

Sustain's shared parental leave policy

Sustain wants to help staff members during and after pregnancy or a new adoption. We will be flexible and supportive; we invite you to discuss your circumstances with Sustain to help us work out how best to do so. This policy sets out your rights and our mutual responsibilities on shared parental leave, shared parental pay, and other issues relating to shared parental leave. The policy is designed to be as comprehensive as possible, however people's individual circumstances do vary, and if you have any queries that are not answered, or if you have any other questions about the policy, please contact Sustain's HR Manager (usually Sustain's Head of Finance or a member of the Senior Management Team). Please note that this policy does not cover people who work with Sustain on freelance contracts.

Please note that we support parental leave for employees regardless of their gender or of the gender they identify with, and includes people who are married, civil partners, or partners in a relationship who will have responsibility for care of the child.

Sustain implements, and in some aspects exceeds, the shared parental leave rights set out in legislation for parents of children born or matched for adoption on or after 5 April 2015. Shared parental leave and pay cannot replace compulsory maternity leave but can be an alternative to maternity leave and pay (see Sustain's Maternity Leave Policy). It is in addition to parental leave (see Sustain's Parental Leave Policy). It is also additional to paid annual leave entitlement.

A useful website for information is: <https://www.gov.uk/shared-parental-leave-and-pay>

1. What is shared parental leave?

Shared Parental Leave (SPL) gives employees with caring responsibilities for babies or newly adopted children the opportunity to share up to 52 weeks' leave should they wish to do so. Parents taking SPL can take leave in separate blocks, returning to work in between blocks, and can be on leave at the same time. Eligible employees are entitled to submit up to three 'period of leave' notices and are entitled to take SPL on those dates if a continuous period of leave is requested.

Employees and managers should where possible have an informal discussion prior to employees giving formal notification of intention to take SPL so that statutory entitlements to other types of leave and pay can be discussed, and to ensure that plans for any discontinuous periods of leave can be considered as early as possible.

Requests for SPL which are not made in accordance with the statutory notification requirements will be given reasonable consideration, but may not be granted.

2. Entitlement to Shared Parental Leave (SPL)

In order to qualify for the right to take shared parental leave, you must have worked for Sustain for a continuous period of 26 weeks by the week that falls 15 weeks before the

week in which the child is due to be born or by the week in which you are notified of having been matched with the child for adoption (known as the 'relevant week'). You must still be in continuous employment until the week before any SPL is taken.

You must also meet each of the following eligibility criteria:

- You are the biological mother, father or main adopter of the child, or you are married to or are the cohabiting partner of the child's mother or main adopter (each will be referred to in this policy as a parent).
- You have, or expect to have, (or share with the other parent), the main responsibility for the upbringing of the child.

In addition, the other parent must:

- have at least 26 weeks' employment (employed or self-employed) out of the 66 weeks prior to the relevant week
- have average weekly earnings of at least £30 during at least 13 of the 66 weeks prior to the relevant week.

If the other parent meets those conditions, but does not qualify for SPL, you may be entitled to the whole SPL period – the main advantage being the ability to request leave in different blocks and return to work in between those blocks.

You must also follow the statutory notification and information requirements detailed below.

3. Amount and timing of shared parental leave (SPL)

SPL must be taken in blocks of at least one week and within a one year period beginning with the date of the baby's birth or the child's placement for adoption.

The maximum of 52 weeks' SPL will be reduced by the number of weeks' maternity or adoption leave that has already been taken by the mother or main adopter (or the number of weeks' statutory maternity/adoption pay or maternity allowance already taken if the mother or main adopter is not entitled to statutory maternity/adoption leave).

After the birth of a child it is compulsory to take two weeks' maternity leave, so in most cases working parents will have the opportunity to split 50 weeks of SPL. (See Sustain's Parental Leave Policy).

SPL is in addition to the statutory right to two weeks' paternity leave for fathers and partners. If you wish to take paternity leave you must do so before you take any SPL.

4. Entitlement to shared parental pay (ShPP)

In addition to the requirements regarding entitlement to leave outlined above, if you wish to claim shared parental pay (ShPP) you must have average weekly earnings equal to or above the Lower Earnings Limit over the eight week period ending with the relevant week.

A maximum of 39 weeks' ShPP is payable, and this will be reduced by the number of weeks' statutory maternity/adoption pay or maternity allowance already taken by the mother or main adopter. ShPP is a standard weekly rate (or 90% of the employee's normal weekly earnings if this is lower) which is set by government each tax year.

You must follow the statutory notification and information requirements detailed below.

During paternity leave, most employees will be entitled to Statutory Paternity Pay (SPP). The weekly rate of SPP is set by the Government for the relevant tax year, or it is 90% of your average weekly earnings if this is lower than the Government's set weekly rate. However Sustain pays employees who meet the eligibility criteria two weeks paternity leave at full pay (inclusive of SPP).

Employees whose average weekly earnings are less than the lower earnings limit for National Insurance contributions are not eligible to receive SPP.

SPP is treated as earnings and is therefore subject to PAYE and National Insurance deductions.

In the case of a multiple birth or adoption placement, entitlement to SPP is exactly the same as if there was one child.

If you are not entitled to SPP you can apply to the Department of Work and Pensions via Jobcentre Plus for any other benefits that you may be entitled to.

5. Notification requirements

The notification requirements for SPL and ShPP are very specific and detailed. You will be provided with a form to assist you to provide the required information and declarations.

5.1 Notice of entitlement and intention to take SPL and ShPP

You must notify Sustain in writing at least eight weeks before the start date of the first period of SPL. The written notice must contain the following information:

- Your name and the other parent's name
- The start and end dates of the mother's or main adopter's maternity/adoption leave (or the start and end dates of the statutory maternity/adoption pay or maternity allowance period if the mother/main adopter is not entitled to statutory leave)
- The expected date of birth/placement and the actual date of birth/placement if the written notice is given after the birth/placement
- The amount of SPL and ShPP available and an indication of how much each parent intends to take (this may be varied by a subsequent written notice signed by both parents)
- An indication of the start and end dates of the periods of SPL and ShPP that you intend to take. This indication is not binding and can be amended at a later date.
- A declaration that you meet the conditions for entitlement to SPL, the information provided is accurate and that you will notify the company immediately if you cease to meet the conditions for entitlement.
- A declaration from the other parent containing his or her name, address and National Insurance number, confirmation that s/he meets the employment and earnings conditions, consents to the amount of leave the employee intends to take and will immediately inform you if s/he ceases to satisfy the employment and earnings conditions.

5.2 Notice of curtailment of statutory maternity/adoption leave and payments

At the same time that a notice of entitlement and intention to take SPL is submitted, the mother/main adopter must give his or her employer a leave and pay curtailment notice giving eight weeks' notice of the date on which maternity/adoption leave and pay is to end

(or the date on which maternity/adoption pay is to end if s/he is not entitled to maternity/adoption leave). If the mother is only entitled to maternity allowance (and not maternity leave) her notice of curtailment must be submitted to Jobcentre Plus. Her maternity allowance cannot be reinstated, so she is in effect giving consent for her partner to take the whole of any ShPP entitlement.

Notice of curtailment is usually binding, but may be revoked in the following circumstances:

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

5.3 Notice to take a specific period of SPL and ShPP

In practice, at least the first period of SPL will be identified in the initial notice of entitlement and intention to take SPL. You are entitled to submit a maximum of a further two 'period of leave' notices. Each notice must be given at least eight weeks before the start of a period of leave, stating the dates of the leave and the dates on which ShPP will be claimed, if applicable.

If the first 'period of leave' notice is given prior to the birth of a child, the notice may express the start date in relation to the date of birth, for example 'starting two weeks after the baby is born for a period of four weeks'.

6. Discussions regarding shared parental leave

If you are considering taking SPL you are encouraged to arrange an informal discussion as early as possible regarding your potential entitlement, to talk about your plans and to enable Sustain to inform you of the steps you need to take.

Your line manager/HR Manager may, upon receiving a notification of entitlement to take SPL, seek to arrange an informal discussion with you to talk about your intentions and how you currently expect to use your SPL entitlement.

Upon receiving a leave booking notice, your line manager will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can without further discussion be approved, a meeting may not be necessary and confirmation will be given in writing.

Where a meeting is arranged it should take place in private and be arranged in advance. If the initial date is problematic then another date will be arranged if possible. If an alternative date cannot be arranged then the meeting may be held over the telephone.

At the meeting you may, if you wish, be accompanied by a workplace colleague or trade union representative.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while you are away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to you and what the outcome may be if no agreement is reached.

If more than one period of leave is requested in a period of leave notice, your manager will seek to accommodate the request, but this cannot be guaranteed. Your manager will discuss the request with you to determine if it can be accommodated. If it cannot be accommodated, there may be an alternative pattern of leave which can be agreed, or the request may be refused. The manager's decision will be confirmed in writing.

If no agreement is reached within two weeks of the period of leave notice being submitted, you can:

- take the discontinuous periods of leave requested in one continuous block, beginning on the original start date;
- take the continuous block starting on a new date, as long as the new date is later than the original start date, and you notify Sustain of the new date within five days of the two week period referred to above;
- withdraw the request at any time up to the 15th day after it was originally made; if the request is withdrawn in these circumstances it will not count as one of your three requests.

7. Varying a period of leave

You are entitled to submit a request to vary a period of leave in the following ways:

- vary the start or end date as long as the variation is requested at least eight weeks before the original start date and the new start date;
- vary or cancel the amount of leave requested at least eight weeks before the original start date;
- request that a single period of leave become a discontinuous period of leave, or vice versa.

A variation will count as one of your three period of leave notices unless:

- it is made due to the child being born earlier or later than the expected week of childbirth;
- Sustain has requested the variation;
- Sustain has agreed to accept more than three period of leave notices.

The usual eight week notice requirement may be modified if your child is born early and the new start date for the period of leave is the same length of time following the birth as in the original notice. In this case notice to vary the start date should be given as soon as reasonably practicable after the birth of the child.

8. Evidence requirements

Sustain may request a copy of the child's birth certificate and the name and address of the other parent's employer.

In the case of adoption, Sustain may request the name and address of the other parent's employer, along with evidence confirming the following:

- the name and address of the adoption agency;
- the date that the main adopter was notified of having been matched for adoption with the child;
- the date on which the adoption agency expects to place the child.

Any such request will be made within 14 days of receiving your notice of entitlement and intention to take SPL and ShPP. You must respond to the request for evidence within 14

days (or within 14 days of the birth of the child if our request was made before the child was born).

If a birth certificate has not yet been issued, you must sign a declaration stating that fact along with the date and location of the child's birth. If the other parent has no employer, this must also be declared.

9. Fraudulent claims

Sustain can, where there is a suspicion that fraudulent information may have been provided or where Sustain has been informed by HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual organisation investigation and disciplinary procedures, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

10. Keeping in touch during shared parental leave (SPL)

Before you begin your period of SPL you should meet with your line manager to discuss the arrangements to keep in touch during your leave. Sustain would like (and is entitled) to maintain reasonable contact with you from time to time during your SPL. This may be to discuss your plans to return to work, to ensure you are aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease your return to work or simply to update you on developments at work during your absence.

You may be asked to attend work on occasional days during your SPL period. These days could be for training, to attend department meetings, or just for keeping in touch (SPLIT). You may work for up to 20 SPLIT days without bringing the SPL to an end, but work during SPL will not have the effect of extending your SPL period. If you do work, you will be paid your normal rate of pay inclusive of any ShPP entitlement. You are under no obligation to work during SPL and Sustain is under no obligation to offer work.

The 20 SPLIT days available during SPL are in addition to the 10 keeping in touch (KIT) days available during maternity and adoption leave.

11. Terms and conditions of shared parental leave

11.1 Contractual benefits

You will continue to receive your usual contractual benefits during your SPL period (apart from remuneration).

11.2 Holidays

While you are on SPL your contractual holiday entitlement continues to accrue. Your manager will discuss appropriate arrangements for taking your holiday entitlement with you before your SPL starts.

11.3 Returning from SPL

If you wish to return early from SPL, or extend the period of your SPL, you must notify the company at least eight weeks before both the original end date and the new end date.

If you return to work immediately after a period of SPL which (together with any statutory maternity/adoption leave you may have taken to care for the same child) was 26 weeks or less, you will be entitled to return to work in the same job that you left.

If you return to work from a period of SPL which (together with any maternity/ adoption leave you may have taken to care for the same child) was 26 weeks or more you will normally be entitled to return to the job in which you were employed before your absence. If that is not reasonably practicable for Sustain then you will be offered another job which is both suitable and appropriate in the circumstances.

Your right to return means that you return on terms and conditions no less favourable than those that would have been applied if you had not been absent and with the same level of seniority, pension rights and other similar rights.

12. Special circumstances and further information

In certain situations your rights and requirements regarding SPL and ShPP may change. In these circumstances Sustain will abide by any statutory obligations and you should refer to the documents listed below and/or clarify any issues or queries with your line manager.

Law relating to this document:

- The Shared Parental Leave Regulations 2014
- The Shared Parental Pay (General) Regulations 2014
- The Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014
- Employment Rights Act 1996
- Child and Families Act 2014
- Equality Act 2010

13. Data Protection

In the implementation of this policy, the organisation may process personal data and/or special category personal data collected in accordance with its GDPR and data protection policy. Data collected from the point at which this policy is invoked will only inform the organisation for the benefit of implementing this policy. All data is held securely and accessed by, and disclosed to, individuals only for the purposes of this policy. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the organisation's GDPR and data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the organisation's disciplinary procedure.

14. Information for internal use

Date of most recent update:	11/05/21		
Reviewer and lead on policy:	Kath Dalmeny, Quoc-anh Tran, Merav Shub, working with CBR Solutions		
Considered by management team:	Yes	Done (date):	01/05/21
Approved by (usually Chief Executive):	Kath Dalmeny	Done (date):	11/05/21
Sustain Council of Trustees approval required?	Yes, to be conducted via email		
At which Council meeting?	May 2021	Done (date):	05/05/21
Is this policy in the list of 'required' policies?	Yes		
For <u>required</u> policies only, updates include (describe the changes in brief list format; keep and add older date to the list of previous updates): <i>Note: For <u>discretionary</u> policies, these updates will be recorded in Sustain Council meeting</i>	Policy published as part of HR Healthcheck 2021, adapted from CBR Solutions template		

<i>minutes.</i>	
Next review date (minimum period – usually three years – or if prompted by legislative change; or in the interim at the discretion of Sustain/trustees):	May 2024
Filed in Sustain drive (drive and folder names):	Line managers drive / HR policies
Publish privately on intranet? (include the final part of the file location – page name not full URL):	www.sustainweb.org/intranet/parental-policies
Publish publicly on Sustain website? (include location – full URL):	No
Policy adapted from template provided by CBR Solutions: www.cbrsolutions.org.uk	