



Employers do not need to enhance shared parental pay

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No discrimination in treating maternity pay differently to payments under the new system

Acas has now published a 'step by step' [good practice guide](#) for employers and employees on shared parental leave (SPL), put together with input from employers, family groups and trade unions. But employers may still be getting to grips with a recently published [technical guide](#) to shared parental leave and pay, produced by the government, which provides employers with some clarity on how the new rights will work in practice.

The government guide highlights the complex administrative procedures and technical issues that employers will need to navigate to comply with the new legislation. Given this complexity, and that the first parents eligible to take advantage of these new rights are finding out about their pregnancies now, employers should act promptly to prepare for the new regime.

Spring babies

Shared parental leave and pay will be introduced on 5 April 2015, while additional paternity leave and statutory additional paternity pay will be abolished. Eligible employees of either sex will be able to share up to 50 weeks' SPL and 37 weeks' shared parental pay, and take the leave either concurrently or at different times and in separate blocks of no less than a week.

Existing maternity and adoption rights and ordinary paternity leave and pay will remain, and employees will need to bring their maternity and adoption leave to an end (curtail) before taking SPL.

Notice

The technical guide highlights the cumbersome notice requirements under the new regime. Three types of notice will be required:

- notice of curtailment
- notice of entitlement
- booking notice.

Employees will have to inform their employers eight weeks' in advance for both a notice to curtail maternity or adoption leave, and a booking notice for SPL.

Requests

There will be a two-week period for an employer to discuss requests for SPL. However, employers cannot refuse requests for single blocks of SPL. If discontinuous leave is requested and not accepted, the default position will be that the employee takes the total leave period as a single block of leave.

The technical guide confirms that an employee will be able to submit three separate requests for SPL - each to commence on a new date. This would force a pattern of three periods of discontinuous leave on an employer, which could be difficult to manage. With employees also able to vary their SPL patterns at a later stage, or to revoke a notice of curtailment in certain circumstances, there seems little certainty for employers, even once SPL has been agreed.

The guidance makes it clear that if an employer offers enhanced maternity and adoption pay, there is no requirement to replicate this for shared parental pay. In other words, it will not be discriminatory to treat these two types of leave differently. This should provide comfort to employers, as it seems unlikely that an employment tribunal would choose not to follow the government's technical guidance.

In addition, the guide clarifies that employees could be on statutory maternity or adoption leave while their partners are on SPL, provided their statutory maternity or adoption leave will come to an end at a future date (in other words, they have given their employer notice that they wish to curtail their leave) and they have not used up their overall entitlement to statutory leave (52 weeks in total - only the untaken balance of maternity or adoption leave can be taken as shared parental leave).

So employees could take advantage of any enhanced maternity or adoption pay available before commencing SPL, while their partner takes SPL and receives shared parental pay. This could reduce pressure on employers to offer enhanced shared parental pay from the outset, allowing them time to see what their competitors do and how many employees are taking up the new right.

Enhancing pay

The flexibility of SPL is likely to appeal to more parents than the rights under the current system. There may also be some benefit

for employers in offering enhanced shared parental pay subject to certain conditions. For example, an employer could specify that to receive enhanced shared parental pay, SPL would need to be taken immediately after compulsory maternity leave or the first two weeks of ordinary adoption or paternity leave. In addition, employers could specify that SPL needs to be taken in a single continuous period.

Whatever approach employers decide to take, they need to start preparing new policies and procedures for SPL and shared parental pay now. Existing maternity, adoption and paternity policies will also need to be updated and staff trained to deal with requests for SPL.

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