

Shared Parental Leave Frequently Asked Questions for Employees & Managers

Q1 What is shared parental leave?

A1 Shared Parental Leave (SPL) is a type of leave which gives eligible parents more choice and flexibility in how they can take time away from work to care for their child in the first year after the birth or adoption of their child / getting a parental order if they had the child through surrogacy. It is different to unpaid parental leave which is another type of leave.

Ways eligible parents could use SPL include:

- the mother / birth parent or primary adopter returns to work early from maternity or adoption leave and takes SPL at a later date
- the mother / birth parent or primary adopter returns to work and their partner takes SPL
- both parents take SPL at the same time
- both parents take SPL and are off work at different times
- both parents return to work at the same time and take SPL at a later date

Q2 How can an employee check if they are eligible for Shared Parental Leave?

A2 There are a number of criteria individuals have to meet to be eligible to get Shared Parental Leave. There is a short online questionnaire available on the GOV.UK website you can use to check if you and your partner are eligible.

Q3 How much Shared Parental Leave is available?

A3 It depends on how much maternity / adoption entitlement the mother / birth parent / primary adopter has taken from their full entitlement of 52 weeks. For example:

- maternity leave entitlement is 52 weeks
- the birth parent takes 30 weeks and then ends their maternity leave and pay
- 52 weeks – 30 weeks = 22 weeks available to be taken as SPL by the eligible parent / parents

In cases where the mother / birth parent / adopter is not entitled to maternity / adoption leave but is entitled to statutory maternity pay, statutory adoption pay or maternity allowance, the amount of SPL available is based on the number of weeks of statutory maternity / adoption pay or maternity allowance taken by the mother / birth parent / adopter.

Q4 Why does maternity or adoption leave have to end?

A4 Because SPL entitlement is created by the ending (or 'curtailing') the maternity/adoption leave entitlement and is calculated based on the outstanding maternity / adoption leave entitlement.

Q5 Can the mother / birth parent / primary adopter change their mind about ending their maternity / adoption leave?

A5 No, once the mother / birth parent / primary adopter has given a notice of curtailment they cannot cancel ('revoke') it, unless:

- the notice was given before birth, in which as it can be revoked up to 6 weeks after the birth or adoption placement start date

- the other parent dies
- it turns out neither parent was entitled to SPL or ShPP

Q6 How can SPL be taken?

A6 SPL can start on any day of the week. It must be taken in blocks of whole weeks, it cannot be taken in days. It can be taken as periods of continuous or discontinuous leave.

Q7 What is the difference between continuous and discontinuous leave?

A7 Continuous leave is when someone takes a full block of time off work, without any breaks in that block. Notifications for continuous leave cannot be refused.

Discontinuous leave is where someone mixes blocks of time off work with time back at work. Employers can refuse notice to take discontinuous leave and suggest a different arrangement that is more suitable.

Example of continuous leave:
<p>Alex has 16 weeks of SPL. Alex wants to take 2 blocks of certain dates off work. To make sure they get the dates they want, they give their employer 2 continuous leave notices:</p> <ul style="list-style-type: none"> • notice 1 to take 10 weeks of leave from 1 January to 11 March • notice 2 to take 6 weeks from 1 May to 11 June. <p>This is continuous leave as Alex will not be working at all during the 2 blocks of leave.</p>
Example of discontinuous leave:
<p>Jo has 10 weeks of SPL. They have an important piece of coming up at work so they want to take discontinuous leave. They give their employer 1 notice to take discontinuous leave. They request to alternate taking 2 weeks off on SPL followed by 2 weeks at work until they have used the 10 weeks' entitlement.</p>

Q8 What happens if discontinuous leave dates are refused?

A8 The employee can either withdraw their notice or take continuous leave instead.

If they withdraw their notice within 15 calendar days of submitting their notification forms, it does not count as 1 of their 3 notices to take or vary leave. If they withdraw their notice 15 calendar days after they originally gave it, it counts as a notice to vary leave. This means they will have used 1 notice to take leave.

If they choose not to withdraw their notice, the SPL will become a block of continuous leave. The leave will start on either:

- the original leave start date they gave in the notification for discontinuous leave (this is what it will default to)
- a new date which they give their manager within 19 days of the original leave date – the new date must be at least 8 weeks after the original leave date.

The employee has to put the option they choose in writing to their employer.

Q9 Can the leave be changed?

A9 Yes, each eligible parent has up to 3 times (or 'notices') to either:

- book a block of SPL ('notice to take leave')

- change the dates of booked SPL ('notice to vary leave').

Each time the employee cancels or changes booked SPL, it counts as a notice to vary leave. To change or cancel the dates of any SPL booked, the employee must give 8 weeks' notice and a notice to vary leave.

Q10 Can employees work whilst on shared parental leave?

A10 No, unless it is an agreed shared parental leave keep in touch (SPLIT) day in the employee's substantive post. This means they cannot work on the Staff Bank or anywhere outside the Trust.

Q11. Will an employee be able to take shared parental leave in sad cases where the baby is still born or dies following birth?

A11 Yes, they can still take the SPL they have booked. But they cannot apply for SPL after the death of a child or book new blocks of SPL.

They can also either decide to take less SPL or change discontinuous leave into one block of continuous leave.

Q12 What happens if the parent taking SPL stops having responsibility for the child?

A12 They must tell their employer straight away and their entitlement to SPL and ShPP will end. Their employer can require them to return to work. If it is not practical for the employer to have the employee back at work straight away, they can still be required to be off for any SPL they had booked for up to 8 weeks, the SPL would be unpaid.

Q13 Can employees on fixed-term contracts take shared parental leave?

A13 Yes, if they meet the eligibility criteria. However, when the contract ends their entitlement to SPL ends. The Trust does not have to extend or renew the fixed-term contract just to enable the employee to take SPL, if the fixed-term contract was due to end anyway.