



Shared Parental Leave

Questions & Answers

Q: How much SPL can be taken?

A: In both birth and adoption cases up to 50 weeks SPL can be shared between care partners. This may be taken at the same time, at different times or in partially overlapping periods.

Q: Can an employee take SPL and decide not to share any leave but rather to use SPL to break their leave into up to 3 chunks (and return to work as they see fit in between)?

A: Yes, this is permitted by the SPL rules and is part of the flexibility that is intended.

Q: Is an employee entitled to Shared Parental Pay (ShPP) when they are not taking SPL?

A: No, the entitlement to ShPP is only available during periods of SPL.

Q: When can an employee who is not the mother or primary adopter begin their first period of SPL?

A: Only after the baby has been born or the child placed for adoption.

Q: Can an employer refuse to allow an employee to take SPL?

A: So long as the employee has given proper notice and is eligible, an employer cannot refuse to the employee to take up to 3 periods of SPL, but can refuse a request for discontinuous leave.

Q: Can an employer pressure an employee not to take SPL at a particular time or at all?

A: No, and an employee who gives notice to take SPL is protected from being treated detrimentally.

Q: Can an employee take SPL when their partner is still on maternity or adoption leave?

A: Yes, the partner need only give a leave curtailment notice (which specifies a future date on which leave will end) in order to enable sharing rights for a qualifying employee.

Q: Is there any way an employer can negotiate with an employee to agree something that is mutually practicable and reasonable?



A: The guidance issued by ACAS and BIS guides encourage early conversations regarding leave intentions with a view to reaching agreement, however there is no requirement for this to happen and the employee cannot be held to any period of leave they have not formally given notice of an intention to take.

Q: Can an employee's partner share their leave and pay entitlements if they are not working themselves?

A: No, the Employment and Earnings Test requires the partner to have been working at least 26 weeks in the last 66 weeks and to have earned a minimum amount of £30 per week any 13 of those weeks.

Q: Can an employee's partner share their leave if they do not qualify to take SPL themselves?

A: Yes, the Employment and Earnings Test is different from the Continuity of Employment Test, which is one of the conditions for being eligible to take SPL as an employee.

Q: Can an employee share SPL with more than one person (e.g. where there is a biological father and a partner, who are not the same person)?

A: No, SPL can only be shared with one person.

Q: Does the employer have to adopt a SPL Policy?

A: The ACAS guidance recommends it, but it is not strictly necessary to adopt a policy (or a workforce agreement), provided employees know how to apply for SPL and the employer meets the requirements of the SPL Regulations.

Q: When can a period of SPL start and is there a minimum amount of leave that can be taken?

A: SPL can start on any day, but at least 1 complete 7 day period must be taken in each period of SPL.

Q: What is meant by 'discontinuous leave'?

A: This means a request to take a block of leave in which the employee will during certain periods return to work. This type of SPL can only be taken with the employer's agreement.

Q: What happens if the employee requests discontinuous leave?

A: The employee and the employer have 14 days to reach agreement, if no agreement is reached, and the employee does not withdraw the request, then the period of leave requested must be taken as one continuous period.



Q: What happens if one partner's employer allows a request for discontinuous leave, but the other partner's employer refuses it?

A: Both partners can withdraw their requests and then make fresh requests for continuous leave thereby ensuring that their arrangements for continuous leave are compatible. Sometimes the timing of a withdrawal may be very tight.

Q: Can an employee who works for an employer with defined periods of high demand (e.g. a School or other educational establishment) chose to take SPL only during those periods and thereby only return to work when little or no work is required?

A: Yes, provided the employee is requesting continuous leave during low demand periods there is no way for the employer to avoid this.

Q: What does an employee who is on maternity or adoption leave have to do to trigger SPL rights?

A: They must either bring their maternity or adoption leave to an end by returning to work, or serve a notice to curtail / reduce their maternity or adoption leave.

Q: If an employee has served a notice to curtail their maternity or adoption leave, can they change their mind about this?

A: Generally no: a notice to curtail leave is binding. However, there are some special rules (see below).

Q: What is a 'notice of entitlement and intention to take SPL'?

A: This is a notice that contains information regarding the employee's intentions regarding SPL and a declaration from the employee's partner regarding their eligibility.

Q: Does the employee have to take leave on the dates provided in the notice of entitlement and intention to take SPL?

A: No they do not, the notice serves only to give the employer an idea of what the employee's intentions are.

Q: Does the notice of entitlement and intention to take SPL also include Shared Parental Pay?

A: No, the employee must also serve a notice to reduce or end maternity or adoption pay.

Q: What happens if the employee changes their mind about curtailing maternity or adoption leave and opting for SPL?

A: Once a notice to curtail maternity or adoption leave has been served and notice of entitlement and intention to take SPL has been given it is only possible to withdraw



if: (i) notice was given before birth, (ii) the care partner dies, (iii) it transpires that neither parent qualifies for SPL.

Q: What happens if two partners change their mind about how to share SPL?

A: They can serve a notice of variation.

Q: If a child has not yet been born, can an employee book a period of SPL a certain number of days after birth so that the employer is left unsure of the date on which the employee will begin SPL?

A: Yes, the employee can ask to begin a period of leave after a fixed number of days beginning on the birth date.

Q: What happens if an employee gives notice to take a period of continuous or discontinuous leave and the employer ignores their request?

A: The employee is entitled to take the period as continuous (but not discontinuous) leave unless they withdraw the notice.

Q: What happens about holiday during periods of SPL?

A: The employee's right to holiday accrues as normal during periods of SPL.

Q: Can an employee take contractually enhanced maternity leave and also share SPL with their care partner?

A: Yes, the employee need only give the employer notice that she will curtail her statutory maternity leave at some point in the future for the care partner to be able to take SPL.

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