The start and end dates of the mother's Statutory Maternity Pay (SMP) if the mother is eligible for SMP.
- The start and end dates of the mother's Maternity Allowance (MA) if the mother is not eligible for ML but is eligible for MA
- The total amount of SPL available (52 weeks – minus any ML taken/to be taken by the mother. If the mother is not eligible for ML this is 52 weeks –minus any SMP or MA taken/to be taken by the mother).
- The total amount of ShPP available (39 weeks – minus any SMP or MA taken/to be taken by the mother)
- The expected week of birth of the baby (or the actual date of birth if the child has already been born).
- The number of weeks of SPL and/or ShPP that will be allocated to the father/partner (if any).
- The number of weeks of SPL and/or ShPP that will be allocated to the mother (if any).

### **Non-binding indication of Shared Parental Leave Dates**

If the father/partner is eligible for and intends to take Shared Parental Leave (SPL) themselves she/he must give her/his employer an indication of when s/he plans to be off work on SPL. The father/partner is not committing to these dates until such time as s/he gives her/his employer a formal Period of Leave Notice(s).

If the father/partner is eligible for Statutory Shared Parental Pay (ShPP) there is no requirement for a non-binding indication of ShPP dates but s/he will need to tell her/his employer which weeks s/he intends to claim ShPP to enable the employer to pay the father/partner ShPP on behalf of government.

### **Declaration by father/partner**

The Declaration that the father/partner to her/his employer must confirm that s/he has:

- Been continuously employed by the employer for a period of at least 26 weeks ending with the 15<sup>th</sup> week before the expected week of childbirth (EWC). This broadly means that s/he will have started working for her/his current employer before the mother got pregnant; and

- Remained or will remain in continuous employment with that employer until the week before any period of Shared Parental Leave (SPL) or Statutory Shared Parental Pay (ShPP) that s/he intends to take.
- The main responsibility for caring for her child (together with the mother) at the date of the child's birth and will be caring for the child during any weeks that s/he is on SPL or claims ShPP. The father/partner must immediately inform her/his employer if this changes or if s/he is no longer eligible for SPL and/or ShPP for some other reason.

The Declaration that the father/partner makes to her/his employer must also confirm that the mother has:

- An entitlement to Maternity Leave (ML) and plans to end this early (i.e. take less than 52 weeks of ML) to 'create' SPL for her or the father/partner to take. If the mother is not entitled to ML she will not be able to take SPL herself but she can 'create' SPL and ShPP for an employed father/partner to take (subject to them being eligible for SPL and/or ShPP).
- An entitlement to Statutory Maternity Pay (SMP) and plans to end this early (i.e. take less than 39 weeks of SMP) to 'create' ShPP for her or the father/partner to take and/or (where the mother is not entitled to ML) she plans to end this early to 'create' SPL for the father/partner to take.
- Given her employer a 'Maternity Leave Curtailment Notice' or ended her ML early (i.e. taken less than 52 weeks of ML) by returning to work (the mother is required to give her employer at least 8 weeks' notice of her return to work date).
- Given her employer a 'Maternity Pay Curtailment Notice'. This is required even if the mother has returned to work.
- Provided the required information to her employer and that this is correct.

### **Declaration by mother to the father's/partner's employer**

The Declaration that the mother makes to the father's/partner's employer must confirm that:

- The information about the mother in the Mother's Notice of Entitlement and Intention (including her: name and address and National Insurance (NI) number, or the statement that she does not have a NI number) is correct.
- She meets the 'Work and Earnings Test'. This is a low threshold test which requires the mother to have worked in an employed and/or self-employed capacity for at least 26 weeks in the 66 period leading up to the expected week of childbirth (EWC) and to have earned, or be treated as having earned, at least £30 a week on average (i.e. £390 in total) over the 13 highest earning weeks in the 66 week period. The weeks of work and earnings do not need to be consecutive weeks and can be a mixture of earnings from employment and self-employed earnings. Mothers who qualify for Maternity Allowance (MA) will automatically meet this test as it is modelled on the test for MA.
- She is the mother of the child, and/or the father's/partner's spouse; civil partner; or a partner living with the father/partner and child in an enduring relationship.

- She will have the main responsibility for caring for the child (together with the father/partner) at the date of the child's birth.
- She consents to father/partner taking the amount of Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) that the father/partner has indicated she/he will take.
- The information contained in the Mother's Declaration to the father's/partner's employer is correct.
- She consents to the father's/partner's employer processing the information about her included in the father's/partner's Notice of Entitlement and the Mother's Declaration to the father's/partner's employer.

### **Period of Leave Notice(s)**

- At least 8 weeks before the father/partner intends to be off work on Shared Parental Leave (SPL) s/he must give her/his employer a Period of Leave Notice. This is 'binding notice' to 'book' the dates that s/he will be off work on SPL.
- The father/partner is entitled to give her/his employer up to 3 Period of Leave Notices (more if the employer allows) and can use these to book one or more blocks of consecutive weeks of SPL.
- Special rules apply if the father/partner uses a single Period of Leave Notice to book more than one block of SPL. But if s/he uses each of the 3 Period of Leave Notices that are available to book a single block of SPL s/he is legally entitled to take this (subject to her/him being eligible for SPL and giving sufficient notice of SPL dates). This means that the father/partner can secure up to 3 separate periods of time off work (SPL) by using 3 separate Period of Leave Notices if s/he wishes.
- The father/partner can cancel or vary a Period of Leave notice that s/he has given her/his employer but the notice to cancel/vary will count towards the cap of 3 Period of Leave Notices (unless the employer allows the father/partner to give an additional notice(s)).
- There is no requirement for a Period of Pay Notice but the father/partner needs to give her/his employer at least 8 weeks written notice of the dates that s/he will claim ShPP to enable her employer to pay the father/partner ShPP on behalf of government.

## **Notification Requirements – Adoptive parents who do not intend to use the Model Notices and Declarations (Adopters)**

Broadly speaking, adopters and their partners need to provide the same information to their employer(s) as birth parents. The information provided will of course be adapted to reflect the fact that the various notices and declarations that are required relate to adoptions (i.e. the parent who qualifies for Adoption Leave (AL) and/or Statutory Adoption Pay (SAP) will need to provide an 'Adoption Leave Curtailment Notice' (if they have not already returned to work) and an 'Adoption Pay Curtailment Notice' (even if they have returned to work).

The various eligibility tests are adjusted for adopters (see Continuity of Employment Test; Normal Weekly Earnings Test; and Work and Earnings Test).

The additional evidence that employers can request is also adjusted – see Information that employers can request from adopters.

### **What if the parents change their minds about how the Shared Parental Leave and/or Pay should be divided?**

If the parents decide that a different division of the total Shared Parental Leave (SPL) and/or a different division of the total Statutory Shared Parental Pay (ShPP) available would suit them better, they can alter the division of the leave between them if they both agree. Parents need to give their employer written notice of the changes that they would like to make to their employer. This notice must be given at least 8 weeks before the first period of SPL and/or ShPP they now plan to take.

Parents may find it more expedient to give their employer a new (replacement) 'Notice of Entitlement and Intention' but need to make this clear that this replaces the first one.

### **When do I have to tell my employer that I want to be absent from work on Shared Parental Leave?**

Parents are required to give their employer 8 weeks' notice of any period of Shared Parental Leave (SPL) that they plan to take. This is called a 'Period of Leave Notice'.

Parents can give their employer a 'Period of Leave Notice' at the same time that they tell their employer that they are entitled to take SPL if they wish.

### **What information should the 'Period of Leave Notice' contain?**

An employee who has notified their employer of their entitlement to Shared Parental Leave (SPL) must also give notice to "book" leave (i.e. a 'Period of Leave Notice') at least 8 weeks before the first week of SPL is due to start.

The 'Period of Leave Notice' must specify the weeks of SPL that the parent proposes to take. It must state a minimum of 1 week and may specify more weeks in a single continuous block, or discontinuous blocks of leave.

### **Do parents have a legal right to take Shared Parental Leave that they have 'booked'?**

Where a 'Period of Leave Notice' (i.e. the 'booking notice') gives notice of a single period of continuous weeks of leave (i.e. relates to a single block of leave), the parent has a right to take the SPL they have 'booked' (providing they have given 8 weeks' notice).

If a 'Period of Leave Notice' requests leave in discontinuous weeks, e.g. all of March, all of May, 1 August to end September, the parent's employer is entitled to require all the weeks of leave to be taken in a single block.

So, if for example, the 'Period of Leave Notice' requests discontinuous pattern of SPL taking every other week off for the next 24 weeks, the parent has the right to 12 weeks of SPL, but does not have the right to the pattern of leave proposed unless their employer agrees to this.

However each parent is able to give their respective employers up to 3 'Period of Leave Notice's and if they use a single notice to book a single block of SPL they have a right to take up to three blocks of SPL.

### **What if I want to book discontinuous Shared Parental Leave?**

If you use a single 'Period of Leave Notice' to 'book' more than one block of leave, your employer does not have to agree to this.

But some employers may, for example, think that it is better to have their employee at work one week in every fortnight than to lose them for a solid 3 month block.

If you want to book discontinuous periods of leave using a single 'Period of Leave Notice' you should discuss this with your employer first as your employer can suggest, a different pattern of discontinuous leave, for example, 2 weeks absence on Shared Parental Leave and then 2 weeks back at work over an agreed period. Or the employer may simply refuse the discontinuous pattern of leave proposed and require the parent to take SPL in a single block of continuous weeks of leave.

However each parent is able to give their respective employers up to 3 'Period of Leave Notice's and if they use a single notice to book a single block of SPL they have a right to take up to three blocks of SPL.

### **Can I withdraw a 'Period of Leave Notice'?**

You are not entitled to withdraw a 'Period of Leave Notice' that 'books' a single block of continuous weeks of leave unless your employer agrees to this.

You may withdraw a 'Period of Leave Notice' that has been used to request two or more blocks of discontinuous leave within 15 days of giving it, providing that you have not already reached an agreement with your employer about when you will be absent from work.

If a 'Period of Leave Notice' is withdrawn it does not count towards the cap of 3 'booking' notifications.

Once the 15th day has passed, any change to the period of SPL booked must be done by a variation notice. This is subject to 8 weeks' notice and counts towards the cap of 3 'Period of Leave Notice's.

## Patterns of Shared Parental Leave

### What happens if my employer wants to refuse the pattern of leave that I have proposed?

If you are proposing a discontinuous period of leave in a single 'Period of Leave Notice' (i.e. the 'booking notification'), your employer can refuse the pattern of SPL proposed.

If your employer refuses a pattern of discontinuous leave, you can take your leave as a single continuous block at a time starting on a date of your choosing (no less than 8 weeks from the date the 'Period of Leave Notice' was given).

You have 5 days in which to tell your employer the date you will start your leave. If no date is specified, the leave will begin on the date of the first day of the first period of discontinuous leave that you originally applied for.

You may choose to withdraw your notice if your employer has refused your preferred pattern of leave or if your employer has not responded during the 2 week discussion period.

### Will I always have to give 8 weeks' notice before I take Shared Parental Leave?

In the majority of cases, yes but the normal requirement for 8 weeks' notice to 'book' a period of leave (i.e. a 'Period of Leave Notice') is not required in the following circumstances:

- Where the other parent dies; or
- Where the baby is born more than 8 weeks early.

### What happens if my employer refuses a pattern of Shared Parental Leave that I proposed?

If you are eligible and have submitted a proper 'booking notice' (i.e. a 'Period of Leave Notice') for a single block of Shared Parental Leave (SPL) your employer cannot refuse to give you this leave and you cannot withdraw the 'Period of Leave Notice' unless your employer agrees to this.

If you have requested a discontinuous pattern of leave, in a single 'Period of Leave Notice' you have 2 weeks to withdraw your notice and you don't have to give a reason if you do so. If you want to vary the dates given in the notice once the deadline for withdrawing the notice has passed (i.e. after day 15), then you will have to submit a notice to vary the leave, giving at least 8 weeks' notice of any change. The notice to vary SPL already 'booked' will count towards the cap of 3 'Period of Leave Notice's.

If you have submitted a single 'Period of Leave Notice' requesting a pattern of discontinuous leave, e.g. all of June, all of September, and 1 December to end January, your employer can do one of the following:

- Agree the pattern of SPL proposed by you;
- Propose an alternative pattern of SPL ;
- Refuse the pattern of SPL proposed and require the leave to be taken in a single block of continuous weeks of leave;
- Not respond to your notice.

There is a 2 week period for discussion following the date of submission of a 'Period of Leave Notice' that seeks to 'book' discontinuous leave and you may withdraw the notice at any time up to and including the 15th day after submission of the notice.

If no agreement can be reached between you and your employer on the pattern of leave you will take within the 2 week discussion period, or if your employer does not respond to a notice proposing a pattern of leave and you do not withdraw the notice, you are required to take the leave in a single continuous block.

You have 5 days following the end of the discussion period to specify the date on which you will start the continuous period of leave of the number of weeks set out in the 'Period of Leave Notice'. The leave cannot start within 8 weeks of the date that the 'Period of Leave Notice' was submitted.

If you do not specify the start date within 5 days of the end of the two-week discussion period, then the continuous block of leave must start on the first date of the first week of leave specified in the 'Period of Leave Notice'. If you want to change this, you must submit a notice of variation (giving 8 weeks' notice) and this will count towards your cap of 3 'Period of Leave Notice's.

### **Can I secure a pattern of leave by submitting separate 'booking notices' for each period of leave?**

Yes, providing you give the appropriate notice (at least 8 weeks) you can request up to 3 separate blocks of continuous weeks of Shared Parental Leave (SPL) by using 3 separate 'Period of Leave Notice's.

There is a statutory cap of 3 notices to book SPL (i.e. each parent has up to 3 'Period of Leave Notice's to use) but your employer can allow you to submit more notices.

The following booking notices count towards the cap of 3 'Period of Leave Notice's:

- A notice to book continuous or discontinuous periods of leave that is not withdrawn on or before the 15th day following submission (i.e. a 'Period of Leave Notice');
- A notice to withdraw or vary a period of SPL that you have already 'booked' (i.e. notice to vary a 'Period of Leave Notice' you previously gave your employer). The notice to cancel or vary counts towards your cap of 3 'Period of Leave Notice's.

A request by your employer to you to vary a period of agreed leave does not count towards your cap of 3 'Period of Leave Notice's.

## What happens if my employer agrees to my proposed leave pattern, but my partner's employer doesn't agree to their proposed leave pattern?

Each parent is entitled to give their employer up to 3 'Period of Leave Notice's and where they use a single notice to book a single block of continuous weeks of Shared Parental Leave (SPL) they are legally entitled to take the SPL referred to in the notice (providing the notice is given to their employer at least 8 weeks before the parent plans to be off work on SPL).

So the more likely scenario where one employer agrees and the other doesn't will arise where one or both of the parents are using a single 'Period of Leave Notice' to book two or more blocks of SPL (i.e. to book discontinuous leave).

Where a parent seeks to book discontinuous leave (i.e. in a single 'Period of Leave Notice') there is a 2 week discussion period during which time the parent can withdraw the notice (this must be done no later than the day after the 2 week discussion period ends (i.e. by the 15<sup>th</sup> day after the parent gave their employer the 'Period of Leave Notice'). If the notice is withdrawn by the 15<sup>th</sup> day following submission does not count towards the cap of 3 'Period of Leave Notice's.

The purpose of allowing the 'Period of Leave Notice' to be withdrawn is precisely to take into account the fact that both parents are trying to agree patterns of leave with their respective employers. .

An early discussion(s) between you and your employers, held shortly after you have given the employer a 'Notice of Entitlement and Intention' to SPL (which includes a non-binding indication of when the SPL will be taken), is likely to reduce the likelihood of there being an issue and you can agree patterns of leave with your employer before submitting a 'Period of Leave Notice' to 'book' the SPL you have agreed.

## Can I change an agreed pattern of Shared Parental Leave?

Yes, provided that you don't exceed the cap of 3 notifications (i.e. 3 'Period of Leave Notice's). Each parent is able to give their employer up to 3 'Period of Leave Notice's, which can be used to notifying changes to periods of Shared Parental Leave (SPL) that have already been agreed.

The process for giving a variation notice, changing leave patterns or agreeing new patterns, will be the same as the initial process for booking leave.

### **Example: Hazel**

Hazel gave her employer a 'Period of Leave Notice' on 1 May with 8 weeks' notice to take SPL from 1 July for 6 months. On 1 June, her plans changed as her mother-in-law came to live with her and offered to provide free child care.

As Hazel and her husband needed her income, they decided Hazel would return to work at the earliest opportunity. On 1 June Hazel gave her employer written notice to end her SPL in 8 weeks' time. In total, Hazel took 4 weeks of SPL rather than 6 months (as originally planned). Her employer had 2 months to stand down the cover

arrangements that had put in place for 6 months starting on 1 July. The 'booking' and written notice to vary SPL already 'booked' used up 2 of Hazel's 3 'Period of Leave Notice's and she has one 'Period of Leave Notice' left to use if she wishes.

### **What if my partner and I want to transfer weeks of Shared Parental Leave between us?**

Parents can decide to change the way they have allocated the total number of weeks of Shared Parental Leave (SPL) that are available between them. This would require each of the parents to give their employer notice that they wish to change their original 'Notice of Entitlement and Intention'. The variation notice must set out the total number of weeks of SPL and/or Statutory Shared Parental Pay (ShPP) that have already been taken and the new division of the SPL and ShPP.

Both parents need to sign the notice to confirm their agreement to the new division. The variation notice must give an indication of when the leave might be taken, but it is not a booking notice and does not count towards the cap of 3 'Period of Leave Notice's. Parents can use the Model Notices and Declarations on Gov.UK to vary the allocation of SPL and ShPP between them if they wish (i.e. they can substitute their original Model Notices and Declarations with a new one if they make it clear that they are replacing the first notice).

If either of the parents acquire more weeks of SPL as a result of a transfer of leave between them, any additional weeks are still subject to the cap of 3 Period of Leave Notifications that each parent has to book leave. If a parent has already used up their 3 notifications, they will not be able to take the additional weeks of SPL unless their employer chooses to disregard the cap of 3 and to accept one or more additional Period of Leave Notifications.

### **How can an employer require leave to be taken in a single block?**

If you give your employer a 'Period of Leave Notice' proposing separate, discontinuous, periods of Shared Parental Leave (SPL), your employer does not have to agree to the pattern of SPL. There is a 2 week discussion period where the parties can discuss the request of discontinuous leave. If you do not reach agreement, or withdraw the 'Period of Leave Notice', by the end of that period your employer can require you to take all of the SPL that you requested as a single block of continuous weeks of leave.

### **Does the limit of 3 'Period of Leave Notices mean Shared Parental Leave can only be taken in up to 3 blocks?**

No. Employers are able to waive the cap of 3 notices if they wish. They can also agree periods of more than one block of discontinuous SPL which has been notified in a single 'Period of Leave Notice'.

### **What happens if an employer doesn't respond to a 'Period of Leave Notice'?**

If you have given your employer a 'Period of Leave Notice' in respect of a single block of continuous weeks of Shared Parental Leave (SPL), and the notice was

given at least 8 weeks before you intend to be off work on SPL, you have a legal right to take the SPL at the time you indicated in the notice.

Parents are, however, advised to check that their employer has actually received the Period of Leave Notice and that they are aware that the parent is planning to take SPL on the dates specified in this.

If your employer does not respond within two weeks of you giving them a 'Period of Leave Notice' to book two or more blocks of discontinuous leave, the notice may be withdrawn by you on the 15th day or, if it is not withdrawn, the leave may be taken in a single continuous block.

You have 5 days from the end of the two week discussion period to specify the date on which the single block of leave will start (no earlier than 8 weeks from the date the Period of Leave was given). If you do not do so, the single block of leave starts on the first day of the first week of leave proposed in the original 'Period of Leave Notice'.

### **How long has an employer got to consider a request for a discontinuous pattern of leave?**

If you use a single 'Period of Leave Notice' to book two or more blocks of Shared Parental Leave (SPL), there is a 2 week discussion period which enables you and your employer to discuss and agree SPL dates or consider alternative arrangements.

At the end of the 2 week discussion period, you may withdraw the 'Period of Leave Notice' without penalty (i.e. it will not count towards the cap of 3 notices) by the 15th day after the notice was given, provided that you haven't already reached an agreement with your employer. We consider that such an arrangement is essential when 2 parents might be applying for complementary periods of leave at the same time and one parent may be refused.

A withdrawn 'Period of Leave Notice' will NOT count towards the cap of 3 'Period of Leave Notice's.

### **If my partner and I decide to transfer all of the Shared Parental Leave to one parent does the right to 3 'Period of Leave Notice's transfer as well?**

No. The cap of 3 'Period of Leave Notices' applies to each of you (and is per employer, if you have 2 or more employers) and cannot be transferred between you. Each parent has 3 'Period of Leave Notices' each.

### **How is a notice to my employer served?**

Notification of entitlement to Shared Parental Leave and pay and notification to 'book' Shared Parental Leave (i.e. the 'Period of Leave Notice') must be in writing and may be given by:

- Electronic communication, where the employer has agreed;
- Post; or
- Personal delivery.

## Early and late births

### Changes to the notification arrangements in the event of an early birth

Where a child is born before the beginning of the week in which the child was due, different notification requirements apply in respect of Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) in the eight weeks following the expected week of the birth. Generally speaking the requirement to give 8 weeks' 'Notice of Entitlement and Intention' and 8 weeks' notice of a period of SPL you would like to 'book' (i.e. by giving your employer a 'Period of Leave Notice') is deemed as being satisfied if you give notice as soon as reasonably practicable after the birth. See the rules that apply in the different circumstances described in this section.

### What happens if I have given 'Notice of Entitlement and Intention' and a 'Period of Leave Notice' and my baby is born early?

Where you have given your employer 'Notice of Entitlement and Intention' to Shared Parental Leave (SPL) and have also given notice to "book" a period of SPL (i.e. given your employer a 'Period of Leave Notice') which will start within 8 weeks of the child's expected week of birth and the child is born early, you may take SPL that you have 'booked' early if you wish (i.e. you can bring the SPL forward so that you are taking it at the equivalent time to when you would have been had the baby had been born on time).

You must give your employer a notice to vary the SPL that you originally applied for (i.e. a new 'Period of Leave Notice') as soon as is practicable following the birth. For example, if the mother's partner was planning to take 2 weeks of Paternity Leave (PL) after the birth and had booked 3 weeks of SPL to be taken after their PL (thus being at home for a continuous period of 5 weeks), he or she could start their PL after the birth and take the same amount of SPL 2 weeks later (i.e. after their PL) if he or she notified their employer of the change as soon as reasonably practicable after their child's birth.

If you have given your employer 'Notice of Entitlement and Intention' and 'booked' a period of SPL (i.e. given your employer a 'Period of Leave Notice') which starts more than 8 weeks after the expected week of childbirth and the child is born early there are no special provisions for this situation. Any changes to the SPL you have 'booked' would require 8 weeks' notice (i.e. a new 'Period of Leave Notice').

### What happens if I have given 'Notice of Entitlement and Intention' to my employer but have not yet given them a 'Period of Leave Notice' and my baby is born early?

Where a parent has notified their employer that they are entitled to Shared Parental Leave (SPL) but have not "booked" any SPL (i.e. given their employer a 'Period of Leave Notice') and the child is born 8 or more weeks before the week in which the child was due to be born, the parent can give notice to start their SPL within 8 weeks of the actual birth if they give notice as soon as reasonably practicable after the child's actual birth (i.e. there is no requirement for 8 weeks' notice).

## **What happens if I have not given 'Notice of Entitlement and Intention' and my baby is born early?**

Where you have not given a 'Notice of Entitlement and Intention' to Shared Parental Leave (SPL), and the child is born eight or more weeks before the first day of the expected week of birth, then the requirement for 8 weeks' notice before the start date of a period of SPL is treated as satisfied if the notice is given as soon as reasonably practicable after the actual date of birth. Similarly the requirement to give 8 weeks' notice to "book" a period of leave (i.e. a 'Period of Leave Notice') is to be treated as satisfied if the period of leave is to start within eight weeks.

## **What happens if a mother specifies a date in her 'Maternity Leave Curtailment Notice' and the baby is born later than expected?**

The mother has to take at least 2 weeks of Maternity Leave (ML) (4 weeks if she works in a factory or workshop) immediately following the birth of her child. This is a health and safety requirement as the mother needs to recover from the birth.

Where the mother has given a 'Maternity Leave Curtailment Notice' which states she will end her ML on a date that falls within her compulsory ML period (i.e. the 2 weeks following birth, 4 weeks if she works in a factory or workshop) because her baby is born late, the notice is invalid. In these circumstances the mother must give her employer a further 'Maternity Leave Curtailment Notice' (if she still wishes to end her ML early). The date that she says she will end her ML on in the second Maternity Leave Curtailment Notice must be at least 8 weeks after she gives her employer that notice.

In these circumstances the mother must take at least 8 weeks ML before starting any Shared Parental Leave (SPL) (because she needs to give 8 weeks' notice of her ML curtailment date) but the father or mother's partner can start to take SPL immediately after the child's birth (or after a period of Paternity Leave) if they wish.

## **Employment rights whilst on Shared Parental Leave**

### **Do I accrue contractual annual leave while on Shared Parental Leave?**

Yes. The legislation provides that an employee on Shared Parental Leave is entitled to all the benefits of all the terms and conditions of employment (excluding remuneration) which would have applied had the employee not been absent on leave.

### **What terms and conditions apply during Shared Parental Leave?**

During any period of Shared Parental Leave (SPL) the parent continues to benefit from all of the terms and conditions of employment which would have applied if they had not been absent from work (except for remuneration), and parents continue to be bound by any obligations in those terms and conditions (except you don't need to go to work).

## What employment protections apply in relation to Shared Parental Leave?

You are protected from detriment and from unfair dismissal connected with the taking of Shared Parental Leave (SPL).

If you are made redundant whilst on SPL, you are entitled to be offered a suitable alternative vacancy if one arises. This is the same as the level of protection available to a mother on Maternity Leave, adopters on Adoption Leave and fathers/partners on Paternity Leave.

## Do I have the right to return to the same job after taking Shared Parental Leave?

The right to return to the same applies if you are returning from any period of Maternity, Paternity, Adoption or Shared Parental Leave that totals 26 weeks or less in aggregate, even if the leave is taken in discontinuous blocks. This will mean that an employee who takes 26 weeks or less of any combination of relevant family related statutory leave will have the right to return to the same job. Periods of unpaid parental leave of more than four weeks are excluded from the '26 week calculation'.

Once the employee has taken more than 26 weeks of relevant family related statutory leave in aggregate (including any combination of Maternity, Paternity, Adoption or Shared Parental Leave) then the employee will have the right to return to the same job that they were doing immediately preceding the last period of absence, or, if it is not reasonably practicable for the employer to permit the employee to return to that job, to another job which is both suitable for the employee and appropriate for the employee to do in the circumstances (sometimes referred to a similar job).

Unpaid parental leave is not included in the 26 week aggregate total. Taken in isolation, an employee can take up to four weeks of unpaid parental leave and have the right to return to the same job. If an employee takes more than four weeks in isolation, he or she will have the right to return to the same or a similar job.

If an employee takes a period of more than 4 weeks unpaid parental leave as part of a string of family-related leave, they will have the right to return to the same or a similar job.

### Example A

Helen takes 10 weeks of Maternity Leave (ML) and then returns to work to the same job for 4 weeks to complete a project she had started before her ML. She then takes 16 weeks of Shared Parental Leave (SPL) and then returns to work. Helen has the right to return to the same job she was doing before her period of Shared Parental Leave.

### Example B

Sarah takes 10 weeks of Maternity Leave and then returns to work to the same job for 4 weeks to complete a project she had started before her Maternity Leave. She then takes 17 weeks of SPL and then returns to work. Sarah does not have the right

to return to the same job, as her aggregate leave has exceeded 26 weeks. She has the right to return to the same job unless that's not reasonably practicable, in which case she has the right to return to an appropriate similar job.

### **Example C**

Ben takes 2 weeks of Paternity Leave and then returns to his job as a warehouse supervisor for 16 weeks. He then takes 4 weeks of unpaid parental leave (PL) whilst his wife returns to work to complete a project she started before her ML. He then returns to work for 12 weeks, during which time he changes from the warehouse to the accounts section. At a later date, he takes a further 16 weeks of SPL for the same child, Ben has the right to return to the same job he was doing in the accounts department before his SPL, as his PL and SPL do not exceed 26 weeks in aggregate.

### **Contractual rights to Shared Parental Leave and Pay**

If you meet the qualifying requirements, have correctly notified your employer of your entitlement to, and intention to take Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) and have 'booked' the SPL or ShPP (i.e. given your employer a 'Period of Leave Notice'), you have a statutory right to it.

However, an employer is free to offer a contractual scheme that is more favourable to you for example, by waiving the requirement for 8 weeks' notice to take leave, allowing additional leave that could be taken after the first year, accepting unlimited numbers of notices to book leave (i.e. 'Period of Leave Notice's), etc. In addition, an employer is free to 'top up' ShPP by paying some or all of the ShPP at a higher rate determined by the parent's employment contract. If they do so then when you take that leave and pay, you may not exercise the statutory right and the corresponding contractual right separately, i.e. you cannot take occupational SPL and/or ShPP and then have a right to Statutory SPL and/or ShPP as well.

### **Can an employee take Shared Parental Leave whenever he or she wants?**

We encourage employers and employees to discuss parental leave arrangements at the earliest opportunity. The system works best if there are no surprises on either side.

You are required to give your employer at least 8 weeks' 'Notice of Entitlement and Intention' to Shared Parental Leave (SPL) and at least 8 weeks' notice of any periods of SPL you want to take (i.e. give them a 'Period of Leave Notice'). These notices may be given at the same time if you wish and may parents find this more convenient.

### **What happens if my employer will not let me take Shared Parental Leave or Statutory Shared Parental Pay?**

You have a statutory right to Shared Parental Leave (SPL) if you satisfy all of the eligibility criteria.

An employer who denies an employee their statutory right to SPL is likely to face a successful challenge in an Employment Tribunal. If you have any concerns about this, or are thinking of making a claim to an Employment Tribunal, you should speak to the Advisory, Conciliation and Arbitration Service (Acas) who offer free, confidential advice and are able to liaise between you and your employer to enable you to reach agreement.

You have a statutory right to Statutory Shared Parental Pay (ShPP) if you satisfy all of the eligibility criteria. If your employer refuses to pay you ShPP you should contact HM Revenue and Customs (who process claims for family related statutory pay on behalf of government) and/or speak to Acas.

## **Employees who have more than one job**

### **What happens if I have 2 jobs?**

If you are the child's mother and are entitled to Maternity Leave (ML) from more than one employer, you must bring forward the date on which you will end your ML and/or Statutory Maternity Pay (SMP) periods end with all your employers. Shared Parental Leave (SPL) and/or Statutory Shared Parental Pay (ShPP) can only be created if you give all of your employers who are liable to give you ML or SMP notice at the same time.

If you (whether you are the mother or the father/partner) meet the criteria for SPL and ShPP in your employment with one employer, you can take leave and pay from your employment with them. If you also meet the criteria for SPL and ShPP from another job as well, then you can take the leave and pay from the other employer as well. This means that parents who work for more than one employer can be eligible for 2 or more lots of ShPP a week when they are on SPL.

### **How much Shared Parental Leave am I entitled to if I have 2 jobs?**

Where you have 2 (or more) jobs and you qualify for Shared Parental Leave (SPL) in respect of each employment, you are entitled to take SPL from each of your employers.

### **Calculation of amount of Shared Parental Leave available where you have more than one employer**

The number of weeks of Shared Parental Leave (SPL) is calculated by the deducting the maximum number of weeks that the mother has taken (i.e. the total length of absence, even if it is with different employers).

#### **Example: Mother on Maternity Leave from 2 different employments**

A mother is on Maternity Leave (ML) from employment A and employment B. She returns to work in employment A on week 20. She returns to work in employment B in week 25.

The maximum amount of SPL in this case will be 52 weeks minus 25 = 27 weeks (not 52-20).

**Example: Mother gives notice to curtail her ML to 2 different employers**

A mother gives notice to curtail her ML from employer A from week 32 of her ML period and a notice to curtail ML from employer B from week 30 of that leave period.

The maximum amount of SPL in this case will be 52 weeks minus 32 = 20 weeks (not 52-30).

## Cases of maternal, paternal or infant death

### What happens if death occurs before Maternity Leave and/or Pay is curtailed?

If the mother dies before bringing forward the date on which her ML period ends and before the end of her Statutory Maternity Pay (SMP) or Maternity Allowance (MA) period, then her partner will still be able to access SPL in the same way that he or she would have been able to had the mother curtailed her ML, and/or SMP/MA before her death. The amount of SPL available for the partner will be 52 weeks and the amount of ShPP will be 39 weeks, less the number of weeks of ML(or SMP or MA) taken by the mother prior to her death.

If the mother dies without having taken any ML (for example if a woman dies during childbirth without having previously started her ML) or any SMP/MA, then the full 52 weeks of leave and 39 weeks of pay is available as SPL and ShPP (usually SPL is capped at 50 weeks as ML cannot be ended before the 2 week compulsory absence period following the birth).

If the mother had curtailed her ML period before her death by giving notice to her employer and then revoked that curtailment, any SPL and ShPP taken by her partner in relation to the child resulting from the curtailment would also need to be deducted.

Where the mother has died, the requirement for the partner to give 8 weeks' 'Notice of Entitlement and Intention' to SPL and pay and 8 weeks' notice to book leave does not apply. Instead, he or she is required to tell his or her employer as "soon as is reasonably practicable" that he or she is entitled and to book the first period of leave. Should the partner not take all the leave in a single continuous block, subsequent notices to take SPL remain subject to the requirement to give your employer 8 weeks' notice.

If the mother's partner or the child's father dies before the mother has brought forward the date on which her ML period and SMP/MA period ends, the mother remains on ML and SMP/MA. She cannot bring forward the date on which her ML period ends and opt into SPL after the death of her partner as she will not be able to meet the requirement that she shares the main responsibility for the care of her child with the person who was her partner/the child's father on the date of the child's birth.

If the child dies before the mother has brought forward the date on which her ML period ends, the mother and her partner will not be allowed to opt into SPL and ShPP as one of the qualifying conditions is having the main responsibility for the care of the child (with the other parent). If there is no child to care for, the mother remains entitled to ML and SMP/MA and her partner is entitled to Paternity Leave and Statutory Paternity Pay.

## **What happens if death occurs after Maternity Leave and/or Pay is curtailed?**

### If the father/partner dies:

If the mother's partner or child's father dies after the mother has given notice to bring forward the date on which her Maternity Leave (ML) period and Statutory Maternity Pay (SMP)/ Maternity Allowance (MA) end, but she has not returned to work (in the case of ML) and the curtailment date has not passed, the mother may revoke the curtailment notice and revert to 52 weeks of ML and 39 weeks of SMP/MA. Any Shared Parental Leave (SPL) or Statutory Shared Parental Pay (ShPP) taken by her partner before death will not affect this.

Alternatively, she will be able to remain opted in to SPL and ShPP if she wishes and any untaken leave and pay that was available to the couple will default to her. She will need to notify her employer of the additional SPL weeks added to her entitlement. Where she had used her cap of 3 notifications, she will acquire a statutory right to a 4th notification to book leave. The 8 weeks' notification period does not apply for the first period of leave booked, or a variation to a period of booked leave, following the partner's death; instead, she is required to tell her employer as "soon as is reasonably practicable" and provide the date of her partner's death.

### If the mother dies:

If the mother dies after bringing forward the date on which her ML period ends, the available SPL and pay defaults to the mother's partner/the child's father if he or she would have been entitled to this leave and pay had the mother not died.

Where the mother had already notified her employer of entitlement to SPL or ShPP before her death, that untaken leave and pay so notified is available to her partner after her death. The partner will need to notify his or her employer of the additional weeks of SPL and/or ShPP that are transferring to him by means of a variation notice to their original 'Notice of Entitlement and Intention'. Where the partner wants to start a period of leave, or to vary a period of leave, the 8 weeks' notice does not apply for the first period of leave booked or changed following the mother's death; instead, the partner is required to tell his or her employer as "soon as is reasonably practicable" and to provide the date of the mother's death. In addition, where the partner has already used the 3 opportunities to book or vary a period of leave, he or she acquires a statutory entitlement to make a 4th notification.

If the mother's partner/the child's father had no entitlement to SPL or ShPP before the mother's death (e.g., if the partner/father is not an employee or is employed but does not meet the continuity of employment test, or the mother did not meet the employment and earnings test), no entitlement is created for the partner by the fact of the mother's death.

#### If the child dies:

If the parents are employees and their child dies after they had opted into SPL and/or ShPP, they each continue to be entitled to take the leave and pay that they booked before the death. Any entitlement to SPL or ShPP that had not been booked at the time of the child's death is no longer available to the parent. SPL or ShPP is only available to an employee if that leave or pay had been booked prior to the death of the child. An employee may reduce a period of leave booked or cancel a period of leave, subject to 8 weeks' notice. No further notice can be given to book leave and only one variation notice may be given to reduce a period of leave or to aggregate discontinuous weeks into a single block of leave.

## **Shared Parental Leave in Touch (“SPLiT”) Days**

### **Is there an equivalent of Keeping-in-Touch (“KIT”) days for Shared Parental Leave?**

Each parent entitled to Shared Parental Leave (SPL) or Statutory Shared Parental Pay (ShPP) has an individual entitlement to 20 Shared-Parental-Leave in Touch (“SPLiT”) days. This enables you to work on up to 20 days (per employer if you have multiple employers) – either continuously or on odd days – without bringing your SPL or ShPP to an end.

### **Can I work part-time whilst on Shared Parental Leave?**

Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) must be taken in blocks of one or more weeks.

Eligible for SPL can work part-time during a week that they are on SPL if both they and their employer agree by using Shared Parental Leave-in-Touch Days (SPLiT days).

Each parent can use up to 20 SPLiT days to return to work for part of a week without bringing their SPL to an end. If the parent is eligible for ShPP they will continue to be paid ShPP in a week that they are on SPL but working a SPLiT day.

SPLiT days can be used to try out a new working pattern before making a formal flexible working request, or to return to work in a gradual way, for example, you could use 2 of your 20 SPLiT days to enable you to work 2 days a week during your last 10 weeks of SPL.

### **Payment for Shared Parental Leave in touch (“SPLiT”) days**

Because Shared Parental Leave (SPL) in touch (“SPLiT”) days allows work to be done under your contract of employment, you are to be paid for that work. The rate of pay is a matter for agreement with your employer, and may be as set out in the employment contract or as agreed on a case-by-case basis. However, your employer will need to bear in mind their statutory obligations about paying staff, such as ensuring that you are paid at least the National Minimum Wage.

## **The interaction between Shared Parental Leave and Pay and sick leave and pay**

### **Can I take sickness absence while on Shared Parental Leave?**

You are only entitled to be absent from work on Shared Parental Leave (SPL) if you are caring for the child that the leave relates to whilst you are off work.

In the unlikely event that you are too ill to care for the child during a week that you are meant to be on SPL, you should inform your employer immediately. In these circumstances your entitlement to be on SPL in the week that you are ill ceases but you may be entitled to be absent from work on sick leave.

If you are entitled to be absent from work on sick leave your employer’s normal policy on sick leave will apply to you.

### **Am I entitled to Statutory Shared Parental Pay if I am claiming sick pay?**

Where you are claiming Statutory Shared Parental Pay (ShPP) for a week and do not have the intention at the beginning of that week to care for the child (for example because you are too sick) then ShPP will not be payable for that week. ShPP will also not be payable in any week where you became entitled to statutory sick pay for any part of that week. If you have already received ShPP in respect of a week where you are also claiming statutory sick pay, your employer may be able to recover the overpayment from you as an overpayment of wages.

## **Occupational schemes**

### **Can mothers on Shared Parental Leave continue to be part of an occupational maternity scheme?**

Occupational maternity schemes can continue for mothers on Maternity Leave (ML).

Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) do not affect occupational arrangements for mothers on ML. ML and Statutory Maternity Pay (SMP) is a protected period, and companies are able to offer maternity benefits to women only, when they are on ML.

Employers can offer a maternity scheme of a fixed length to those on ML. The ability to offer such schemes to women on ML is unaffected by the ability of a woman to reduce the length of her ML in order to allow herself or the other parent (or both parents) to access to SPL.

### **Does my employer have to provide occupational pay for men and women on Shared Parental Leave?**

No. It is entirely at the discretion of employers whether they wish to offer occupational parental schemes for men and women taking Shared Parental Leave (SPL). There is no legal requirement for companies to create occupational parental leave schemes. However, a maternity scheme can only be offered to a woman on Maternity Leave. If an occupational scheme is offered to a mother on SPL, it could constitute sex discrimination if such an occupational scheme were not also offered to fathers/ partners on SPL.

## **Miscellaneous**

### **Will my employer know if I qualify for Shared Parental Leave or pay?**

Your employer cannot know whether you are eligible for Shared Parental Leave (SPL) or Statutory Shared Parental Pay (ShPP) until you tell them as the qualifying conditions require BOTH you and the child's other parent to satisfy certain conditions. Your employer might however know that you would meet the Continuity of Employment Test and Normal Weekly Earnings Test but will not know until you tell them that:

- You are sharing the care of the child with your child's other parent; and
- The other parent satisfies the 'Work and Earnings Test'.

Parents can use the Eligibility Checklist on Gov.UK to check if they meet the conditions which enable one or both of them to take SPL and/or ShPP.

### **Do the parents' employers need to contact each?**

No. An employer can ask for the name and address of the other parent's employer, and may contact them if they wish.

### **Is my employer able to get in touch with me while I am off on Shared Parental Leave? Are there rules around this?**

There is no prohibition on reasonable contact between an employer and an employee on Shared Parental Leave (SPL). The legislation provides for Shared Parental Leave in Touch ("SPLiT") days for the employee to attend the workplace, and telephone calls can certainly take place whilst the employee is on SPL.

### **Does my employer need to arrange payroll to pay me for days worked when I am taking discontinuous blocks of Shared Parental Leave?**

Yes. When you are at work, you should be paid as per your usual contractual arrangements. Unless the employer is offering occupational shared parental pay, then an employee on Shared Parental Leave who is entitled to Statutory Shared Parental Pay must receive this statutory payment for the weeks he or she is entitled to it.

### **What if I separate from my child's other parent?**

Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) can be shared between parents who have the main responsibility for the care of the child at the time of the child's birth (or placement with the family for adoption). Even if the parents separate, each continues to be entitled to SPL and ShPP if they are caring for the child in the week they take the SPL and/or ShPP.

### **How much is Statutory Shared Parental Pay and who pays it?**

If you are eligible, you can claim up to 37 weeks of Statutory Shared Parental Pay (ShPP) (this will rise to 39 weeks for a father/partner where the mother dies in childbirth).

ShPP is paid to you by your employer at the lower of 90% of your average weekly earnings or the statutory flat rate (£140.98 a week in 2017-18). It is paid by the employer in the same way that other statutory payments (such as Statutory Maternity Pay, Statutory Paternity Pay and Statutory Adoption Pay) are paid.



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