

Shared Parental Leave policy and procedure

1.	Scope
1.1	This policy applies to all employees of the Information Commissioner's office.
2.	Purpose
2.1	The purpose of this policy is to inform employees of their rights and entitlements in relation to Shared Parental Leave and Shared Parental Pay.
2.2	The policy incorporates the procedure to be followed when opting to take up this right.
3.	The Children and Families Act 2014 Statutory Right to Shared Parental Leave and Pay.
3.1	<p>The Children and Families Act 2014 introduced the new right to Shared Parental Leave and Shared Parental Pay for babies born on or after 5 April 2015.</p> <p>Shared Parental Leave is designed to give parents more flexibility in how to share the care of their child in the first year following birth or adoption. Parents will be able to share a pot of leave, and can decide to be off work at the same time and/or taking it in turns to have periods of leave to look after the child.</p>
4.	Eligibility and entitlements
4.1	<p>To be eligible for Shared Parental Leave (ShPL) or Shared Parental Pay (ShPP) you must be</p> <ul style="list-style-type: none"> - the mother / adopter; - the father of the child (in the case of birth) or - the spouse, civil partner or partner of the child's mother or adopter. <p>Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.</p> <p>In addition, in order to qualify for ShPL the employee must satisfy the following criteria:</p> <ul style="list-style-type: none"> - the mother/adopter must have ended or given notice to reduce any maternity/adoption entitlements - the employee must still be employed by the organisation at the start of each period of ShPL - the employee must have a minimum of 26 weeks service at the end of the 15th week before the child's expected due date/matching date - the employee's partner must have worked for at least 26 weeks and meet the 'employment and earnings test' i.e. earned minimum average amount* in any 13 weeks in the 66 weeks leading up to the child's expected due date/matching date - the employee must correctly notify the organisation of their entitlement and provide the required evidence as set out in Section 6

In addition to be eligible to claim ShPP an employee must also meet 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
- the employee must intend to care for the child during the week in which ShPP is payable
- the employee must have an 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 for national insurance contributions;
- the employee must remain in continuous employment until the first week ShPP has begun;
- the employee must give proper notification in accordance with the rules set out below.

*please see www.direct.gov for the current minimum average earnings amount.

4.2

The following table sets out your statutory entitlement to shared parental leave and pay.

Eligibility criteria	Entitlement to shared parental leave
Fewer than 26 weeks continuous service at the 15 th week before the expected due date/matching date	Unfortunately there is no entitlement to Shared Parental Leave.
At least 26 weeks service at beginning of the 15 th week before the expected due date/matching date and meets the 'employment and earnings test'	Up to 50 weeks of shared parental leave during child's first year with the family. The amount is calculated using the mother's/adopter's entitlement to maternity/adoption leave. If they reduce their entitlement then any remaining weeks can be taken as Shared Parental Leave.

Eligibility criteria	Entitlement to Shared Parental Pay
Fewer than 26 weeks continuous service at the 15th week before the expected due date/matching date	Unfortunately there is no entitlement to Shared Parental Pay.
<p>At least 26 weeks service at beginning of the 15th week before the expected due date/matching date</p> <p>and meets the 'employment and earnings test'</p> <p>and meets the additional criteria as listed in section 4.1.</p>	<p>Shared Parental Pay for up to 37 weeks depending on the amount by which the mother/adopter reduces their maternity or adoption pay AND which, if any, weeks of ShPL are taken by the mother of the child.</p> <p>The ICO offers enhanced benefits which mirror with those described in the ICOs Maternity Leave Policy and Adoption Policy as below, though two weeks at the rate of full pay are deducted to account for the period of compulsory maternity leave).</p> <p>The maximum provision of ShPP is:</p> <p>For new babies or adopted children aged 4 or below:</p> <ul style="list-style-type: none"> - 14 weeks full pay (including ShPP) - 10 weeks half pay plus ShPP - 13 weeks ShPP only <p>Or for adopted children aged 5 or above</p> <ul style="list-style-type: none"> - 12 weeks full pay including SAP - 4 weeks half pay plus SAP - 23 weeks SAP only <p>You will be required to specify which weeks from the mother's remaining maternity leave you are intending to take. This will affect whether you are entitled to Statutory ShPP or enhanced ICO ShPP.</p>
4.3	ShPP is paid at a weekly rate which is subject to change in April each year – please check www.direct.gov website for clarification of the current rate applicable at the time of your intended leave.
4.4	ShPL allows parents additional flexibility in the way they care for a new arrival to the family. The benefits can be used alongside, or instead of, traditional Maternity or Adoption Leave. Please see the ICO's separate

	<p>Maternity Leave Policy and Procedure and Adoption Policy and Procedure for further details.</p> <p>ShPL can be taken by the partner at the same time as the mother/adopter is on maternity or adoption leave, providing the mother/adopter reduces their entitlement to maternity/adoption leave and has confirmed this in writing.</p>
4.5	<p>To decide whether ShPL is suitable for you may wish to consider the following:</p> <ul style="list-style-type: none"> • Whether you or your partner qualify for ShPL and how you would like to share the care of your child • Whether you or your partner are prepared to reduce maternity or adoption leave. • Whether you or your partner have any contractual entitlement to enhanced maternity/adoption/paternity/SPL pay and how would reducing maternity or adoption leave impact on this. • Availability of other legal rights (such as flexible working requests, annual leave and parental leave) and how they could work for you alongside ShPL. • The wider financial implications to the family eg pay and pensions
5.	General principles
5.1	During any period of ShPL your contract of employment continues and you are therefore entitled to receive all of you contractual benefits, except for salary.
5.2	Pension contributions will continue to be made during any period when you are in receipt of ShPP but not during any period of unpaid ShPL. Employee contributions will be based on actual pay, while the ICO contributions will be based on the salary that you would have received had you not been taking ShPL.
5.3	These provisions apply equally to full time and part time workers, regardless of hours worked or length of service
5.4	You will not be dismissed for a reason connected with taking ShPL.
5.5	The ICO will make sure that the Shared Parental Leave and Shared Parental Pay provisions are available to staff are publicised on ICON.
5.6	<p>The Human Resources team will, with your consent, inform trade union representatives when you have notified your intention of taking shared parental leave.</p> <p>Members of some trade unions are eligible to pay reduced subscriptions or have them waived whilst on shared parental leave. You should contact</p>

your trade union membership department to confirm that you are going on leave , and inform your union's branch secretary if you wish to receive union communications during your leave.

6. Procedure

6.1 Letting us know

- a. You notify your line manager and HR:** It is your responsibility to notify your line manager and the Human Resources Team of your entitlement to and intention to take ShPL at least eight weeks before any period of ShPL.
- b. Meeting with Human Resources team:** After being notified of your eligibility and intention to take ShPL a member of the Human Resources team will contact you and arrange an informal meeting to discuss your individual eligibility and to fully explain the contents of this policy and procedure to you. They may also ask you about your intentions and how you expect to use your ShPL entitlement, although you are under no obligation to commit to any plans at this stage if you have yet to submit a notification of a period of ShPL.
- c. Written confirmation:** You must provide the correct written notification to confirm your eligibility conditions and entitlements, including a signed declaration. You must also provide the ICO with a signed declaration from your partner. This should be done using the 'Notification ShPL' form (HR-SPL1) – see Appendix 1
- d. Further evidence of eligibility:** The ICO may, within 14 days of the ShPL entitlement notification ask for further information from you as follows:
- The name and business address of the partner's employer (where the partner is not 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 as to the time and place of birth)
 - In the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which notification of being matched with the child was made by the agency and the date on which the agency expects to place the child for adoption.
- This information must be provided to the ICO within 14 days of the request.
- e. Fraudulent claims:** The ICO can, where there is suspicion that a fraudulent claim may have been made or where the ICO has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the ICO's normal disciplinary procedures.

	<p>f. Caring responsibility ends: If your circumstances change and you no longer have caring responsibilities for the child (except if the child has died) your entitlement to ShPL and ShPP will immediately cease and you must notify the ICO.</p>
6.2	<p>Booking your leave</p> <p>a. Notification to take leave: In addition to notifying the ICO of your entitlement to ShPL/ShPP as described in section 4.1 of this policy, you must also give notice to take leave. In many cases this is likely to be given at the same time as the notice of entitlement to ShPL. Please use forms 'Notification of ShPL period' Form HR- SPL2 for a continuous leave period or form HR-SPL3 for discontinuous leave - see Appendix 2 & Appendix 3</p> <p>You may submit up to three separate notifications specifying leave periods you are intending to take.</p> <p>b. Continuous leave notifications: A notification can be for a period of continuous leave, which is a notification of a number of weeks taken in a single unbroken period of leave (for example 6 weeks in a row). The period must not exceed the total number of weeks of ShPL available to you (specified in the notice of entitlement) and the notification must be given at least 8 weeks before the start of the ShPL period in question. Continuous leave notifications submitted within the correct timeframe cannot be refused by the ICO.</p> <p>c. Discontinuous leave notifications: A notification may contain a request for two or more periods or discontinuous leave, which is where you request a set number of weeks of leave over a period of time, with breaks in between the leave where you intend to return work (for example, an arrangement where you take six weeks of ShPL and work every other week for a period of three months).</p> <p>The ICO may seek to arrange a meeting to discuss discontinuous leave notifications where there is concern over accommodating the request. The meeting will be arranged with the view to agreeing an arrangement that meets both your needs and those of the ICO. (section 7 provides further details about these meetings)</p> <p>The ICO will consider a discontinuous leave but has the right to refuse it. If the leave pattern is refused, you may either withdraw it within 15 days of submitting it, or you can take the leave in a single continuous block. Each request will be considered on an individual basis. Any agreement to a particular pattern of ShPL will be decided on a case by case basis.</p> <p>If you choose to take the leave in a single continuous block, you must</p>

decide and confirm the date you want the leave period to begin within 19 days from the date your original notification was made. The leave cannot start sooner than eight weeks from the date your original notification was submitted. If you do not decide and do not confirm a start date then default provisions will apply and your leave will begin on the first leave date requested in your original notification.

If you withdraw your discontinuous leave notification within 15 calendar days of the original notification this will not count as one of your three notices to book leave.

e. Written response to your leave notification: The Human Resources Team will respond to your notification for ShPL within 14 days from the date your request is submitted.

d. Changes to your shared parental leave: If you wish to make any changes to your agreed plans you will usually need to provide written notification at least eight weeks before the start of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Any variation request, including notice to return to work early, will usually count as a new notification and so reduces the entitlement by one. However, a change as a result of a child being born early or the ICO requesting a change and the employee being agreeable to the change, will not count as of the three permitted notifications.

Any variation will be confirmed in writing by the Human Resources Team.

e. Withdrawing notice to end maternity/adoption leave: Once a mother has given notice to end maternity/adoption leave and either parent had informed their employer of their entitlement to take ShPL then the notice to end maternity leave is binding and cannot be withdrawn unless:

- within eight weeks of the mother submitting notice to end their maternity/adoption leave it transpires that neither parent qualifies of ShPL or ShPP
- when notice was given before the birth, it may be withdrawn without reason up to six week following the birth
- the mother's partner dies.

7. Meetings to discuss discontinuous leave notifications or variations to leave notifications.

On receipt of a notification for discontinuous leave or a variation to a discontinuous leave agreement, the ICO will need to consider the impact on the business and how the leave can be managed operationally.

The ICO may therefore decide to arrange an informal meeting with you to discuss your request further. Although this is an informal meeting, you may be accompanied to the meeting by a colleague or union representative

The meeting will be held in private and arranged in advance at a mutually convenient time and place.

Modifications to the discontinuous leave notification may be suggested by either party at the meeting. Any agreements reached at the meeting will be confirmed to you in writing.

If modifications are suggested but are not agreeable then the notification could be deemed unacceptable by the ICO. Where this is the case the ICO will confirm this to you in writing within 14 days from the date your notification was given. This written notification may propose alternative dates for you to consider and will confirm the ICOs refusal to your notification of discontinuous leave. It will also outline your options in regard to your right to withdraw your notification and the default provisions as described in section 6.2.

8. During your shared parental leave

8.1

Benefits

a. Continuity of employment: During your period of shared parental leave you will continue to accrue continuous service.

b. Pension:

Pension contributions will only continue to be made when you are in receipt of ShPP but not during any period of unpaid ShPL. Your employee contributions are based on your actual pay, while the ICO contributions will be based on the salary that you would have received had you not been taking ShPL.

Unpaid SPL leave does not count as pensionable service.

If you are making additional pension contributions such as AVCs, purchasing 'added pension' or 'added years' you should speak with a member of the Human Resources team about the impact of being on ShPL on these contributions.

c. Annual leave: Annual leave will accrue at your normal rate during your shared parental leave.

d. Mobile phones/ laptops: If you have either a mobile phone, laptop or other electronic device you are entitled to keep this for the period of your ShPL. You must, however, use it in accordance with the appropriate policies.

e. Childcare vouchers: If you received childcare vouchers via the salary sacrifice scheme before starting shared parental leave, and continue to order vouchers during any period ShPL you will continue to receive vouchers when you receive ShPP only or zero pay, even though you are not in receipt of salary to sacrifice.

The value of the vouchers may be up to, but not more, than that which you ordered in period before your shared parental leave started.

f. Job opportunities: The ICO does not wish you to miss out on opportunities for promotion or progression. All internal job advertisements can be sent to a home email account or posted to you. You can discuss this during your meeting with a member of the Human Resources team.

g. Staying in touch: During your period of leave, the ICO wishes to respect your special time with your new child, so we will not contact you if we can avoid it. However, if there are any significant changes in the business area in which you work or if training opportunities arise your line manager will contact you to make sure that you are kept up to date with our current business position. There is, however, provision for 'Shared Parental in touch' days which is described below.

8.2 **'Shared Parental in touch' days (SPLIT days):** Regulations provide for you and the ICO to have reasonable contact from time to time during your shared parental leave period without bringing the ShPL period to an end or losing ShPP. Important points to note include the following:

- a.** You can attend work for up to 20 SPLIT days. You can attend work for one hour, such as for a team meeting, or a whole day. This will still count as a SPLIT day.
- b.** The decision to have a SPLIT day must be made by agreement between you and the ICO. There is no obligation on the ICO to offer, or on you to accept, such work.
- c.** If you do attend a SPLIT day, you will accrue time off in lieu (TOIL) for the time that is agreed for you to be in work. For example, if you come in for a one hour team meeting, you will accrue one hour of TOIL, if you are in for a full day you will accrue 7 hours 24 minutes of TOIL.
- d.** Time in work for SPLIT days must be notified to Human Resources by your line manager. The HR team will then make the appropriate adjustment to your accrued TOIL record.
- e.** With ICO agreement SPLIT days may be used to work part of the week during a SPL. If agreeable to both you and the ICO SPLIT days may be used to effect a gradual return to work or to trial a possible flexible working pattern.

9. Returning from your shared parental leave

9.1 You will have received written confirmation of the end date of any period of ShPL. You are expected to return to work on the next applicable working day after this date, unless you notify the ICO otherwise. If you are unable to return to work due to ill health you should notify either your line

	<p>manager or the Human Resources team as soon as reasonably practicable. Any such period of sick leave will be dealt with in accordance with the ICO's sickness management policy. In any other case, late return without prior notification will be treated as unauthorised absence.</p>
9.2	<p>Notification of your intention to return: If you wish to return to work before the expected return date you may provide written notification to vary the leave and you must do this at least eight weeks before your planned date of early return. This will count as one of your allowed three notifications to alter the ShPL arrangements.</p> <p>If you have used your maximum allowance of three notifications, you may still submit a request to alter your return date, but the ICO is under no obligations to accept your notice to return early. The ICO will, however, try to accommodate such requests whenever it is considered reasonably practical to do so.</p> <p>You must submit your written notification to Human Resources who will notify your line manager. The ICO may postpone your return to work if you do not give eight weeks notice in writing.</p>
9.3	<p>Role: If you return to work after ShPL and your aggregate total statutory maternity/paternity/adoption leave and ShPL amounts to fewer than 26 weeks, you are entitled to return to the same job you occupied and on the same terms of employment as before beginning maternity/paternity/adoption leave and the most recent period of ShPL.</p> <p>If you return to work after ShPL and your aggregate total statutory maternity/paternity/adoption leave and ShPL amounts to 26 weeks or more you will usually return to your previous role unless this is not reasonably practicable, in which case you will return to a suitable and appropriate alternative position on no less favourable terms and conditions. If this is not possible, then the existing redundancy procedure will be implemented.</p>
9.4	<p>If you do not wish to return to work: If you do not wish to return to work after your ShPL you must give notice of termination as required by your contract of employment. Please inform Human Resources of this in writing.</p>
9.5	<p>Requests to change contractual working hours and/patterns: Any request to alter your conditioned hours of employment and/or working pattern will be fully considered by your line manager and the Human Resources Department in relation to organisational requirements and in line with the flexible working policy.</p>
10.	Frequently asked questions
10.1	<p>Do I need to plan to start my ShPL on a particular day of the week? No. Shared Parental Leave and pay can start on any day of the week to suit your needs.</p>

10.2	<p>The baby has arrived earlier than expected, what do I need to do?</p> <p>Please contact either a member of the Human Resources team or your line manager as soon as reasonably practicable to inform them of the birth.</p> <p>The Human Resources team will contact you to discuss changes to any previously agreed ShPL arrangements and these will be confirmed to you in writing.</p>
10.3	<p>My manager would like me to come into work for a 'Shared Parental in touch' (SPLIT) day. Do I have to come in to work?</p> <p>No. Keeping in touch days must be mutually agreed and you will not suffer any detriment because you do not wish to come in for a SPLIT day. Equally if you would like to work for a few SPLIT days during your SPL, but your manager does not want you to, you will not be able to work.</p>
10.4	<p>Am I entitled to accrue the 3 privilege days that occur between Christmas and New Year and take them at another time if I am on maternity leave at Christmas?</p> <p>Yes. As the ICO policy allows you to accrue leave at your contractual rate throughout any period of SPL, you will be entitled to take the 3 privilege days at another time if you are on SPL between Christmas and New Year.</p>
10.5	<p>I am expecting twins/adopting more than one child at the same time is there extra entitlement to SPL and ShPP?</p> <p>No, the entitlements are the same.</p>
10.6	<p>What happens if my baby doesn't live?</p> <p>If your baby dies before or during birth, or within the first year, there is legislation to define what happens in such sad circumstances in relation to a woman's maternity rights. These are outlined in the ICOs Maternity Leave Policy and Procedure.</p> <p>In relation to ShPL, should your child die before you have submitted a notice of entitlement to take SPL then you cannot opt into ShPL because the qualifying condition is that you would be caring for the child. There is still likely to be entitlements for the mother and mother's partner in relation to maternity leave and paternity leave.</p> <p>If you have opted into ShPL and booked leave, you will still be entitled to take the booked leave. No further notification to book ShPL can be submitted and you can submit only one variation notice to reduce a period of leave or to rearrange a discontinuous leave arrangement in to a single block.</p> <p>If you are absent on ShPL you can of course cancel agreed ShPL and return to work by giving the ICO eight weeks' notice of your return.</p>

10.7	<p>What happens if either partner dies?</p> <p>In the sad circumstance where either parent should die during the child's first year, if the other parent is taking, or is entitled to ShPL then they will continue to be eligible. Any SPL entitlement that was due to be taken by the deceased parent may be transferred to the other parent if they are eligible for SPL. You would be allowed to submit one further notification to book or amend SPL if you have already used your maximum of three notifications.</p>
11.	Further information
11.1	A government website which answers specific SPL related queries including the current rate of ShPP: www.direct.gov
12.	Glossary
12.1	<ul style="list-style-type: none"> • ShPL – Shared Parental Leave • ShPP – Shared Parental Pay • Continuous service – This is the length of service you have with the Company and is the basis for calculating your entitlements. • SPLIT Days – Shared
13.	Related forms
	<p>Notification of SPL entitlement Form HR-SPL1 (Appendix 1)</p> <p>Notification of Continuous SPL period Form HR- SPL2 (Appendix 2)</p> <p>Notification of Discontinuous SPL Form HR – SPL3 (Appendix 3)</p>

**Information Commissioner's Office
Notification of Shared Parental Leave Entitlement
Form HR-SPL1**

Appendix 1

Section A
Employee Name:
Job title and department:
Start Date at ICO:
Home address:
Home e-mail address:
Name of other parent:

Section B
1. The expected date of childbirth/matching date is:.....
2. I am The mother/adopter <input type="checkbox"/> The father or partner of the mother/adopter <input type="checkbox"/> and both my partner and I share the main responsibility for the care of the child at the time of the birth/placement.
3. I will haveyears/ weeks service at the end of the 15 th week before the child's expected due date/match date.
4. The dates maternity/adoption leave entitlements or maternity allowance start and end, in relation to this child are: Start date:..... End date: This equates to weeks of maternity/adoption leave.
5. I intend to take weeks of ShPL These equate to weeks (eg 40-52) of my partner's maternity leave period.
6. My Partner intends to take weeks of ShPL These equate to weeks (eg 40-52) of my maternity leave period.

7. Employee Declaration:

I confirm that I meet the eligibility conditions and so am entitled to take Shared Parental Leave. The information I have given is accurate. If I cease to be eligible for shared parental leave I will inform the ICO immediately

Signature: **Date:**

**Information Commissioner's Office
Notification of Shared Parental Leave Entitlement
Form HR-SPL1**

Appendix 1

Section C – Partner Information and Declaration
Name:
Address:
National Insurance No:
Partner Declaration: I am The mother/adopter <input type="checkbox"/> The father or partner of the mother/adopter <input type="checkbox"/> and I share the main responsibility for the care of the child at the time of the birth/placement. I have worked for at least 26 weeks and earned at least the minimum weekly average in any 13 weeks during the 66 weeks leading up to the child's expected due date/matching date I consent to the ICO processing information contained in this declaration form. I will inform my partner immediately if eligibility conditions are no longer satisfied. The information given is accurate. Signature: Date:

This form must be sent to the Human Resources team.

Information Commissioner’s Office

Notification of Continuous Shared Parental Leave Period
Form HR- SPL2

Employee Name:

Details of maternity/adoption leave

The expected date of childbirth/matching is

Maternity/Adoption Leave or Maternity Allowance for this child will start/started on

Maternity/Adoption Leave or Maternity Allowance for this child is will end/ended on

A total of weeks maternity/adoption leave entitlement will be/has been used by the mother/adopter

Details of Shared Parental Leave

I submitted my notification of SPL entitlement on

I intend to take weeks of continuous SPL
Starting and ending
(Where the child is not yet born you may state that SPL will begin after a period of time after the birth e.g. immediately after the birth or 2 weeks after)

My Partner will be using weeks continuous/discontinuous SPL entitlement

An aggregate total of weeks of Maternity/Adoption leave and SPL will have been used by my partner and I as a result of this notification.

I confirm that the above information is accurate
Signed Date

You must submit this form to HR at least 8 weeks before the first day of intended SPL

