



Brasenose College

SHARED PARENTAL LEAVE POLICY

For all academic and non-academic staff

Approved by Governing Body on 27th May 2015

This policy reflects the legal requirements and mirrors the policy introduced by the University. Staff are encouraged to come and talk to HR for guidance and advice if they have any plans for shared parental leave as the College supports the principle, as we recognise that the process is complicated.

1. What is Shared Parental Leave (SPL) and Shared Parental Pay (ShPP)?

The Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) regulations provide an opportunity for parents to take advantage of additional flexibility in the way they choose to care for the new arrival to the family in terms of shared leave and pay in the **52 weeks immediately following the birth or adoption** of their child.

Eligible parents have the option to end their period of maternity or adoption leave, pay or allowance early and to convert any 'unused' part of that leave and pay into SPL and ShPP. A mother or primary adopter is entitled to take 52 weeks leave made up of 26 weeks leave at full pay followed by 13 weeks at statutory maternity pay and 13 weeks unpaid leave. The mother or primary adopter must take the first two weeks following the birth or placement of the child as maternity or adoption leave. After that, maternity or adoption leave and pay may be curtailed and eligible parents may split the remainder of the 50 weeks leave between them (made up of 24 weeks at full pay, 13 weeks at statutory maternity pay then 13 weeks unpaid leave.) The minimum amount of SPL and ShPP that can be taken is one week. SPL can only be taken in blocks of complete weeks.

Any time spent on maternity or adoption leave by the mother or the primary adopter will **reduce** the amount of SPL available.

For example, where the mother curtails her maternity leave after the 20th week, the entitlement to SPL is reduced by that amount, leaving 6 weeks at full pay, 13 weeks at statutory pay then 13 weeks of unpaid leave for the parents to share and take as SPL.

Unlike maternity and adoption leave, time spent on paternity leave will not reduce the amount of SPL and ShPP available. However, any unused ordinary paternity leave will be lost as soon as the father/mother's partner starts a period of SPL.

Parents may be able to take SPL at the same time or at different times. The scheme is intended to provide flexibility to eligible parents and allows them the opportunity to start and stop their shared leave and to return to work between the periods of leave. Parents are not obliged to take SPL.

FROM 5 APRIL 2015 ADDITIONAL PATERNITY LEAVE IS NO LONGER AVAILABLE.

2. Qualifying for SPL

In order to qualify for SPL, the mother/primary adopter must be entitled to at least the statutory maternity/adoption leave, or pay, or maternity allowance and must agree to end their maternity/adoption leave and pay (or allowance) period early. Both parents must share the main responsibility for the care of the child and they must provide the necessary statutory notices.

To qualify for SPL, an employee must have at least 26 weeks of continuous service with the College at the end of the 15th week before the EWC (expected week of confinement) or the date of the adoption; and still be employed by the College in the week before the SPL is to be taken.

In addition, their partner must have worked (in an employed or self-employed capacity) in at least 26 weeks of the 66 weeks before the EWC or date of adoption; and had average weekly earnings of at least £30 during 13 of those weeks (the maternity allowance threshold).

In order for both parents to take and share SPL, each parent must qualify in their own right.

3. Qualifying for Shared Parental Pay (ShPP)

In addition to satisfying the eligibility criteria for SPL, in order to qualify for statutory ShPP, each parent must have earned an average salary of the lower earnings limit (LEL) or more for the eight weeks prior to the qualifying week.

4. If only one parent is eligible

Sometimes only one parent may qualify for SPL. In such cases the eligible parent may still use SPL, for example, to allow them to request leave in separate blocks, since maternity/adoption leave must be taken in a continuous block without the possibility of returning to work and then restarting maternity/adoption leave again (with the exception of where an employee attends work through the use of their Keep In Touch (KIT days).

The mother/primary adopter must end, or agree to end their maternity/adoption leave, pay or allowance, on a future date in order to allow a period of SPL to be taken. Notices by the employee must still be submitted in the required timeframes.

5. When can SPL begin?

Employees must satisfy the qualifying conditions for SPL and they must comply with the notification requirements, as outlined in **SPL notifications – birth** (page 3) and **SPL notifications – adoption** (page 8) section of this policy. SPL cannot begin before the birth or placement for adoption or until the end of the compulsory two week maternity or adoption leave period.

6. How can a period of SPL and pay be shared between the parents?

After the two week compulsory maternity or adoption leave, eligible parents may curtail their maternity or adoption leave and pay (or allowance) and take the remaining balance as SPL. Parents have a maximum entitlement of 50 weeks of leave and 39 weeks of pay (based on full and statutory rates,) to share between them, as they see fit, with the exception of two weeks which have to be taken by the mother immediately after the birth. Eligible parents can request to take SPL in **one continuous block of leave** or they can request to book it in **discontinuous blocks** (i.e. split into shorter, discontinuous periods, with the periods at work in between). Parents have the option of taking the leave together or at separate times. All periods of SPL must be taken in the 52 weeks immediately following the birth or adoption of the child.

Requests for continuous block of leave will be approved (as is the case with maternity leave), provided the necessary notifications have been given. However, if employees wish to take SPL in discontinuous blocks, they should discuss this with their line manager informally first, before submitting the request. It may not be operationally possible to agree to this. The College will not unreasonably refuse a request for discontinuous leave, and they may propose an alternative pattern of leave instead.

See SPL notifications birth/adoption for further guidance.

A) Shared Parental Leave Notifications – Birth

7. Notices

Employees who wish to take SPL and who meet the eligibility criteria are required to give three separate notices:

1. A notice to curtail maternity leave (if the employee is the mother)
2. A notice of entitlement to SPL and ShPP
3. A notice to 'book' any period(s) of SPL.

Where possible, the College will have early discussions with the employee about their leave arrangements, to explore what may be best for the employee's personal circumstances, as well as to help with departmental planning. SPL cannot begin until the mother has either curtailed her maternity leave and pay or has agreed to curtail it on a future date, by completing a Maternity Leave Curtailment Notice form 1

8. Notice 1 – a maternity curtailment notice (if the employee is the mother)

If the employee is the mother, she must give her department at least eight weeks' written notice to end her maternity leave before she or her partner can take SPL. This is the 'curtailment notice'. The notice must state the date her maternity leave will end. Notice can be given before or after the child's birth but maternity leave cannot end until at least two weeks after the birth.

The curtailment notice is binding and cannot usually be revoked. The employee may only revoke a curtailment notice if maternity leave has not yet ended and one of the following applies:

- The employee realises that she nor the other parent are in fact eligible for SPL or ShPP, in which case she may revoke the curtailment notice in writing up to eight weeks after it was given.
- If the curtailment notice was given before the birth, then the employee may revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later.
- If the other parent has died.

Once an employee has revoked her curtailment notice she will be unable to opt back into the SPL scheme, unless she revoked it in one of the circumstances above.

The other parent may be eligible to take SPL before the mother's maternity leave ends, provided that the mother has given the curtailment notice.

9 Notice 2: Notice of Entitlement

i) If the mother is an employee of the College

Not less than eight weeks before the proposed start date of the SPL, the mother must provide a notice of her entitlement to SPL and ShPP using the correct form. The notice must contain the following information:

- The employee's name and the name of her partner;
- that she will share the main responsibility for the care of the child with her partner;
- the expected date of birth of the child;
- maternity leave start and end dates;
- the amount of SPL and ShPP available;
- the intended amount of SPL and ShPP to be taken by each parent;
- declarations by the employee and her partner that they both meet the statutory conditions to enable the employee to take SPL and ShPP and that the partner agrees to the employee taking SPL and ShPP.

The mother's partner must also provide the following information:

- Their name, address and NI number;
- their employer's details;
- that they satisfy the qualifying requirements for the College's employee to take SPL and ShPP;
- that they agree to the College's employee taking SPL and ShPP

ii) If the mother's partner is the employee of the College

Not less than eight weeks before the proposed start date of the SPL, the employee must provide a notice of his/her entitlement to SPL and ShPP using form 2. The notice must contain the following information:

- The employee's name and the name of the mother
- That he/she will share the main responsibility for the care of the child with the mother
- The expected date of birth of the child
- The start and end dates of the mother's maternity leave, pay (or allowance).
- The amount of SPL and ShPP available
- The intended amount of SPL and ShPP to be taken by each parent.

The mother must also provide the following information:

- That she has agreed to (or has agreed that on a future date she will) curtail her maternity leave and pay (or allowance).
- Her name, address and NI number.
- Her employer's details.
- That she satisfies the qualifying requirements for the College's employee to take SPL and ShPP.
- That she agreed to the College's employee taking SPL and ShPP.

In addition, departments may request a copy of the child's birth certificate within 14 days of receiving the notice from the employee. The employee will have 14 days to respond to the request, with either

a copy of the birth certificate where the child has already been born or an agreement to provide the birth certificate after the birth of the child.

The notice of entitlement to SPL and ShPP is non-binding and can be revoked or amended, as long as the notice is given within the correct timeframe.

9. Notice 3: Booking a period of SPL

The employee must give written notice to book a period of SPL, which specifies the start and end dates of SPL. This notice must be given at least **eight weeks** before the proposed start date for SPL.

Leave can be requested as **one continuous block of leave** or in **discontinuous blocks** (i.e. split into shorter discontinuous period, with periods to return to work in between).

Up to a maximum of three notices (inclusive of changes to book leave can be made by each parent individually (inclusive of the first notice to book a period of SPL). This means that parents can request or vary blocks of leave on three separate occasions, but within the first year of the child being born.

Where discontinuous leave in multiple blocks is requested, i.e. where an employee wishes to take separate blocks of leave, but with periods to return to work in between, this should be done in one single notice. Additional changes, i.e. changes beyond the three permitted notices, may be considered in exceptional circumstances. The employee will need to discuss these proposals with their line manager and any changes to the agreed patterns of leave may only take place where mutual agreement by the department and employee has been achieved.

Where employees intend to book leave in discontinuous blocks, they should discuss this with their department before submitting their notice to book any such leave. Early discussions about leave arrangements are advantageous to both employee and department, as it means that appropriate and timely procedures can be followed. It also allows more time for the employee and the department to agree the way in which the shared leave can be taken and any cover that is required to be considered and arranged.

The notice to book leave is binding, unless it is later ascertained that one or both of the parents do not qualify for SPL. However, if the mother gives her notice **before** her baby is born, she has the right to request to change her leave arrangements up to six weeks **after** childbirth. Employees should tell their line manager of the child's date of birth as soon as it is reasonably possible following the birth, and in all cases, before the first period of SPL begins.

10. Cancelling or changing the dates of SPL

Employees may cancel a period of leave by notifying their department in writing at least eight weeks before the start date in the notice to book SPL.

Employees may change the start date for a period of leave, or the length of the leave, by notifying their department in writing at least eight weeks before the original start date and the new start date.

Employees do not need to give eight weeks' notice if they are changing the dates of their SPL because their child has been born earlier than the EWC, where they wanted to start their SPL a certain length of time (but not more than eight weeks) after birth. In such cases, employees should notify the College in writing of the change as soon as they can.

Employees may change the end date for a period of leave by notifying the College in writing at least eight weeks before the original end date and the new end date.

Employees may combine discontinuous periods of leave into a single continuous period of leave by notifying the College in writing at least eight weeks before the start date of the first period.

Employees may request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between. Any such request will be considered as set up above under Notice 3.

11. A notice to change or cancel a period of leave will count as one of an employee's three notices to book leave, unless:

The variation is a result of the employee's child being born earlier or later than the EWC;

The variation is at the College's request;

The College agrees otherwise.

12. Returning to work after SPL

When the employee returns to work following a period of SPL they are entitled to return to the same job if their combined leave period (comprising of maternity/paternity/adoption and SPL) totalled 26 weeks or less. This is unaffected by unpaid parental leave of up to four weeks being taken as well.

In the case where the number of weeks of maternity/paternity/adoption and SPL exceeds 26 weeks in aggregate, or the total number of unpaid parental week exceeds four weeks, an employer must allow an employee to return to the same job unless it is not reasonably practical, in which case a suitable an appropriate job on terms and conditions no less favourable.

13. Annual leave during SPL

As with maternity, adoption and paternity leave, employees still accrue annual leave whilst on SPL. The employee should try to take annual leave within the leave year whenever possible.

14. Protection before and during SPL

During SPL the employee is entitled to benefit from all the terms and conditions of their employment except for salary. They are also bound by any obligations arising from the terms and conditions except the need to attend work.

If a redundancy situation arises while an employee is on SPL they, like a mother on maternity leave, will be offered a suitable alternative vacancy, if one is available.

15. Early birth and special circumstances

In certain situations an employee's rights and requirements to take SPL may change.

16. Early birth

If the child is born before their expected due date and the employee had booked to take SPL within the first eight weeks of the due date, they may take the same period of time off after the actual birth without having to provide eight weeks' notice, by submitting a notice to vary their leave as soon as is reasonably practicable. Unlike most other variation notices, this would not count as one of the employee's three notifications.

Any leave arranged after the first eight weeks of the due date is still bound by the eight week notice required to vary leave.

If the child is born more than eight weeks before their expected due date and the notice of entitlement to SPL and/or a notice to book SPL have not yet been given, then there is no requirement to give eight weeks' notice before the period of leave starts. The notices should be given as soon as is reasonably practicable after the actual birth.

17. Death of the child before or during birth or within the first year

Should the child die before the parents have submitted a notice of entitlement to take SPL then they cannot opt into SPL because a qualifying condition is caring for a child. The mother will remain entitled to maternity leave and the mother's partner could still qualify for statutory paternity leave.

If the parents have opted into SPL and they have booked leave, they will still be entitled to take the booked leave. No further notice booking leave can be submitted and only one variation notice can be given to reduce a period of leave or to rearrange a discontinuous leave arrangement into a single block of leave.

An employee who is absent on SPL may cancel agreed SPL and return to work by giving their employer eight weeks' notice of their return to work.

18. Parent no longer caring for the child

If the circumstances of an employee who has booked SPL change so that they will no longer be responsible for caring for the child (unless it is because of death), their entitlement to both SPL and ShPP will immediately cease and they must tell their employer.

If the employee has any SPL arranged within eight weeks of their entitlement ceasing, their employer can still require them to take it as SPL if it is not reasonably practicable for the employer to have their employee in work, for example because cover has been arranged. Any weeks of SPL arranged after eight weeks of their entitlement ceasing must be cancelled.

If the remaining parent will be continuing to care for the child then they will still be eligible to take their SPL entitlement, if the other parent, who is no longer caring for the child had any SPL leave entitlement outstanding, the remaining parent will only be able to transfer it into their own entitlement if they can get the signed agreement of the other parent to a notice confirming a variation of leave entitlement.

19. Death of a parent during the child's first year

If either parent dies and the other parent is taking, or is entitled to SPL then they will continue to be eligible. Any SPL that was due to be taken by the deceased parent may be transferred to the other parent if the other parent is eligible for SPL.

Should it be necessary for the other parent to take a further period of SPL or to vary pre-agreed leave then notice may be given as soon as is reasonably practicable if eight weeks' notice cannot be given. If they have already given three notices to take leave they must be allowed to submit one further notice to book/amend SPL

20. Multiple births/adoptions

An employee is not entitled to extra SPL or ShPP if they are expecting more than one child. The entitlements are, like maternity leave, the same as if the employee was expecting one child. This also applies to multiple adoptions that occur in a single placement.

B) Shared Parental Leave Notifications – Adoption

21. Adoption leaved - notices

Employees who wish to take SPL and who meet the eligibility criteria are required to give **three separate notices**:

1. A notice to curtail adoption leave (if the employee is the primary adopter),
2. a notice of entitlement to SPL and ShPP,
3. a notice to 'book' any period(s) of SPL.

Where possible, departments should have early discussions with the employee about their leave arrangements, to explore what may be best for the employee's personal circumstances, as well as to help with departmental planning. SPL cannot begin until the primary adopter has either curtailed their adoption leave (and pay) or has agreed to curtail it on a future date, by providing an adoption curtailment notice (see Adoption Leave Curtailment notice form).

The guidance in this section also applies to surrogate parents who qualify for adoption leave.

22. Notice 1: An adoption curtailment notice (if the employee is the primary adopter)

If the employee is the primary adopter, they must give their department at least eight weeks' written notice to end their adoption leave, before either of the adoptive parents can take SPL. This is the 'curtailment notice'. The notice must state the date the adoption leave will end. Notice can be given before or after the child has been placed, but adoption leave cannot end until at least two weeks after placement of the child.

The curtailment notice is binding and cannot usually be revoked. The employee may only revoke a curtailment notice if adoption leave has not yet ended and one of the following applies:

the employee realises that neither they or the other parent are in fact eligible for SPL or ShPP, in which case they may revoke the curtailment notice in writing up to eight weeks after it was given;

if the curtailment notice was given before the placement of the child, then the employee may revoke it in writing up to eight weeks after it was given, or up to six weeks after the placement, whichever is the later; or

if the other parent has died.

Once an employee has revoked their curtailment notice they will be unable to opt back into the SPL scheme, unless they revoked it in one of the circumstances described above.

The other parent may start a period of SPL before the primary adopter's adoption leave ends, on the condition that the primary adopter has given the curtailment notice to end their adoption leave on a future date.

23. Notice 2: Notice of Entitlement

If the primary adopter is the employee of the College

Not less than eight weeks before the proposed start date of the SPL, the primary adopter must provide a notice of entitlement to SPL (and ShPP) using the relevant form. The notice must contain the following information.

- The employee's name and the name of their partner;
- that they will share the main responsibility for the care of the child with their partner;
- the expected date of the child's placement;
- adoption leave start and end dates;
- the amount of SPL and ShPP available;
- the intended amount of SPL and ShPP to be taken by each parent; and
- declarations by the employee and their partner that they both meet the statutory conditions to enable the employee to take SPL and ShPP and that the partner agrees to the employee taking SPL and ShPP.

The primary adopter's partner must also provide the following information:

- Their name, address and NI number;
- their employer's details;
- that they satisfy the qualifying requirements for the College's employee to take SPL and ShPP; and
- that they agree to the College's employee taking SPL and ShPP

If the primary adopter's partner is the employee of the College

Not less than eight weeks before the proposed start date of the SPL, the employee must provide a notice of entitlement to SPL and ShPP using the relevant form. The notice must contain the following information:

- the employee's name and the name of the primary adopter;
- that they will share the main responsibility for the care of the child with the primary adopter;
- the expected date of the child's placement;
- the start and end dates of the adoption leave, pay (or allowance);
- the amount of SPL and ShPP available; and
- the intended amount of SPL and ShPP to be taken by each parent.

The primary adopter must also provide the following information:

- that they have agreed to (or has agreed to on a future date) curtail their adoption leave and pay or allowance);
- their name, address and NI number;
- their employer's details;
- that they satisfy the qualifying requirements for the College's employee to take SPL and ShPP; and
- that they agree to the College's employee taking SPL and ShPP.

24. Notice 3: Booking a period of Shared Parental Leave

The employee must give written notice to book a period of SPL, which specifies the start and end dates of the SPL. This notice must be given at least eight weeks before the proposed start date for SPL.

Leave can be requested as **one continuous block of leave** or in **discontinuous blocks** (i.e. split into shorter, discontinuous periods, with periods to return to work in between).

Up to a maximum of three notices (inclusive of changes) to book leave can be made by each parent individually (inclusive of the first notice to book a period of SPL). This means that parents can request or vary blocks of leave on three separate occasions, but within the first year of the child being placed for adoption. Where discontinuous leave in multiple blocks is requested, i.e. where an employee wishes to take separate blocks of leave, but with periods to return to work in between, this should be done in one single notice. Additional changes, i.e. changes beyond the three permitted notices, may be considered in exceptional circumstances. The employee will need to discuss these proposals with their line manager and any changes to the agreed patterns of leave may only take place where mutual agreement by the department and the employee has been achieved.

Where employees intend to book leave in discontinuous blocks, they should discuss this with their department before submitting their notice to book such leave. Early discussions about leave arrangements are advantageous to both the employee and the College, as it means that appropriate and timely procedures can be followed. It also allows more time for the employee and the department to agree the way in which the shared leave can be taken, and any cover that is required to be considered and arranged.

The notice to book leave is binding, unless it is later ascertained that one or both of the parents do not qualify for SPL. However, if the primary adopter gives their notice before the child is placed, they have the right to request to change their leave arrangements up to six weeks after the child's placement.

25. Cancelling or changing the dates of SPL

Employees may cancel a period of leave by notifying their department in writing at least eight weeks before the start date in the notice to book SPL.

Employees do not need to give eight weeks' notice if they are changing the dates of their SPL because their child has been born earlier than the EWC, where they wanted to start their SPL a certain length of time (but not more than eight weeks) after birth. In such cases, employees should notify the College in writing of the change as soon as they can.

Employees may change the end date for a period of leave by notifying the College in writing at least eight weeks before the original end date and the new end date.

Employees may combine discontinuous periods of leave into a single continuous period of leave by notifying the College in writing at least eight weeks before the start date of the first period.

Employees may request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between. Any such request will be considered as set out above under Notice 3.

26. A notice to change or cancel a period of leave will count as one of an employee's three notices to book leave, unless:

- The variation is a result of the employee's child being born earlier or later than the EWC;
- The variation is at the College's request;
- The College agrees otherwise.

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