

Shared Parental Leave and Pay Procedures

Please note that there is a separate procedure for Associate Lecturer staff.

1. Introduction

The right to take Shared Parental Leave (SPL) applies within England, Wales, Scotland and Northern Ireland only. This procedure provides further details on the Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) arrangements outlined in the Policy.

For surrogacy or “foster to adopt” arrangements, where the intended parents have applied, or intend to apply, for a ‘parental order’, then subject to meeting qualifying conditions, the nominated ‘primary’ adopter will be eligible to take adoption leave and pay. This leave may subsequently be ended early, in order to enter into a SPL arrangement.

If they choose to do so, staff with caring responsibilities for babies or newly adopted children may share up to 50 weeks of leave and up to 37 weeks of ShPP. The mother/primary adopter may end her maternity/adoption leave early, at any point after the initial two week compulsory maternity/adoption leave period following the birth/placement of a child, and the remaining weeks of leave/statutory pay can be shared with their partner/the child’s father (where eligible to do so).

Parents (and adopters) therefore have much greater flexibility in deciding how to take the leave and pay i.e. whether they want to be off work in continuous or discontinuous blocks and whether separately or at the same time, in order to care for their child. This flexibility is subject to the correct notice periods being provided by the parents and the agreement of the employer concerned.

SPL is in addition to the statutory right to two weeks of **Ordinary Paternity Leave** for fathers, civil partners or the partner of the child’s mother/adopter. Leave is to be taken around the time of the birth/adoption (as per the University’s Paternity Leave and Pay Policy). **Staff wishing to take paternity leave must do so before they take any SPL.**

The entitlement for a mother to take maternity leave and receive maternity pay (or for the primary adopter to take adoption leave and receive adoption pay) remains unchanged. If the mother/primary adopter decides to continue on maternity/adoption leave (as per the relevant University policy) and not take SPL and ShPP, she may do so and need take no further action.

SPL should not be confused with Unpaid Parental Leave (as per the University’s Unpaid Parental Leave Policy).

2. Shared Parental Leave (SPL)

SPL can only be shared by the mother/adopter with one other person, who is either:

- the biological father of the child or
- the spouse, civil partner or partner of the child's mother/adopter.

For the purposes of this procedure they will be referred to jointly as the child's 'parents'. The terminology of 'mother' may be used to refer to the primary adopter and 'father' may be used to refer to their partner. As stated, the statutory right applies to fathers as well as spouses and partners (of either sex) of the child's mother or the primary adopter (i.e. the person who has elected to take adoption leave).

SPL provides eligible parents with more options (beyond traditional maternity/adoption leave) when considering how to care for, and bond with, their new child. It allows parents to equally share the care of their child during the first year of birth or adoption. Using SPL, both parents can take leave at the same time or they may wish to alternate between periods of leave and periods of work.

Following the birth/placement of a child and the initial two-week compulsory maternity/adoption leave period, the mother may choose to end her maternity/adoption leave and pay early in order to share the remainder with her partner.

The amount of SPL available is determined by the number of weeks of unused maternity/adoption leave at the point the mother/adopter chooses to end her entitlement to it. These remaining weeks are converted into SPL, which can be shared between both parents.

The partner of the mother/adopter can take SPL whilst the mother/adopter is still on maternity or adoption leave if they so wish, provided that the mother/adopter has given the proper notice to end her entitlement to maternity or adoption leave.

SPL must be taken in multiples of complete weeks, the minimum being one week and the maximum being 50 weeks. SPL can start on any day of the week, therefore a one-week period of leave commencing on a Wednesday will finish on the following Tuesday.

Staff can request their SPL in a single continuous block, or discontinuous blocks; however, the University has the right to decline requests for discontinuous leave (see section 5 for further details).

Staff can submit up to a maximum of 3 notifications, to state when and how they wish to take their leave. This maximum includes any requests to vary a period of leave (or to return to work early) other than in some very specific circumstances.

If the mother/adopter is not entitled to maternity/adoption leave, but is still entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA) then providing that she chooses to end her entitlement before she has used the full 39 week allowance, her partner will still be entitled to take up to 50 weeks of SPL. This situation may arise, for example, if a mother resigns following the birth or adoption. Her partner would receive up to 50 weeks of SPL, less the number of weeks of SMP, SAP or MA already taken by her.

Staff are encouraged to contact their line manager as soon as possible if they are considering taking SPL. The manager should arrange an informal discussion in order to discuss their potential entitlement, talk about their plans and enable the University to provide as much support as possible.

3. Shared Parental Pay (ShPP)

It should be noted that staff who are eligible to receive the first 18 weeks of maternity / adoption pay at full pay (as per the University policy) and who wish to take advantage of this arrangement, must do so before they enter any period of SPL. **Once the maternity/adoption leave period has ended then any remaining weeks of occupational maternity/adoption leave at full pay will be waived.**

Where a member of staff is the child's secondary carer and is eligible to receive the two weeks of paternity leave at full pay (as per the University policy), they should consider using their paternity leave before taking SPL. **Once SPL has started, any untaken paternity leave and pay entitlement is lost.** SPL is in addition to paternity leave entitlements.

A maximum of 37 weeks of statutory ShPP is payable. The parents' eligibility will depend on the amount of SMP/SAP or Maternity Allowance (MA) that the mother/adopter has already taken at the point that she ends her maternity/adoption entitlement. She will have had an initial entitlement of 39 weeks, so any remaining weeks (except the first two weeks of compulsory maternity/adoption leave and pay) will be available as ShPP.

ShPP is paid at a standard weekly rate (the same rate as SMP, which is set by the Government annually for the relevant tax year), or 90% of an employee's average weekly earnings (if this is lower than the rate set by the Government).

Where both parents are eligible for SPL and ShPP, then it is for them to decide (and notify their respective employers) regarding how the ShPP will be shared. The University must be notified of any change in the way that parents wish to share the ShPP between each other (see section 5, page 7 for further details regarding how the University will approach such requests).

Depending upon personal finances and/or entitlements to additional occupational maternity/adoption pay, there could be scenarios where it may be financially advantageous to remain on maternity/adoption leave for longer, before changing over to SPL.

Occasionally, only one parent in a couple will be eligible to both SPL and ShPP. This means that although the parents cannot share the leave, the eligible parent may be entitled to the whole SPL period and may wish to take advantage of this. For instance, a mother may find it a more beneficial and flexible option to take SPL rather than maternity/adoption leave, as this offers the option to request different blocks of leave and to return to work between these blocks.

4. Eligibility

Set criteria are in place to establish whether a parent is eligible for SPL and/or ShPP. This section highlights the eligibility criteria for both SPL and ShPP separately.

Eligibility for SPL

SPL can only be used by two people:

- the mother/adopter of the child and one of the following:
- the biological 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 the main responsibility for the care of the child at the time of the birth/placement for adoption.

Additionally, those staff seeking to take SPL must satisfy each of the following criteria:

- The mother/adopter of the child must be entitled to statutory maternity/adoption leave or to SMP/SAP/MA and have ended or given notice to reduce any maternity/adoption entitlements.
- They must have a minimum of 26 weeks' continuous service with the University at the end of the 15th week before the child's expected due date/matching date ("the qualifying week").
- They must still be employed by the University in the week that any period of SPL commences.
- In the 66 weeks leading up to the child's expected due date/matching date, their partner must have worked (in an employed or self-employed capacity) for at least 26 of these weeks. In addition, they must have earned an average of at least £30 per week in any 13 of those weeks.
- They must correctly notify the University of their entitlement and provide evidence as outlined below.

Eligibility for ShPP

In addition to meeting the eligibility requirements for SPL, any staff seeking to claim ShPP must further satisfy the following criteria:

- The mother/adopter of the child must be entitled to SMP/SAP/MA and have ended or given notice to reduce any maternity/adoption pay period and entitlements.
- They must intend to care for the child during the week(s) in which ShPP is payable.
- They must have earned an average salary at the National Insurance Contributions Lower Earnings Limit (LEL) or more, for the 8 weeks leading up to and including the 15th week before the child's expected due date/matching date ("the qualifying week").
- They must remain in continuous employment until the first week of ShPP has begun.
- They must give proper notification in accordance with the rules set out below.

5. Notification requirements

The statutory notification and information requirements for SPL and ShPP are very specific and detailed; they must be adhered to at all times by University staff.

The "Shared Parental Leave – Notice of Entitlement Form" and the "Shared Parental Leave Request Form" have been designed to assist staff in providing the required notification and information declarations.

Declaring an entitlement to SPL/ShPP

Staff must provide the University with a correct declaration of their entitlement and intention to take SPL (and ShPP where applicable). This must be in writing using the "Shared Parental Leave – Notice of Entitlement Form" and must be provided at least eight weeks before the staff member intends to take SPL.

The partner of the member of staff must complete and sign the form, including details of their employment and their entitlement to SPL. Whilst there is no requirement for the University to check or confirm information provided by the partner is correct, the right to do so will be reserved and may be acted upon at any time, i.e. in cases where there is a query concerning the information that has been provided.

Where both partners are University staff members, then each must submit a separate declaration. Staff should submit their request and attach the completed forms via the system for approval by their line manager and, on approval, a notification will be sent to the People Hub.

When submitting the declaration, the member of staff may wish to indicate how they and their partner would like to take their SPL and ShPP, including details of any proposed dates. This would not be automatically binding at this point and would not be treated as a request to book leave. Section 5, page 6 outlines the process for staff who wish to request a period of SPL, once they have decided upon proposed dates.

Upon receiving a completed “Shared Parental Leave – Notice of Entitlement Form”, the line manager must ensure that the People Hub has received a copy. They must hold an early meeting with the staff member to start discussions around their leave intentions and how they wish to use their SPL entitlement.

Notifying an end to maternity or adoption leave

The notice of curtailment is included in the “Shared Parental Leave – Notice of Entitlement Form”.

The option for SPL is created when the mother/adopter either:

- Brings forward the end date of their maternity or adoption leave (i.e. reduces it to less than 52 weeks) or
- In cases where they are not entitled to maternity/adoption leave; they bring forward the end date of their statutory maternity/adoption pay period (i.e. reduce it to less than 39 weeks).

This can be done by either:

- Returning to work.
- Giving written notice to their employer to end their maternity or adoption leave on a specified date.

Once a mother or adopter has done this, then they and their partner can declare an entitlement to SPL to their employers (assuming both are eligible, and they have not already provided this declaration).

Once the mother/adopter has given notice to end maternity/adoption leave and each parent has informed their employer of their entitlement to take SPL then the notice to end maternity/adoption leave is binding and can only be withdrawn in exceptional circumstances i.e.:

- If it becomes apparent that neither parent is entitled to SPL or ShPP.
- If the curtailment notice was given before the birth and then it is revoked within 6 weeks of the birth (in this case another curtailment notice can be submitted).
- If the other parent dies.

The child’s father/the mother’s partner, will only be able to take SPL once the mother has either:

- Returned to work.
- Given her employer a curtailment notice to end her maternity/adoption leave.
- Given her employer a curtailment notice to end her SMP/SAP (if she is entitled to SMP but not maternity leave).

- Given a curtailment notice to the benefits office to end her SMA (if she is entitled to maternity leave or SMP).

Notice to request a specific period of SPL and ShPP

Staff must provide the University with a correct declaration of their entitlement and intention to take SPL (and ShPP where applicable). The request to take a specific period of SPL/ShPP must be submitted through the system using the “Shared Parental Leave Request Form” and must be provided at least eight weeks before the date on which they wish their leave to start.

Eligible staff may submit up to three requests, specifying leave periods they wish to take. Each request may be for:

- a) A single continuous period of unbroken leave or
- b) Discontinuous leave, which is multiple periods of leave over a period of time where the employee intends to return to work between each period 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.

Confirmation of a specific period of SPL and ShPP

Requests for SPL must be dealt with as soon as possible by line managers. A response must be provided no later than 14 calendar days after the leave request is submitted. Managers should notify the People Hub on receipt of a SPL request and again once they have made a decision. The manager’s final decision (to either approve or reject) will be communicated in writing by the People Hub.

Eligible staff will have an automatic right to take a continuous block of leave requested in a single notification, providing that:

- It does not exceed the total number of SPL weeks available to them.
- They have given at least 8 weeks’ notice.

The University will consider all requests for discontinuous leave but has the right to refuse them. Each request 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 member of staff to be granted a similar pattern of SPL.

Before a decision is made, line managers should consider whether an informal meeting is required to discuss a request as per the following guide:

- Where the notice is for a single period of continuous leave, then a meeting may not be necessary, especially if the request has already been discussed.
- Where the request is for discontinuous leave which can, without further discussion, be approved then a meeting similarly may not be necessary.
- Where the request is for discontinuous leave and there are concerns over accommodating the request, a meeting is necessary.

The purpose of any informal meeting is to discuss in detail the leave proposed and what will happen while the member of staff is away from work. Where it is a request for discontinuous leave, the discussion should also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the individual and the University, what options are open to the member of staff (see paragraph below) and what the outcome may be if no agreement is reached.

Where a request for discontinuous leave is refused, the staff member can either withdraw their request, within 15 calendar days of submission, or they can choose to take the leave in a single continuous block.

Where the staff member chooses to withdraw their request for discontinuous leave, this will not count as having used one of their three notices to book leave. Where the staff member does not withdraw their request, they will be deemed to have chosen to take the leave in a single continuous block. Where this occurs, they have until the 19th calendar day from the submission of the original notification to choose when their continuous leave will begin. It cannot start sooner than eight weeks from the date the original notification was submitted. If no start date is chosen, the leave will begin on the first leave date requested in the original notification.

Varying a period of SPL and ShPP

Staff may submit a request to vary or cancel an arranged period of SPL, using the “Shared Parental Leave Request Form”, so long as they advise their line manager at least eight weeks before the original leave date, or the new leave date, whichever is earlier.

Any variation or notice of cancellation (including a notice to return to work early) will usually count as having used one of the three permitted opportunities to book/vary leave.

However, the following changes will not count as one of the three permitted notifications:

- as a result of a child being born early.
- as a result of the University requesting a change (and the employee being agreeable to the change).

Managers should consider a request to vary an existing period of SPL, as per any request for SPL. Any agreed variation should be confirmed to the People Hub, who will confirm the agreement in writing to the employee.

Evidence requirements

To receive SPL and ShPP, the following information / documentation must be provided to the University:

- A copy of the Mat B1 Certificate (if the SPL request is submitted prior to the child's birth) or
- A copy of the child's Birth Certificate (if the child has been born and this is not yet available then a signed declaration from the parents confirming the date and place of the child's birth may be provided) or
- A copy of the Matching Certificate (for adoptions).

False declarations

Any declarations provided to the University that are suspected to be false (or where the University has been informed by HMRC that a fraudulent claim was made) will be investigated accordingly.

This may result in the member of staff being subject to the relevant disciplinary policy and procedure.

6. Terms which apply during shared parental leave (SPL)

Contractual benefits

During the SPL period, staff will continue to receive all of their non-pay contractual benefits, such as annual leave accrual.

Employees who are currently receiving Computershare Childcare Vouchers may continue to receive these whilst on leave. For more information, please contact the People Hub.

Pension rights will continue during the SPL pay period, see section 9.

SPL will be considered as part of continuous service with regard to statutory rights.

Annual leave

Leave accrued must be taken in accordance with the terms and conditions that are relevant to the member of staff.

Annual leave cannot usually be carried over from one annual leave year to the next. If the end of the annual leave year (31st July) is due to fall during the SPL period, the individual should ensure (in discussion with their line manager) that, where feasible, they have taken the remainder of their entitlement for the current leave year before starting a period of SPL. Where it is not possible to take annual leave either before or after SPL within the same leave year, in exceptional circumstances, annual leave may be carried forward into the next leave year. The timing of this leave must be agreed in advance with the line manager (e.g. it may be agreed that it is possible to take leave before returning to work, or at agreed times throughout the following leave year, subject to operational needs).

Public Holidays and closure days that fall within the SPL period are recorded as additional leave and can be taken at the end of the SPL period and immediately prior to returning to work or added to the annual leave entitlement on return to work.

Managers are encouraged to discuss and plan with their members of staff the taking of annual leave around the SPL period at an early stage, making it clear what is operationally feasible in terms of timing.

Where a member of staff is changing to part-time working on return from SPL and there is a substantial amount of outstanding leave which will be difficult to accommodate operationally, consideration should be given to this been taken before the contractual change takes place, in discussion with the individual.

Shared Parental Leave in Touch Days (SPLIT days)

Managers can make reasonable contact with staff during their SPL (e.g. to let them know about any changes happening at work). The kind of contact which will be maintained should be agreed with the individual before they commence a period of SPL.

Each parent can carry out up to 20 days work during their SPL period without losing their entitlement to ShPP or bringing their SPL to an end.

Any work on any day will constitute a day's work for this purpose. This can include training, or any activity undertaken for the purposes of keeping in touch with the workplace. Such work must not take place during the 2 weeks immediately after the birth of a baby. The 20 SPLIT days are in addition to the 10 KIT days applicable under the maternity and adoption policies.

The University does not have the right to require a member of staff to work during the SPL period and members of staff do not have the right to insist that the University provides any days of work during that period.

Any work carried out under this provision will not have the effect of extending the total duration of the SPL period.

The University will pay the staff members' normal rate of pay for any SPLIT days, either a full day or half day depending on the number of hours worked.

Redundancy

Where it is not possible for an employee on SPL to continue in their role, because of redundancy, they are entitled in law to be offered any suitable alternative vacancy. The work must be suitable and appropriate for them. The terms and conditions of the new job must be substantially no less favourable than if they had continued under their previous contract. If such an alternative role exists, it must be offered to them without a competitive process.

The employee on SPL must be given priority for such a role over any employee at risk and must not be put into competition with any other staff not on SPL, regardless of whether there are other people at risk who might have been suitable for the post. The University has responsibility for deciding whether a vacancy is suitable, after considering aspects such as function, location, pay and reasonableness based on the knowledge of the personal circumstances and will make every effort to identify a suitable acceptable alternative. Appropriate consultation will take place, but special arrangements may be necessary if SPL has commenced. Any new role will be offered subject to a trial period.

7. Consultancy payments for University staff during shared parental leave (SPL)

Where a member of staff undertakes consultancy work for the University (i.e. work outside of their contract of employment) during their SPL period, they will lose the right to receive any ShPP which would have been payable in relation to the week(s) in which the work was undertaken and the overall duration of the ShPP period will not be extended.

A Keeping in Touch (KIT) day cannot be used to undertake the consultancy work.

8. Return from shared parental leave

Employment position

Staff returning to work from a period of statutory leave (i.e. maternity/paternity/adoption leave or SPL) of less than 26 weeks of leave will retain the right to return to the job in which they were previously employed under their contract of employment.

Where staff return from a period of continuous statutory leave exceeding 26 weeks, they have the right to return to the same job, or if this is not reasonably practical, to an equivalent job which would be considered suitable alternative employment, on terms and conditions no less favourable than those which would have applied if the leave had not been taken.

Staff returning to work will benefit from any improvements made to their rate of pay or other terms and conditions while they were on SPL.

Returning to work (at the end of SPL or early returns)

Staff will have been advised in writing of the end date of any period of SPL and are expected to return on the next working day, unless they notify the University otherwise.

Where an employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the University at least eight weeks' notice of their date of early return.

This will count as one of the 3 notifications that parents are allowed to make. If they have already used their three notifications to book and/or vary leave (or they fail to provide 8 weeks' notice) then the University does not have to accept the notice to return early, but may do if it is considered to be reasonably practicable to do so.

Staff who have taken advantage of the University occupational maternity/adoption pay at full pay, and who do not subsequently return to work following maternity/adoption/shared parental leave (for at least 3 calendar months) will be required to repay the difference between SMP/SAP/ShPP and the occupational maternity/adoption pay received except those who leave for reasons of redundancy or fixed-term contract staff whose contract expires within the occupational maternity/adoption pay period (see Maternity/Adoption Leave and Pay Policy for details).

Failure to return

In cases where staff members are due to return from SPL, but are unable to do so due to sickness or injury, the University's normal arrangements for sickness absence will apply. In any other case, failure to return to work without prior authorisation will be treated as an unauthorised absence.

Resignation

If a member of staff decides during SPL that they do not wish to return to work, they should provide written notice of resignation to the University as soon as possible and in accordance with the terms and conditions that are relevant to their post.

Statutory unpaid parental leave

Where eligible, staff will be entitled to a period of up to 4 weeks unpaid parental leave immediately following SPL (refer to the Unpaid Parental Leave Policy for more details).

Agile working

The University will seriously consider all requests for changes to working arrangements (on either a temporary or permanent basis) following SPL leave, in accordance with the Agile Working Policy.

Personal circumstances can be disclosed and will be taken into consideration when making decisions concerning such requests. Staff should be aware that student focus and operational effectiveness take precedence in any considerations about agile or flexible working.

9. Pension arrangements

Before SPL commences, the member has the option to elect to cease contributions and to therefore suspend membership for the period of leave.

During any period of ShPP, staff that are members of the pension scheme will:

- Continue to pay member pension contributions which will be based on the level of actual pay received (the University will make up any shortfall resulting from a reduction in earnings during ShPP, based upon the salary that the member would have received but for the leave).
- Continue to build up pensionable service while in receipt of ShPP.
- During unpaid SPL pensionable service will be suspended, and there will be a gap in the pensionable service record unless the individual elects to make up the contributions on their return to work.
- Continue to benefit from life cover or incapacity benefits, whilst on suspended membership during SPL.

A gap in the pensionable service record arising from suspended membership whilst on SPL can be made up on return to work, as long as the individual elects to do so within six months of returning from SPL. In these circumstances, the contributions due would be based on the salary earned on return to work, and the University would pay the usual employer contribution. The arrears are due over the same period as the length of suspended membership.

Please refer to the relevant USS Factsheet regarding Maternity and Family Leave, which is available on the USS website (www.uss.co.uk) for further information.

10. Useful references

Shared Parental Leave and Pay Policy
Shared Parental Leave and Pay Procedures for ALs
Shared Parental Leave – Notice of Entitlement Form
Shared Parental Leave Request Form
Maternity Leave and Pay Policy
Paternity Leave and Pay Policy
Adoption Leave and Pay Policy
Unpaid Parental Leave Policy
Unpaid Leave Policy
Unpaid Career Breaks Policy (for Staff with Caring Responsibilities)
Agile Working Policy
New and Expectant Mothers Operational Standard (Health and Safety Intranet)
New and Expectant Mothers Assessment Form (Health and Safety Intranet)
USS website: <https://www.uss.co.uk/>