

SPL for employers: the process and the paperwork

This information is to help you as an employer understand the processes and some of the written notices required to be given by your employee when they decide to opt into the shared parental leave system after a child has been born or placed within them for adoption.

For information on the basics of shared parental leave – including who is entitled and how the system is designed to work – see the nuts and bolts article.

This information is based on the birth of a child. Similar processes apply where a child is placed with a couple for adoption.

The Shared Parental Leave Policy

There is no requirement for you to have a written shared parental leave policy although most larger employers will have one. It may be helpful even for very small employers to have some information to give to employees about how to take shared parental leave if you want to. Acas has produced a straightforward policy as well as other information on the basics: <http://www.acas.org.uk/index.aspx?articleid=4911>.

The SPL opt-in notice

The first step for the employee is to submit the SPL opt-in notice (see [template forms](#) from Acas). This must be given to you at least eight weeks before the employee plans to start taking SPL. If the employee is the child's mother she will also have to complete a maternity leave curtailment form (see below) at the same time, if she has not already done it.

The purpose of the SPL opt-in notice is for your employee to give you information about:

- Eligibility (e.g. has the employee worked long enough for you? Does their partner meet the necessary employment and earnings criteria?)
- The expected week of childbirth.
- Information about start and end dates for maternity leave, how much SPL is to be taken, and by whom.
- Indications about the dates the employee intends to take SPL (which is not necessarily binding at this stage).
- The employee's partner, including a declaration that they agree to the plans for SPL set out in the notice.

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If your employee is also eligible for Shared Parental Pay (ShPP) the same information will need to be given about ShPP i.e. how much is to be claimed, by whom, and an indication of the dates the employee will claim it.

The maternity leave curtailment notice

In order for either parent to opt into the SPL system, the mother must end (or “curtail”) her maternity leave period early, and must submit a notice to her employer indicating the date she will curtail it. Once she has submitted this notice it cannot be revoked after the curtailment date, and can only be revoked before the curtailment date in one of the following exceptional cases:

- If the employee’s partner dies.
- If it transpires that neither the employee nor her partner meets the eligibility criteria for SPL.
- If the notice was given before birth, and the employee changes her mind after birth (in which case she has six weeks following birth to do so).

The curtailment notice must be accompanied by an SPL opt-in notice (or a declaration by the employee that her partner has submitted an SPL opt-in notice to their employer).

She must give you this notice at least eight weeks before the curtailment date, but there is no maximum time limit. So, for example, your employee may give you a curtailment notice saying that her maternity leave will end in 6 months’ time. Meanwhile, her partner may give their employer the relevant notices to start taking their SPL while your employee is still on her maternity leave.

Checking eligibility

It is up to you to check your employee is [eligible](#) to claim SPL and ShPP (if applicable). You should ensure they have the necessary 26 weeks’ service at the qualifying week, and that their earnings are enough to qualify for ShPP. But you do not need to independently check up on their partner or speak to the partner’s employer. The declaration in your employee’s SPL opt-in notice should contain sufficient information about them to determine your employee’s eligibility. You are allowed to ask for information about the partner’s employment but you do not have to follow up or check whether they are telling the truth. It is an offence for them to give false information in order to claim ShPP, and you are allowed to take the information you are given at face value.

The SPL booking notice

Your employee must give you a booking notice specifying the dates they intend to take SPL (and the dates they intend to claim ShPP if applicable). SPL must be taken

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in whole numbers of weeks. The notice must be given to you at least **eight weeks** before they want SPL to start.

Provided the employee only requests a single unbroken period of leave in each notice, the employer has no choice but to accept it.

The employee may submit **up to three** of these booking notices. This means that they can take **up to three separate periods of SPL**. The employee can change the dates or cancel a previous booking notice (provided they give eight weeks' notice) by giving a further notice, but this notice will count as one of their three booking notices unless you agree otherwise.

Discontinuous leave requests

An employee who wishes to take more than 3 separate periods of leave can include a request for discontinuous leave in their period of leave notice. This could cover any conceivable pattern of leave (provided leave is taken in blocks of whole numbers of weeks). It could be something simple like taking 12 weeks' leave followed by 4 weeks at work followed by another 12 weeks leave. Or it could be something more complex like working a week on and a week off repeatedly for 26 weeks.

As an employer, you do not have to accept a request for discontinuous leave. Once the notice is submitted you will have a two week discussion period to discuss try and reach agreement over a pattern of leave that would work for them and for your business. Bear in mind that during this time they may need to discuss the options with their partner (who may also need to discuss options with their employer). For this reason, it is worth encouraging employees to discuss their proposed patterns of leave with you as early as possible and agree them in principle before submitting a booking notice.

If you can't agree after two weeks, then the employee has two options:

- Withdraw their request (and possibly then submit a new booking notice if they wish). If they do this within two days of the end of the two-week discussion period it will not count against their entitlement to three booking notices.
- Take the full amount of leave specified in the booking notice as a single unbroken period. They can either start this on the date specified in the booking notice for starting the first period of leave, or on another date chosen by them. The date chosen must be at least eight weeks after they gave you the booking notice and they must notify you of the date within five days of the end of the two-week discussion period.

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Further information

Acas <http://www.acas.org.uk/index.aspx?articleid=4911>

Gov.uk <https://www.gov.uk/shared-parental-leave-and-pay-employer-guide/overview>

Working Families <http://www.workingfamilies.org.uk/article-categories/shared-parental-leave/>

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Mark Tarran, Practical Law

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About SPLash

SPLash (SPL advice on sharing hub) has been created by an informal alliance of interested organisations with expertise in employment law and issues affecting parents at work. Its purpose is the sharing of knowledge and best practice on Shared Parental Leave and related issues.

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