

Statutory maternity, paternity, adoption and parental leave guidance

1. Introduction

This appendix sets out the minimum statutory entitlements. The co-operative, at its discretion, may choose to offer additional entitlements to its employees.

2. Maternity Provisions

The Maternity provisions offered by the co-operative will be in accordance with the statutory requirements, which may change from time to time. Any employee who is pregnant is advised to contact the person or department in the co-operative responsible for its human resources function, or the nominated member of the co-operative's governing body to clarify the provisions applicable to their pregnancy.

Key provisions

- All pregnant employees have the right to:
 - 52 weeks maternity leave, which is comprised of 26 weeks of ordinary maternity leave as well as 26 weeks of additional maternity leave;
 - Paid reasonable time off for antenatal care made on the advice of a registered medical practitioner, which may include relaxation classes and parent-craft classes. Except for the first appointment, employees should show the employer, if requested, an appointment card or other documents showing that an appointment has been made.
 - Return to their original job or, if this is not possible, to a suitable alternative. If a redundancy situation arises, and the employee is selected for redundancy, the employee must be offered a suitable alternative vacancy if one is available. If there is not suitable alternative work, they may be entitled to redundancy pay.

a. Maternity Leave

To qualify for maternity leave, a pregnant employee must tell the co-operative by the end of the 15th week before the expected week of childbirth:

- That she is pregnant;
- The expected week of childbirth,
- The date she intends to start maternity leave. This can normally be any date which is no earlier than the beginning of the 11th week before the expected week of childbirth up to the birth. Once notification has been given to the co-operative, it must then write to the employee, within 28 days of receiving her notification, setting out her return date.

The employee may choose when she wishes to return to work, but she must take a minimum of two weeks leave immediately after the birth of her baby (or four weeks if she works in a factory). The employee must give the co-operative eight weeks' notice if she wishes to change the return date. If the employee does not wish to return to work, she must adhere to the notice period as set out in her employment contract.

During maternity leave, the employee's terms and conditions are unaffected, save for pay and pensions. If the employee is a member of the pension fund, they should contact their pension provider for further information.

During maternity leave, the employee and the co-operative can agree to have up to 10 keeping in touch days. Keeping in touch days are not compulsory for the employee or the co-operative. If the employee attends a keeping in touch day, they will not lose their right to SMP and their maternity leave will not be brought to an end early. Attendance at a keeping in touch day does not extend an employee's maternity leave.

An employee may also have an entitlement to shared parental pay and/or leave. The rights and responsibilities of employees wanting to take statutory shared parental leave and/or pay are set out in appendix 1(a).

b. Maternity Pay

Statutory maternity pay (SMP) is payable if the employee has been employed continuously for at least 26 weeks ending with the 15th week before the expected week of childbirth and has an average weekly earnings at least equal to the lower earnings limit for National Insurance. SMP is payable for up to 39 weeks. For the first six weeks it is paid at 90% of the employee's average weekly earnings. The following 33 weeks will be paid at the SMP rate or 90% of the employee's average weekly earnings, whichever is the lower. The SMP rate is reviewed every April, for more information see - <https://www.gov.uk/employers-maternity-pay-leave/entitlement>

c. Maternity Allowance

Employees who do not qualify for Statutory Maternity Pay may be entitled to Maternity Allowance, paid by the Department of Work and Pensions, for up to 39 weeks. To qualify, they must have been employed, or self-employed, for 26 weeks out of the 66 weeks before the expected week of childbirth and must have earned at least £30 a week for 13 of those 66 weeks.

3. Paternity Provisions

The Paternity provisions offered by the co-operative will be in accordance with the statutory requirements, which may change from time to time. Any qualifying employee is advised to contact the person or department in the co-operative responsible for its human resources function, or the nominated member of the co-operative's governing body to clarify the provisions applicable to their paternity leave.

Key provisions

- Fathers, partners and civil partners of a pregnant woman are entitled to unpaid time off during working hours to accompany her to two antenatal appointments. This includes the intended parents if they're having a baby through a surrogacy arrangement. Partners of a main adopter may also take unpaid leave to attend up to two adoption appointments.
- Paternity leave is available to employees who:
 - have worked continuously for the co-operative for 26 weeks ending with the 15th week before the baby is due, or at the end of the week in which the child's adopter is notified of being matched with a child (UK adoption), or the date the child enters the UK (overseas adoption);
 - are the biological father of the child, or the mother, or main adopter's, spouse or partner (including same sex relationships); and
 - have or expect to have the responsibility for the child's upbringing.

a. Paternity Leave

Employees should tell the co-operative as soon as possible that they wish to take paternity leave, but no later than the end of the 15th week before the expected week of childbirth. They should state when the baby is due, if they are going to take one or two weeks off and when they expect their paternity leave to start. Those who are eligible can choose to take either one week or two consecutive weeks' paid paternity leave (not odd days).

The employee cannot take paternity leave before the birth of the child, but it must be taken within 56 days of the birth, or if the child is born early, within 56 days of the expected week of childbirth. On adoption of a child the period of paternity leave can start on the date of the placement, an agreed number of days after the date of the placement, on the date the child arrives in the UK or an agreed number of days after (for overseas adoption). For surrogate parents, paternity leave must start on the day the baby is born or the day after.

An employee may also have an entitlement to shared parental pay and/or leave. The rights and responsibilities of employees wanting to take statutory shared parental leave and/or pay are set out in appendix 1(a).

b. Paternity pay

Employees may be entitled to statutory paternity pay, subject to their average weekly earnings and length of service. The co-operative should advise the employee of the rate payable to them prior to the commencement of their paternity leave. For more information on the rates of statutory paternity pay see - <https://www.gov.uk/employers-paternity-pay-leave/entitlement>

4. Adoption Provisions

The Adoption provisions offered by the co-operative will be in accordance with the statutory requirements, which may change from time to time. Any qualifying employee is advised to contact the person or department in the co-operative responsible for its human resources function, or the nominated member of the co-operative's governing body to clarify the provisions applicable to their situation. The adoption provisions outlined in this appendix are applicable only to those who are newly matched with a child. For example, they do not apply when step-parent is adopting a partner's children.

Key provisions

- Adoption leave is available to employees who have worked continuously for the co-operative for 26 weeks ending in the week in which they receive official notification of a placement.
- Employees are entitled to return to their original job after 26 weeks adoption leave or the same job, or where this is not possible, a suitable alternative after 52 weeks adoption leave.
- If a couple jointly adopt a child, one may take adoption leave and the other parent may be able to take paternity leave. The parents may also be eligible for shared parental leave. The rights and responsibilities of employees wanting to take statutory shared parental leave and/or pay are set out in appendix 1(a).

a. Adoption Leave

Eligible employees are entitled to take up to 52 weeks of adoption leave, which is comprised of 26 weeks of ordinary adoption leave as well as 26 weeks of additional adoption leave. Adoption leave may be taken when a child starts living with the employee or up to 14 days before the placement date (UK adoptions), or when an employee has been matched with a

child by a UK adoption agency, or when the child arrives in the UK or within 28 days of doing so (overseas adoption).

Eligible employees expecting a child through surrogacy arrangements may also take adoption leave. In these cases leave can start on the day or the day after the child is born.

Employees should tell the employer as soon as possible, and where possible, within seven days, of being told that they have been matched with a child and give their employer documentary proof to show that they have the right to be paid statutory adoption leave. This is usually a matching certificate from the adoption agency and the adoption agency must be recognised in the UK. If a surrogate parent wishes to take adoption leave, they must notify the employer at least 15 weeks before the baby's due date, in writing if the employer requests this.

During adoption leave, the employee and the co-operative can agree to have up to 10 keeping in touch days. Keeping in touch days are not compulsory for the employee or the co-operative. If the employee attends a keeping in touch day, they will not lose their right to SAP and their adoption leave will not be brought to an end early. Attendance at a keeping in touch day does not extend an employee's adoption leave.

b. Adoption Pay

Employees may be entitled to statutory adoption pay, subject to their average weekly earnings and length of service. The co-operative should advise the employee of the rate payable to them prior to the commencement of their paternity leave. For more information on the rates of statutory adoption pay see - <https://www.gov.uk/employers-paternity-pay-leave/entitlement>

5. Unpaid Parental Leave

Unpaid Parental Leave is for employees to take time off work to look after a child's welfare, this leave is normally unpaid and is available for each child up to their 18th birthday.

Key provisions

- Unpaid Parental leave is available to employees who have completed at least one year's service with the co-operative.
- Qualifying employees are entitled to 18 weeks unpaid parental leave for each child born or adopted.
- Unpaid parental leave can start once the child is born or placed for adoption or as soon as the employee has completed a year's service, whichever is the later.
- Qualifying employees can take unpaid parental leave at any time up to the child's 18th birthday.
- Qualifying employees cannot take more than four weeks during a year, per child. Unless the co-operative agrees otherwise or the child is disabled, unpaid parental leave should be taken in blocks of a week or multiples of a week and should not be taken as odd days off. A week is based on a qualifying employee's working pattern.
- A request for unpaid parental leave should be made to the employer, giving 21 days' notice of the start date. The co-operative may ask for this notice to be in writing.
- As long as the employee qualifies for unpaid parental leave and gives the employer the correct notice, the employee should be able to take unpaid parental leave at any time.
- An employee will remain employed while on unpaid parental leave and some terms of the contract, such as contractual notice and redundancy terms, still apply.

Statutory shared parental leave guidance

1. Introduction

This appendix sets out the minimum statutory entitlements. The co-operative, at its discretion, may choose to offer additional entitlements to its employees.

2. Shared Parental Leave Provisions

Shared parental leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how best to care for, and bond with, their child. Any eligible employee is advised to contact the person or department in the co-operative responsible for its human resources function, or the nominated member of the co-operative's governing body to clarify the provisions applicable to their situation.

Key provisions

- Statutory shared parental leave (SPL) may only be taken by eligible employees – the mother/main adopter and either the father of the child (in the case of birth) or the spouse, civil partner or partner of the child's mother/main adopter.
- Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.
- An eligible employee entitled or intending to take SPL must give their line manager notification of their entitlement or intention to take SPL, in the prescribed form (a model SPL notification can be downloaded from - <http://www.acas.org.uk/sharedparentalleave>), at least eight weeks before they can take any period of SPL.
- The co-operative, may, within 14 days of the SPL entitlement notice being given request further evidence of eligibility which the employee must produce within 14 days of the co-operative's request. The Co-operative can, where there is a suspicion that fraudulent information may have been provided or where the Co-operative has been informed by HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual disciplinary investigation procedure.
- An eligible employee may be entitled to Statutory Shared Parental Leave Pay (ShPP). The level of ShPP is set by the government each year; current levels can be viewed here: <https://www.gov.uk/shared-parental-leave-and-pay/what-youll-get>
- An eligible employee must give a booking notice that they intend to take SPL/ShPP at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP, which can be submitted at the same time as submitting the entitlement notice. (a model SPL booking notice can be downloaded from - <http://www.acas.org.uk/sharedparentalleave>),
- An eligible employee has the right to submit three notifications specifying the leave periods they are intending to take – (a) a single period of weeks or leave, or (b) two or more weeks of discontinuous leave, where the eligible employee intends to return to work between periods of leave. SPL may only be taken in complete weeks.

a. Eligibility

Eligible employees seeking to take SPL must satisfy each of the following criteria:

- The mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
- The eligible employee must still be working for the co-operative at the start of each period of SPL;
- The eligible employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date;
- The eligible employee's partner must meet the 'employment and earnings test' requiring them, in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and have earned at least £390 in total in 13 of the 66 weeks (add up the highest paying weeks, they don't need to be in a row). This criteria is subject to change annually. For more information see: <https://www.gov.uk/shared-parental-leave-and-pay/eligibility>
- The eligible employee must correctly notify the co-operative of their entitlement and provide evidence as required.

b. Shared Parental Leave

Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in the family. The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.

A mother/adopter must take a minimum of 2 weeks leave following the birth/adoption of their child (4 weeks if they work in a factory and give birth to a baby). After this they may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

If the mother/adopter is not entitled to maternity/adoption leave but is entitled to SMP, SAP or MA, they must reduce their entitlement to less than 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

SPL will usually commence on the eligible employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice and can be taken as follows:

- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child.
- The adopter can take SPL after taking at least two weeks of adoption leave
- The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or shared parental pay (ShPP)).

Where a mother/adopter gives notice to curtail their maternity/adoption entitlement, then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.

SPL must end not later than one year after the birth/placement of the child. Any SPL not taken by the first birthday, or first anniversary of the placement of adoption, is lost.

i. **Terms and conditions during Shared Parental Leave**

During the period of SPL, the eligible employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a company car, laptop, mobile phone and gym membership) will continue and contractual annual leave entitlement will continue to accrue.

Pension contributions will continue to be made during any period when the eligible employee is receiving ShPP but not during any period of unpaid SPL. Eligible employee contributions will be based on actual pay, while the co-operative's contributions will be based on the salary that the eligible employee would have received had they not been taking SPL.

ii. **Variations to arranged shared parental leave**

The eligible employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the Co-operative in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Any variation or cancellation notification made by the eligible employee, including notice to return to work early, will usually count as a new notification reducing the eligible employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the co-operative requesting it be changed, and the eligible employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the co-operative.

iii. **Annual Leave**

SPL is granted in addition to an eligible employee's normal annual holiday entitlement. Eligible employees are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the eligible employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the eligible employee's holiday year.

iv. **Contact during Shared Parental Leave**

Before an eligible employee's SPL begins, the co-operative will discuss the arrangements for them to keep in touch during their leave. The co-operative reserves the right in any event to maintain reasonable contact with the eligible employee from time to time during their SPL. This may be to discuss the eligible employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

v. **Shared Parental Leave in Touch days (SPLIT days)**

An eligible employee can agree to work for the co-operative (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave In Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

The co-operative has no right to require the eligible employee to carry out any work, and is under no obligation to offer the eligible employee any work, during the employee's SPL.

Any work undertaken is a matter for agreement between the co-operative and the eligible employee. Any SPLIT days worked do not extend the period of SPL. An eligible employee, with the agreement of the co-operative, may use SPLIT days to work part of a week during SPL. The co-operative and the eligible employee may use SPLIT days to effect a gradual return to work by the eligible employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

vi. **Returning to work after Shared Parental Leave**

The eligible employee will have been formally advised in writing by the co-operative of the end-date of any period of SPL. The eligible employee is expected to return on the next working day after this date, unless they notify the co-operative otherwise. If they are unable to attend work due to sickness or injury, the co-operative's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the eligible employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the co-operative at least eight weeks' notice of their date of early return. This will count as one of the eligible employee's notifications. If they have already used their three notifications to book and/or vary leave then the co-operative does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

On returning to work after SPL, the eligible employee is entitled to return to the same job if the eligible employee's aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity/adoption leave and SPL amounts to 27 weeks or more in aggregate, the eligible employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

If the eligible employee also takes a period of unpaid parental leave of 4 weeks or less this will have no effect on the eligible employee's right to return and the eligible employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.

If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the eligible employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

vii. **Special Circumstances and further information**

In certain situations an eligible employee's rights and requirements regarding SPL and ShPP may change. In these circumstances the co-operative will abide by any statutory obligations and an eligible employee should clarify any issues with the person or

department in the co-operative responsible for its human resources function, or the nominated member of the co-operative's governing body.

c. Shared Parental Pay (ShPP)

Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL (that is, 39 weeks less any weeks of statutory maternity pay or adoption pay claimed by the mother or the other parent). The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period. ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of 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 are not less than the lower earnings limit in force for national insurance contributions;
- the employee must remain in continuous employment until the first week of ShPP has begun;
- the employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.

In addition to what must be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for ShPP must include:

- the start and end dates of any maternity/adoption pay or maternity allowance;
- the total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
- a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the co-operative should they cease to be eligible.

It must be accompanied by a signed declaration from the employee's partner confirming:

- their agreement to the employee claiming ShPP and for the co-operative to process any ShPP payments to the employee;
- (in the case whether the partner is the mother/adopter) that they have reduced their maternity/adoption pay or maternity allowance;
- (in the case whether the partner is the mother/adopter) that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

Any ShPP due will be paid at a rate set by the Government for the relevant tax year.

While every effort has been made to compile the information in this document from the most authoritative and up-to-date sources, Co-operatives UK can accept no liability for any loss made as a result of any error or omission. If you are in any doubt as to the currency of this document, please contact advice@uk.coop

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