

# SHARED PARENTAL LEAVE POLICY



This document sets out the University's policy governing shared parental leave.

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<b>Officer Responsible for Policy/ Procedures</b>	Richard Billingham, Executive Director of Human Resources and Organisational Development
<b>Consultation Process</b>	Joint Union Consultative Committee
<b>Date of Approval and Committee and/or Executive Officer</b>	Joint Union Consultative Committee

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# 1. PURPOSE

You may be entitled to Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) if:

- your baby is due on or after 5 April 2015; or
- you adopt a child on or after 5 April 2015.

This policy sets out the statutory rights and responsibilities of those who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).

# 2. WHAT IS SHARED PARENTAL LEAVE?

SPL is a process by which parents of a child in its first year of birth or adoption can share the mother's maternity leave, giving parents more flexibility in the care of their child.

All eligible staff have a statutory right to take SPL. There may also be an entitlement to some ShPP.

# 3. ELIGIBILITY

SPL can only be used by two people:

- the mother/adopter; and

One of the following:

- the father of the child (in the case of birth) or
- the spouse, civil partner or partner of the child's mother/ adopter.

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

Additionally, if you wish to take SPL, you must satisfy each of the following criteria:

- the mother/adopter of the child must be entitled to statutory maternity/adoption leave or statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
- you must still be working for the University at the start of each period of SPL;
- you must pass the 'continuity test' (i.e. you must have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date);
- your partner must meet the 'employment and earnings test' requiring them to have worked for at least 26 weeks and earned an average of at least £30 (this is correct as of 2015 but may change annually) per week in any 13 of those weeks, in the 66 weeks leading up to the child's expected due date/matching date;
- you must correctly notify the University of your entitlement and provide evidence as required.

## 4. ENTITLEMENT

You are entitled to take up to 50 weeks SPL during the child's first year in your family. The number of weeks available is calculated using the mother's adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they agreed to reduce their maternity / adoption leave entitlement then they and their partner may opt-in to the SPL system and take the remaining weeks as SPL.

A mother/adopter may reduce their entitlement to maternity/adoption leave either by returning to work before the full entitlement of 52 weeks has been taken, or by giving notice to end their leave at a specified future date.

If the mother/adopter is not entitled to maternity/adoption leave but is entitled instead to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 weeks associated with this type of leave. If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

SPL can commence as follows:

- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child;
- The adopter can take SPL after taking at least two weeks of adoption leave;
- The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).

## 5. BLOCKS OF LEAVE

You can book up to 3 separate blocks of SPL instead of taking it all in one go, even if you aren't sharing the leave with your partner.

If your partner is eligible for SPL, you can take leave at different times - or both at the same time.

You must give your employer at least 8 weeks' notice before you want to begin a block of leave.

If your manager agrees, you can split blocks into shorter periods of at least a week.

Example - A mother finishes her maternity leave at the end of October and takes the rest of her leave as SPL. She shares it with her partner, who's also eligible. They each take the whole of November as their first blocks of SPL. The partner then returns to work.

The mother also returns to work in January to cover the busy examination period. She gives the University notice that she'll go on leave again in February - this is her second block of SPL. Her manager agrees to a work pattern of 2 weeks on, 2 weeks off during the block.

## 6. STARTING SHARED PARENTAL LEAVE

Where a mother/adopter gives notice to end their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.

SPL will generally commence on the start date specified in your SPL booking notice, or in any subsequent variation notice (see Sections 10 and 12 below).

If you are eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period (see Section 13 below).

SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption will be lost

## 7. NOTIFYING THE UNIVERSITY OF YOUR ENTITLEMENT TO SHARED PARENTAL LEAVE

If you are intending to take SPL, you must give your line manager notification of your entitlement and intention to take to SPL, at least eight weeks before you can take it.

Notification must be in writing and requires you to provide the following:

- your name;
- the name of the other parent;
- the start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available;
- the date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which you were notified of having been matched with the child and the date of placement for adoption;
- the amount of SPL you and your partner each intend to take;
- a non-binding indication of when you expect to take the leave.

You must provide the University with a signed declaration stating:

- you meet, or will meet, the eligibility conditions and are entitled to take SPL;
- that the information you have given is accurate;
- if you are not the mother/adopter, you must confirm that you are either the father of the child or the spouse, civil partner or partner of the mother/adopter; that should you cease to be eligible you will immediately inform the organisation.

You must also provide the University with a signed declaration from your partner confirming:

- their name, address and national insurance number (or a declaration that they do not have a national insurance number);
- that they are the mother/adopter of the child or they are the father of the child or are your spouse, civil partner or partner;
- that they satisfy the 'employment and earnings test' (see "Who is eligible for Shared Parental Leave?" above), and that, with you, they had the main responsibility for the child at the date of the child's birth or placement for adoption;
- that they consent to the amount of SPL that you intend to take;

- that they consent to the University processing the information contained in the declaration form; and
- (where your partner is the mother/adopter), that they will immediately inform you should they cease to satisfy the eligibility conditions.

## 8. REQUESTING FURTHER EVIDENCE OF ELIGIBILITY

The University may, within 14 days of the SPL entitlement notification being given, request:

- the name and business address of your partner's employer. Where your partner is no longer employed or is self employed their contact details must be given instead;
- in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration of the time and place of the birth);
- in the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which you were notified of being matched with the child and the date on which the agency expects to place the child for adoption

In order to be entitled to SPL, you must produce this information within 14 days of it being requested.

## 9. DISCUSSIONS REGARDING SHARED PARENTAL LEAVE

If you are considering/taking SPL, you are strongly encouraged to contact your HR Advisor to arrange an informal discussion as early as possible regarding your entitlement, plans and any support you may need.

On receiving your notification of entitlement to take SPL, your HR Advisor may arrange an informal discussion with you to talk about your intentions and plans.

Upon receiving a leave booking notice, your HR Advisor will usually arrange a meeting or phone call to discuss it. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can be approved without further discussion, a meeting may not be necessary.

During the meeting/phone call, you may, if you wish, be accompanied by a workplace colleague, trade union representative or a friend or family member.

The purpose of the meeting/phone call is to discuss in detail the leave proposed and what will happen while you are away from work. Where your request is for discontinuous leave, the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to you and the University, and what the outcome may be if you are unable to reach agreement.

## 10. BOOKING SHARED PARENTAL LEAVE

In addition to notifying the University of your entitlement to SPL/ShPP, you must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.

You have the right to submit three notifications specifying the leave periods you are intending to take. Each notification may contain either:

- a single period of weeks of leave; or
- two or more weeks of discontinuous leave, where you intend to return to work between periods of leave.

SPL can only be taken in complete weeks but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish on a Monday. If you return to work between periods of SPL, the next period of SPL can start on any day of the week.

You must book SPL by giving the correct notification at least eight weeks before the date on which you wish to start the leave and (if applicable) receive ShPP.

**Continuous leave notifications** - A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).

You have the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to you (specified in the notice of entitlement) and you have given the University at least eight weeks' notice.

You may submit up to three separate notifications for continuous periods of leave.

**Discontinuous leave notifications** - A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where you return to work (for example, an arrangement where you take six weeks of SPL and work every other week for a period of three months).

The University will consider a discontinuous leave notification but has the right to refuse it. If your notification is refused, you can either withdraw it within 15 days of giving it, or you can take the leave in a single continuous block.

## 11. RESPONDING TO A SHARED PARENTAL LEAVE NOTIFICATION

Once your HR Advisor receives your leave booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th day after the leave request was made.

All notices for continuous leave will be confirmed in writing and all requests for discontinuous leave will be carefully considered.

Requests for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

You will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th day after the leave notification was made. The request may be granted in full or in part: for example, the University may propose a modified version of the request.

If the University refuses your request for a discontinuous leave pattern then you may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

## 12. VARIATIONS TO ARRANGED SHARED PARENTAL LEAVE

You can vary or cancel an agreed and booked period of SPL, provided that you advise your HR Advisor in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Any variation or cancellation notification you make, including notice to return to work early, will usually count as a new notification and will reduce your right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the University requesting it be changed (provided you are agreeable to the change) will not count as further notification. Any variation will be confirmed to you in writing.

## 13. STATUTORY SHARED PARENTAL PAY (SHPP)

If you are eligible to do so, you may take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.

In addition to meeting the eligibility requirements for SPL, to claim ShPP you must further satisfy each of the following criteria:

- the mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
- you must intend to care for the child during the week in which ShPP is payable;
- you must have average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child's expected due date/matching date not less than the lower earnings limit in force for national insurance contributions;
- you must remain in continuous employment until the first week of ShPP has begun;
- you must give proper notification in accordance with the rules set out below.

If you are entitled to receive ShPP, at least eight weeks before receiving any ShPP, you must give your HR Advisor written notice of your entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.



In addition to what must be included in the notice of entitlement to take SPL, if you advise us of your entitlement for ShPP, you should include:

- the start and end dates of any maternity/adoption pay or maternity allowance;
- the total amount of ShPP available, the amount of ShPP you and your partner each intend to claim, and a non-binding indication of when you expect to claim it;
- a signed declaration confirming that the information you have given is correct, that you meet, or will meet, the criteria for ShPP and that you will immediately inform the University should you cease to be eligible.
- It must be accompanied by a signed declaration from your partner confirming:
- their agreement to you claiming ShPP and for the University to process any ShPP payments to you;
- where your partner is the mother/adopter, that they have reduced their maternity/adoption pay or maternity allowance;
- where your partner is the mother/adopter, that they will immediately inform you should they cease to satisfy the eligibility conditions.

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

## 14. OCCUPATIONAL SHARED PARENTAL PAY

Aston provides enhanced Occupational Shared Parental Pay (OShPP) for those who qualify. Any OShPP mentioned in this agreement will include any relevant ShPP.

### 14.1 Eligibility for Aston's Occupational Shared Parental Pay

You are entitled to OShPP under this scheme, provided that you have been continuously employed by the University for a period of twelve months before the expected week of confinement. Where both partners are employed by the University and both meet the eligibility criteria, each will be entitled to Occupational Shared Parental Pay on an individual basis i.e. the Occupational Shared Parental Pay element will not be shared.

### 14.2 Rate of Occupational Shared Parental Pay

If you qualify for OShPP, you will be paid for any leave you take at the following rates:

- 12 weeks' leave on full pay (against which ShPP Payments are offset)
- 14 weeks' leave on half-pay (plus ShPP at the appropriate rate, except to the extent that the combined amounts exceed full pay), and
- 13 weeks' ShPP at the appropriate rate
- up to 11 weeks' unpaid leave

### 14.3 Failure to Return to Work Following Occupational Shared Parental Pay

It is a condition of the OShPP Scheme that you must return to work for a period of no less than 6 months on the same basis as you were employed prior to taking SPL leave if you receive OShPP at the enhanced rate.

Nothing in this agreement shall prejudice the right of the University to reclaim the whole or part of the non-statutory element of OShPP if you fail to return to work and continue in employment for at least 6 months. The University will take into account the relevant circumstances of each individual case, when deciding to reclaim OShPP.

The University may, at its discretion, extend the period of paid or unpaid leave in cases of hardship. Any application for such assistance should be submitted to the Director of Human Resources in the first instance.

## **15. TERMS AND CONDITIONS DURING SHARED PARENTAL LEAVE**

While you are on SPL, your contract of employment continues and you remain entitled to receive all your contractual benefits, except for salary. In particular, any benefits in kind (such as use of a laptop or mobile phone) will continue, your contractual annual leave will continue to accrue and the normal annual increment on your salary scale will take effect from the normal incremental date.

Pension rights and contributions are dealt with in accordance with the provisions of the appropriate pension scheme providing that these provisions do not conflict with any relevant statutory requirements that may at the time apply. For further information regarding pensions contact the Pensions Officer.

## **16. ANNUAL LEAVE**

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

## **17. CONTACT DURING SHARED PARENTAL LEAVE**

Before your SPL begins, you should discuss with your manager the arrangements for keeping in touch during your leave. The University reserves the right in any event to maintain reasonable contact with you from time to time during your SPL. This may be to discuss such things as your plans to return to work or simply to update you on developments at work during your absence.

## **18. SHARED PARENTAL LEAVE IN TOUCH (SPLIT) DAYS**

You can agree to work (or attend training) for up to 20 days during your SPL without bringing your period of SPL to an end or impacting on your right to claim ShPP for that week. These are known as "Shared Parental Leave In Touch" or "SPLIT" days. Any work carried out on a day or part of a day counts as a day's work for these purposes.

The University cannot require you to carry out any work during your SPL, nor is it obliged to offer you work. If you take a SPLIT day, you will receive full pay for the day worked. If a SPLIT day occurs during a week when you are receiving ShPP, this will be effectively 'topped up' so that you receive full pay for the day worked. SPLIT days do not extend the period of SPL.

## 19. RETURNING TO WORK AFTER SHARED PARENTAL LEAVE

The University will advise you in writing of the end date of any period of SPL. You are expected to return on the next working day after this date, unless you notify the University otherwise. If you are unable to attend work due to sickness or injury, the normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If you wish to return to work earlier than the expected return date, you should provide written notice to vary your leave and must give the at least eight weeks' notice of your early return. This will count as one of your notifications. If you have already used your three notifications to book and/or vary leave then the University does not have to accept the notice to return early but may do if it considers it practicable to do so.

On returning to work after SPL, you are entitled to return to the same job if your aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, on the same terms and conditions of employment as if you had not been absent.

If your maternity/paternity/adoption leave and SPL amounts to more than 26 weeks in aggregate, you are entitled to return to the same job you held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable than those you had before your absence.

If you also take a period of unpaid parental leave of 4 weeks or less this will have no effect on your right to return. If you take a period of 5 weeks or more unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, you will be entitled to return to the same job you held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable than those you had before your absence.

It is a condition of the OShPP Scheme that you must return to work for a period of no less than 6 months on the same basis as you were employed prior to taking SPL leave if you receive OShPP at the enhanced rate (see paragraph 14).

## 20. ADDITIONAL INFORMATION FOR STAFF IN RESEARCH GRANT FUNDED POSTS

Some funding bodies are prepared to suspend or extend grants to allow for maternity, adoption and paternity leave. The Principal Investigator should check the terms and conditions of the relevant funding bodies. Further advice may be sought from the Research Support Office.

For information, the Research Council (RCUK) Briefing on Maternity, Paternity and Adoption Leave and Pay is available from <http://www.rcuk.ac.uk/RCUK-prod/assets/documents/skills/RCUKMaternityBriefing.pdf>

This comprehensive briefing provides information from the Terms and Conditions of Grants and Training Grants; and the RCUK Training Grant Guide and Research Council Funding Guides.

It is intended primarily for Research Council funded researchers to assist their discussions with their managers and HR Advisors

## 21. SPECIAL CIRCUMSTANCES AND FURTHER INFORMATION

In the event of death of the mother or adopter, the other parent may be entitled to up to 52 weeks of shared parental leave and 39 weeks of statutory shared parental pay.

It will only be possible for the mother or adopter to revert to maternity leave in the following circumstances:

- where it is discovered in the 8 weeks following the notice that neither the mother/adopter or their partner has any entitlement to shared parental leave or pay; or
- in the event of the death of the partner; or
- (for mothers only) if the notice was given before the birth and the mother revokes her maternity leave curtailment notice in the six weeks following the birth.

If you have any questions about SPL, or wish to discuss any special circumstances you have, you should contact your HR Advisor in the first instance.

Further information and a good practice guide is also available from ACAS on <http://www.acas.org.uk/index.aspx?articleid=4911>.

Gov.uk gives further information regarding employees' shared parental leave rights and the requirements of the law in detail. It is available on the Internet at <https://www.gov.uk/shared-parental-leave-and-pay>.



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