

# Checking eligibility for Shared Parental Leave

To get Shared Parental Leave (SPL), there must be 2 parents sharing responsibility for a child.

For either parent to get SPL, the birth parent or primary adopter must do one of the following:

- end their maternity or adoption leave and return to work
- give their employer notice to end ('curtail') their maternity or adoption leave early

The birth parent must still take at least 2 weeks' maternity leave (4 weeks if they work in a factory), by law.

The parent who is to take SPL must:

- be sharing responsibility with the other parent from the day of the child's birth or adoption placement
- be [legally classed as an employee](#)
- pass the 'continuity of employment test' and their partner must pass the 'employment and earnings test'

They then have to give their employer [notice of SPL entitlement](#).

## 2. Continuity of employment test

The parent who is to take SPL must:

- have worked for the same employer for at least 26 weeks by the end of the 15th week before their baby is due or their adoption match date
- still be working for the same employer at the start of each block of leave they take

## Employment and earnings test

Up to the expected birth date or adoption match date, the other parent must have:

- worked for at least 26 of 66 weeks
- earned an average of at least £30 a week in any 13 weeks

### Example

Sam and Ali are adopting a child and want to use SPL.

Sam has been an employee at a company for 2 years and passes the continuity of employment and employment and earnings tests.

Ali does not pass the continuity of employment test so cannot take SPL. But because Ali passes the employment and earnings test, Sam can take SPL.

If both parents are eligible, they can choose how to use SPL between them.

## Workers who are not eligible for Shared Parental Leave

Workers, including agency, contract and zero-hours workers, are not entitled to SPL but might be able to get [Shared Parental Pay](#).

## If the parent stops having responsibility for the child

If the employee taking SPL stops sharing responsibility for the child, they must tell their employer straight away.

Their entitlement to SPL or ShPP will end and their employer can require them to return to work.

If it's not practical for the employer to have the employee back at work straight away, they can still be required to be off for any SPL they had booked for up to 8 weeks.

For example, if the employer has arranged for someone else to cover the employee's work. In this case, the employee might still have to take that time off as SPL, but will not get ShPP.

## The employee's protection under the law

During SPL, the employee is still entitled to all of the terms and conditions of their employment contract. This is except for the employee's usual salary and other payments ('remuneration'), as they'll be on ShPP.

It's against the law for an employer to treat an employee unfairly because they've taken or intend to take SPL.

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