

FAQ

Shared Parental Leave



Who is eligible for shared parental leave?



Working parents who share the main responsibility for caring for their child are eligible for shared parental leave system.

Only employees are entitled to shared parental leave.

Agency workers, self-employed parents, or parents who are not employed, are not entitled to shared parental leave.



Do both parents always qualify for shared parental leave?



Sometimes both parents will qualify for shared parental leave. Sometimes only one parent will qualify.

Where both the mother and the child's father/mother's partner are both employed and both qualify for shared parental leave, then they must agree between them how many weeks of leave each of them will take and each must notify their employer of the number of weeks that they have decided each employee will take.



What are the eligibility requirements that the parents have to meet to qualify for shared parental leave?



To qualify for shared parental leave an employee must satisfy a number of conditions:

Maternity Entitlements: The mother of the child must be entitled to maternity leave or (if she is not entitled to maternity leave) to statutory maternity pay or maternity allowance. In addition, she must have curtailed her entitlement to maternity leave before she has taken her full entitlement.

Care of the child: The mother must be sharing the main responsibility for the care of the child with the child's father or the mother's partner.

The qualification test for the employee – Continuity of employment test: The employee must meet a continuity of employment test, which is as follows: the employee must have been continuously employed by the same employer for 26 weeks at the end of the 15th week before the expected week of childbirth and remain employed by that employer at the start of the week in which shared parental leave is to be taken.

The continuity of employment test is similar to the test for statutory maternity pay and statutory paternity pay. So an employee who is entitled to statutory maternity pay or statutory paternity pay is likely to meet the continuity of employment test for shared parental leave.

The qualification for the other parent – Employment and earnings test: The other parent – who must be the partner of an employee (the mother's partner or the child's father - even if the father is not in a relationship with the mother) must satisfy an employment and earnings test and must make a declaration that they meet this test. The employment and earnings test requires that in the 66 weeks leading up to the week in which the child was due, they have worked in Great Britain for at least 26 weeks and in 13 weeks in that 66 week period they have earned an average of £30 a week and have paid either class 1 or class 2 national insurance contributions in those weeks (or hold an exemption certificate for those weeks).

The employment and earnings in the period could have been as an employee, a worker or agency worker, or on a self-employed basis.



Who is eligible for statutory shared parental pay?



Only a mother who qualified for statutory maternity pay will be entitled to shared parental pay.

Where a mother qualified for statutory maternity pay or maternity allowance, her partner would be entitled to shared parental pay if he (or she) qualified for statutory paternity pay.

Only an adopter who qualified for statutory adoption pay, or their partner (if he or she qualified for statutory paternity pay), would usually be entitled to shared parental pay.

An employee who does not meet the qualifying conditions for statutory maternity pay or statutory adoption pay or statutory paternity pay will not meet the qualifying conditions for shared parental pay.

An agency worker who is not entitled to maternity leave or shared parental leave would be entitled to shared parental pay if she was entitled to statutory maternity pay.

The partner of an agency worker would usually qualify for shared parental pay if he or she qualified for statutory paternity pay and the mother of the child qualified for statutory maternity or adoption pay or maternity allowance.

A self-employed person, or a person who is not working, will not be eligible for shared parental pay.



What are the qualifying requirements for statutory shared parental pay?



Shared parental pay is only available if the mother was entitled to statutory maternity pay (SMP) or maternity allowance (MA). If a mother does not qualify for SMP or MA, then the parents may qualify for shared parental leave, but they cannot qualify for statutory shared parental pay.

A mother is entitled to 39 weeks of SMP or MA. She has to reduce the number of weeks she is paid SMP or MA for any statutory shared parental pay to be created.

An employee will only qualify for shared parental pay if he or she qualifies for shared parental leave. In addition to meeting the qualification requirements for shared parental leave, an employee must have earnings not less than the Lower Earnings Limit (£111 a week in 2014-15) in the relevant period. The 'relevant period' is usually the 8 weeks leading up to the end of the 15th week/beginning of the 14th week before the week in which the child is due to be born (or leading up to the matching date in the case of an adoption).

As the relevant qualifying criteria is identical to that required for SMP and statutory paternity pay, an employee will only qualify for statutory shared parental pay if he or she qualified for SMP or statutory paternity pay. A mother who qualified for MA will not qualify for shared parental pay, but her employed (or agency worker) partner might.

An agency worker will not qualify for shared parental leave (as they would not qualify for maternity or adoption or paternity leave) but he or she may be entitled to shared parental pay if he or she was entitled to SMP, statutory adoption pay or statutory paternity pay.



How will my employee know if he or she meets the 'continuity of employment test' and if their partner meets the 'employment and earnings test' for shared parental leave?



Your employee will probably know if he or she meets the continuity of employment test, if they know when they were first employed by you. You will also know if your employee meets the test from their employment records.

Since the continuity of employment test for statutory maternity pay or paternity pay is similar to the test for shared parental leave, an employee who was eligible for statutory maternity pay or paternity pay will know they meet the continuity of employment test for shared parental leave.

Your employee will need to ask their partner/the child's father if he or she meets the employment and earnings test. The partner will know from their payslips (if they are employed) or their National Insurance Contributions (if they are self-employed) when they worked and what they earned.



What if both parents are employees?



If both the mother and the child's father/mother's partner meet the eligibility criteria, then both are entitled to shared parental leave and they need to decide how they will share the available leave between them.

If the mother brings forward the date on which her maternity leave period ends, the untaken maternity leave would be available for both the mother and the child's father/her partner to share as shared parental leave. They may take the leave concurrently and both take time off work together if they wish.



Will an employee who receives maternity allowance be eligible for shared parental leave and/or pay?



An employee who is entitled to maternity leave and maternity allowance may qualify for shared parental leave, but she will not be entitled to shared parental pay. A mother who did not meet the qualifying requirements for statutory maternity pay cannot meet the qualifying requirements for shared parental pay. However, her employed partner/the child's father may be entitled to shared parental leave and shared parental pay if the mother curtails her maternity leave and maternity allowance (and her partner satisfied the qualifying conditions for shared parental leave and shared parental pay). The partner/father would be able to take the balance of her maternity leave as shared parental leave and the balance of her maternity allowance as shared parental pay.



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