



**Employers
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Your essential guide to

Shared Parental Leave

Free Advice
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Shared Parental Leave



[Shared Parental Leave \(ShPL\)](#) is a new leave system being introduced for parents with babies due to be born on or after 5th April 2015, or for children adopted on or after this date. ShPL aims to give parents flexibility as to when, and by whom, leave is taken after birth. These changes are most significant for mother's partners, who have previously had heavy restrictions on when they can take leave.

ShPL is an opt-in system for eligible employees; the current maternity and paternity leave systems will remain in force and will be available for non-eligible parents, or those who do not choose to opt-in. Eligible employees need to have met various qualifying criteria and will also have to provide employers with a number of notices regarding the leave they choose to take.

This document is written in relation to birth.

To gain the right to take ShPL an employee needs to meet certain criteria.

To be an eligible employee, an employee must:

- ▶ Have been employed continuously for at least 26 weeks by the end of the 15th week before the expected week of childbirth (EWC);
- ▶ Have a partner who meets the employment and earnings test – during the 66 weeks before the EWC or being matched, the partner has worked a minimum of 26 weeks and has earned, on average, at least £30 a week in any 13 weeks; and
- ▶ Share the care of the child with the other parent.

In addition to this, the mother must be entitled to maternity leave, maternity pay or maternity allowance and have ended, or given notice to end, her maternity leave.

[Both parents may not be eligible for ShPL.](#) If the mother qualifies but her partner doesn't, then the mother can opt-in to take ShPL and take leave in separate blocks by herself.

The mother has to take two weeks compulsory maternity leave, or four if working in a factory, even if she plans to, or has already, opted-in to take ShPL. The partner can also still choose to take the two weeks paternity leave available to them before starting ShPL.

The remaining leave can then be shared between the mother and her partner.

In some circumstances, the mother may wish to take leave before birth. This will be classed as maternity leave because shared parental leave cannot be taken until the baby is born. The mother then has to end the maternity leave, or give notice to end this, before taking ShPL. The partner can take ShPL whilst the mother is still on maternity leave as long as notice has been given to end this.

Leave must end 52 weeks after the first date leave was taken.

Who is an eligible employee?

How much time can the employee take?

What notice does the employee have to give?

First, the mother needs to give notice to end or reduce her maternity leave, a curtailment notice. This needs to be given eight weeks before the start date of the first period of ShPL.

Employees must give a notice of entitlement to employers which contains details such as partner's name, a non-binding indication of the periods of leave that will be taken and the length of these periods. This must also have a signed declaration from the other parent which contains their details, that they meet the qualifying requirements and that they agree to take ShPL. The employer can ask for evidence within 14 days of receiving this notice and the employee must provide this within 14 days.

To actually book a period of leave, the employee must give their employer a period of leave notice at least 8 weeks before the leave would begin. A maximum of three notices can be given, more if agreed with the employer.

How can leave be taken?

The main advantage of the ShPL system is that the leave does not have to be taken in one consecutive period and both parents can take leave at the same time. Leave can be taken in minimum blocks of one week.

An employee can request to take leave in a continuous block and if this is done, the employer cannot refuse this.

If an employee request discontinuous, separate, blocks of leave within one period of leave notice, there is no automatic right to take the leave requested – it needs to be agreed with the employer. There is a 14 calendar day discussion period for employer and employee to discuss whether the leave can be agreed to and how it will be accommodated.

After discussions, the employer can agree to the leave, propose different dates or decline the leave. If the employer does not respond to the request; an agreement cannot be reached or the leave is declined then the default position applies; the employee can take the period of leave as one continuous block or withdraw the notice within 15 calendar days of submitting it.

If the employee withdraws the notice it does not count towards the maximum of three period of leave notices.

Returning to work

Employees can work up to 20 days each during ShPL, known as [Shared Parental Leave In Touch days \(SPLIT days\)](#). SPLIT days, and payment for these, needs to be agreed between employer and employee before they are worked. Employers do not have to offer SPLIT days and employees do not have to agree to work these; they should not be treated negatively because they have refused to do so.

Employees who wish to return to work after ShPL have the right to return to the same job if they have taken less than 26 weeks leave in total, taking in to account any maternity leave taken.

If employees have taken more than 26 weeks in total they have the right to return to the same job but, if this is not reasonably possible, they must be offered a suitable and appropriate job on terms that are no less favourable.

Pay

If the mother has ended her maternity pay or maternity allowance before the full pay entitlement has been used, the remaining weeks can be claimed as Shared Parental Pay (ShPP). Employees are entitled to ShPP if they meet certain criteria.

To qualify for ShPP, an employee must:

- ▶ [Qualify for Shared Parental Leave:](#)
- ▶ Have a partner who meets the employment and earnings test; and
- ▶ Have earned, on average, at least the Lower Earnings Limit in the eight weeks before the 15th week before the expected due date.

ShPP will be mirror the current provisions applying to statutory maternity pay.



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