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Bwrdd Iechyd Prifysgol  
Caerdydd a'r Fro  
Cardiff and Vale  
University Health Board

**Reference Number: UHB257**

**Version Number: 1**

**Date of Next Review: 08/04/2018**

**Previous Trust/LHB Reference Number:  
N/A**

## SHARED PARENTAL LEAVE PROCEDURE

### Introduction and Aim

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 to best care for, and bond with, their child. All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. This procedure sets out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave and statutory Shared Parental Pay

The rules covering Shared Parental Leave and Pay are fairly complex; this procedure ensures that employees of Cardiff and Vale University Health Board (the UHB) are informed of their entitlements and provides a straightforward summary of the actions they and their managers need to take.

### Objectives

- To provide comprehensive information to employees on their entitlements with regards to Shared Parental Leave and Pay
- To provide the fair, consistent and effective application of Shared Parental Leave provisions

### Scope

This procedure applies to all staff whether they are the mother or the partner.

Both parents must ensure that they are each liaising with their own employer to ensure that requests for Shared Parental Leave are handled as smoothly as possible.

### Equality Impact Assessment

An Equality Impact Assessment has not been completed, because this procedure has been written to support the implementation of the Maternity, Adoption, Paternity and Shared Parental Leave Policy. The [Equality Impact Assessment](#) completed for the policy found there to be a positive impact.

### Documents to read alongside this Procedure

[Maternity, Adoption, Paternity and Shared Parental Leave Policy](#)  
[Maternity Leave and Pay Procedure](#)  
[Adoption Leave and Pay Procedure](#)  
[Paternity Leave and Pay Procedure](#)  
[Flexible Working Policy](#)  
[Risk Assessment for New and Expectant Mothers Procedure.](#)  
[Guidelines for Combining Returning to Work and Breastfeeding](#)

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<b>Approved by</b>	Employment Policy Sub Group
<b>Groups Consulted</b>	Clinical Boards, Executive Directors, Workforce and OD, Staff Representatives, WOD departments in other Health Boards
<b>Outcome of Consultation</b>	No substantial changes
<b>Accountable Executive or Clinical Board Director</b>	Executive Director of Workforce and OD (while on secondment responsibility lies with the Chief Operating Officer)
<b>Author(s)</b>	Senior HR Policy and Compliance Officer/HR Officer/RCN

**Disclaimer**

If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or the [Governance Directorate](#).

<b>Summary of reviews/amendments</b>			
<b>Version Number</b>	<b>Date of Review Approved</b>	<b>Date Published</b>	<b>Summary of Amendments</b>
1	8 April 2015	14 April 2015	New procedure developed following changes in legislation

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## 1 RESPONSIBILITIES

### 1.1 Employee

- To inform their manager as soon as they know they are interested in taking Shared Parental Leave
- To access this procedure on the intranet, from their manager or from the HR Advisory Team and seek additional advice if necessary
- To ensure that the appropriate notice is given and necessary information is provided by completing, in full, appropriate forms
- To inform their manager of their intentions regarding returning to work

### 1.2 Manager

- To ensure the employee has a copy of this procedure and seeks additional advice from the HR Advisory Team if necessary
- To ensure that the employee is aware of her rights and obligations under this procedure
- To ensure that the appropriate paperwork is forwarded to the HR Advisory Team
- To keep the employee who is on shared parental leave informed about developments in the UHB and the department
- Inform Payroll when the employee goes on and returns from shared parental leave

### 1.3 HR Advisory Team

- To advise the employee of their rights and obligations
- To administer the shared parental leave provisions in conjunction with payroll

### 1.5 Payroll

- To ensure that payments are made in line with statutory regulations
- To ensure that the appropriate paperwork has been received
- To ensure that payments are made in line with normal salary crediting
- To ensure that the employee's membership to the NHS Pension Scheme is protected during paid and unpaid shared parental leave

## 2 ELIGIBILITY TO SHARED PARENTAL LEAVE

### 2.1 Shared Parental Leave can only be used by two people:

- The mother/adopter **and**
- One of the following:
  - the father of the child (in the case of birth)or
  - the spouse, civil partner or partner of the child's mother/ adopter.

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Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.

Additionally an employee seeking to take Shared Parental Leave must satisfy each of the following criteria:

- the employee must pass the 'continuity test' - this means that they have 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 employee's partner must meet the 'employment and earnings test' – this means that in the 66 weeks leading up to the child's expected due date/matching date they must have worked for at least 26 weeks and earned an average of at least £30 (this is correct as of 2015 but may change annually) a week in any 13 of those weeks;
- the employee must still be working for the UHB at the start of each period of Shared Parental Leave ;
- the mother/adopter of the child must be entitled to statutory maternity/adoption leave or pay and must have ended or given notice to reduce any maternity/adoption entitlements;
- the employee must correctly notify the UHB of their entitlement and provide evidence as required.

- 2.2** Eligible employees may be entitled to take up to 50 weeks Shared Parental Leave during the child's first year in their family (after the statutory minimum period of 2 weeks maternity/adoption leave).

The number of weeks available depends on when the mother/adopter brings their maternity/adoption leave to an end. They are entitled to a maximum of 52 weeks maternity or adoption leave, but can choose to end this early and take any remaining weeks as Shared Parental Leave.

The mother/adopter does not necessarily have to have ended their maternity/adoption leave for their partner to take Shared Parental Leave, as long as they have given notice to curtail their leave at a specified future date and the total amount of leave taken by both parents does not exceed 52 weeks.

Shared Parental Leave must end no later than one year after the birth/placement of the child. Any Shared Parental Leave not taken by the first birthday or first anniversary of placement for adoption is lost.

(N.B. the partner may also be entitled to two weeks paternity leave (to be taken in the first eight weeks) and they are encouraged to use this before taking shared parental leave. If they do not do so they will lose any untaken paternity leave entitlement)

### **3 NOTICE REQUIREMENTS FOR SHARED PARENTAL LEAVE**

The notices that the parents must give to their employer to be able to take Shared Parental Leave are made up of three elements. They are:

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- a "curtailment notice" from the mother /adopter setting out when they propose to end their maternity /adoption leave (unless they have already returned to work from maternity or adoption leave);
- a "notice of entitlement and intention" from the employee giving an initial, non-binding indication of each period of Shared Parental Leave that they are requesting; and
- a "period of leave notice" from the employee setting out the start and end dates of each period of Shared Parental Leave that they are requesting.

The notice periods set out below are the minimum required by law. However, the earlier the employee informs the UHB organisation of their intentions, the more likely it is that the UHB will be able to accommodate them, particularly if the employee wants to take periods of discontinuous leave.

If an employee has already decided the pattern of Shared Parental Leave that they would like to take, they can provide more than one type of notice at the same time. For example, the mother /adopter could provide a curtailment notice, notice of entitlement and intention and period of leave notice at the same time. Similarly, the partner could provide their notice of entitlement and intention and period of leave notice at the same time.

Shared Parental Leave can start on any day, however, it can only be taken in blocks of 'weeks'. It can be taken by the partner whilst the mother/adopter is still on maternity/adoption leave as long as the mother/adopter has submitted their curtailment notice to indicate that she will end her maternity/adoption leave early.

### 3.1 Maternity / Adoption Curtailment Notice

Before either parent can take Shared Parental Leave, the mother /adopter must give notice of their intention to end their maternity / adoption leave by completing, in full, the [Maternity/Adoption Curtailment Notice Form](#) and submitting it to their line manager.

The Curtailment Notice Form can be provided before or after the birth / adoption but must be in writing and state the date on which maternity/adoption leave is to end. That date must be:

- after the two week compulsory maternity leave period, or after the adopter has taken two weeks adoption leave
- at least eight weeks after the date on which the mother gave the maternity leave curtailment notice to her employer; and
- at least one week before what would be the end of the maternity / adoption leave period.

Once the mother / adopter has given notice to end their maternity or adoption leave this is binding and cannot be withdrawn unless:

- it is discovered that neither the mother nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother withdraws her maternity leave curtailment notice within eight weeks of the date on

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- which the notice was given;
- the maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth; or
- the partner has died.

### 3.2 Notice of Entitlement and Intention

Employees who are entitled and intend to take Shared Parental Leave must give their line manager written notice of this at least eight weeks before they can take any period of Shared Parental Leave. This can be done at the same time as the curtailment notice, or separately, as long as the required 8 weeks notice is given.

Part of the eligibility criteria requires the employee to provide the UHB with specific, correct notification. In order to ensure that the correct notification is given it is essential that the employee completes, in full, Part 1 of the [Shared Parental Leave Application Form](#). Failure to provide the information requested in this form may affect their eligibility for Shared Parental Leave.

The notice of entitlement to take Shared Parental Leave must include:

- how many weeks maternity/adoption leave has/will be taken
- how much leave both parents are entitled to take
- how much leave each parent intends to take
- when they expect to take their leave
- the signatures of both parents

A full list of what must be included in the employee's notice of entitlement and intention can be found in [Appendix 1](#).

The UHB may ask for a copy of the birth certificate or evidence of when they were matched with the child, and the name and business address of the partner's employer within 14 days of the Shared Parental Leave entitlement notification being given. In order to be entitled to Shared Parental Leave, the employee must produce this additional information within 14 days of the request.

If either parent wishes to claim Shared Parental Pay then the mother/adopter must also give notice to reduce or end their maternity / adoption pay entitlement. The notice to claim Shared Parental Pay is included in Part 2 of the [Shared Parental Leave Application Form](#).

The details provided in the Notice of Entitlement and Intention are not binding and can be varied (or cancelled) until a Period of Leave Notice in relation to that period of leave is submitted (see below). However, to change the allocation of leave between them, both parents must notify their employer in writing of the following:

- Details of their original division of leave
- Advising of the fact they are changing it
- Advising how they now intend to take the available Shared Parental Leave

Both parents must sign the notice to confirm that they are in agreement with the variation.

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### 3.3 Period of Leave Notice

Leave can be booked at the same time as, or following, the employee notifying their manager of their entitlement to Shared Parental Leave. A notice to book Shared Parental Leave must be submitted at least 8 weeks before any period of leave would begin. To do this, employees should complete Part 3 of the [Shared Parental Leave Application Form](#) and submit it to their manager.

Employees can submit up to three Period of Leave Notices, and each of these can be a request for a continuous or discontinuous period of leave.

If the child has not yet been born then a booking can specify that it will commence after a period of time following the birth (e.g. 'two weeks after the child's birth')

Situations will arise where an employee may need to vary or cancel a period of booked leave. An employee should give written notice to vary/cancel the leave and make clear what change they are seeking. Any variation must be made at least 8 weeks before the varied dates begin. To do this the employee should complete the [Variation of Period of Leave Form](#).

A notice to vary booked Shared Parental Leave will count as a further notification. Therefore if the employee had originally agreed the leave as part of their first notice to book Shared Parental Leave, cancelling or varying the leave would count as a second notification, meaning that they would only have one more notification to use any remaining leave. Both parents are therefore advised to ensure that they have detailed discussions about their wishes with their line manager before submitting the Period of Leave Notice.

If the employee has already used up all of their notifications the employer is under no obligation to agree to vary/cancel the leave but could still consider the request and decide whether it is reasonably practicable to grant it.

Instances where the employer proposes a variation to leave, and the employee is agreeable, would not count as a further notification and this should be confirmed in writing. Changes as a result of a child being born early will not count as further notification.

Any variation will be confirmed in writing by the organisation.

## 4 RESPONDING TO A SHARED PARENTAL LEAVE NOTIFICATION

Once the line manager receives the leave booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th day after the leave request was made.

All notices for continuous leave will be confirmed in writing.



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All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the employee and to the organisation against any adverse impact to the business.

Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of Shared Parental Leave.

The employee will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th day after the leave notification was made. The request may be granted in full or in part: for example, the organisation may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

## **5 SHARED PARENTAL PAY**

Eligible employees may be entitled to take up to 37 weeks Shared Parental Pay while taking Shared Parental Leave. 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.

Shared Parental Pay may be payable during some or all of Shared Parental Leave, depending on the length and timing of the leave.

It is up to the parents as to who is paid the statutory shared parental pay and how it is apportioned between them.

There is no entitlement to occupational maternity or adoption pay while on shared parental leave.

### **5.1 Eligibility for statutory shared parental pay**

In addition to meeting the eligibility requirements for Shared Parental Leave, an employee seeking to claim Shared Parental Pay must satisfy each of the following criteria:

- the mother/adopter must be entitled to statutory maternity or adoption pay (or allowance) and must have reduced their maternity/adoption pay period or maternity allowance period;

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- the employee must intend to care for the child during the week in which Shared Parental Pay is payable;
- the employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15<sup>th</sup> week before the child's expected due date/matching date which 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 Shared Parental Pay has begun;
- the employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive Shared Parental Pay they must, at least eight weeks before receiving any Shared Parental Pay, give their line manager written notice advising of their entitlement to Shared Parental Pay. To avoid duplication, this should be provided by completing Part 2 of the [Shared Parental Leave Application Form](#).

Details of the information to be provided in a notice advising of an entitlement for Shared Parental Pay are provided in [Appendix 2](#).

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

## **6 TERMS AND CONDITIONS DURING SHARED PARENTAL LEAVE**

### **6.1 Contractual rights**

During Shared Parental Leave (both paid and unpaid) employees retain all of their contractual rights except remuneration.

Taking a period of Shared Parental Leave will not affect the employee's incremental date, pay awards or continuous service.

### **6.2 Annual Leave**

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

### **6.3 NHS Pension Scheme**

All periods of Shared Parental Leave will be counted as continuous service for the purpose of the NHS Pension Scheme.

Contributions will be deducted as usual while an employee is on paid leave.

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Contributions due for the unpaid section of an employee's Shared Parental Leave will be accumulated and recovered over the same number of periods as the unpaid leave on the employee's return to work. If an employee prefers to pay their contributions during their unpaid leave they should contact the payroll department to discuss this.

#### **6.4 Returning to work after Shared Parental Leave**

The employee will have been formally advised in writing of the end date of any period of Shared Parental Leave. The employee is expected to return on the next working day after this date, unless they notify their manager otherwise. If they are unable to attend work due to sickness or injury, the UHB'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 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 their manager at least eight weeks notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the UHB does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

Employees are entitled to return to work to their original job under their original contract and on no less favourable terms and conditions. If this is not reasonably practicable they will be found suitable alternative employment, where the terms and conditions are not substantially less favourable than their original job.

### **7 CONTACT DURING SHARED PARENTAL LEAVE**

**7.1** Before going on Shared Parental Leave, the line manager and employee should discuss and agree any voluntary arrangements for keeping in touch during the Shared Parental Leave period, including:

- any voluntary arrangements that may help the employee keep in touch with developments at work and, nearer the time of their return, to help facilitate their return to work
- keeping the manager in touch with any developments that may affect the intended date of return.

#### **7.2 Shared Parental Leave in Touch (SPLIT) days**

An employee can agree to work for the organisation (or attend training) for up to 20 days during Shared Parental Leave without bringing their period of Shared Parental Leave to an end or impacting on their right to claim Shared Parental Pay for that week. These are known as "Shared Parental Leave In Touch" or "SPLIT" days and are in addition to the entitlement to 10 KIT (Keeping in Touch) Days during maternity/adoption leave. Any work carried out on a day or part of a day shall constitute a day's work for these purposes. The 20 SPLIT days do not have to be

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shared between the parents.

The UHB has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's Shared Parental Leave. Any work undertaken is a matter for agreement between the line manager and the employee. If a SPLIT day is worked the employee's Shared Parental Pay will be made up to full pay for those hours worked. If the employee is on unpaid Shared Parental Leave they will be paid at the normal hourly rate. If a SPLIT day occurs during a week when the employee is receiving Shared Parental Pay, this will be effectively 'topped up' so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of Shared Parental Leave.

An employee, with the agreement of the line manager, may use SPLIT days to work part of a week during Shared Parental Leave. The line manager and the employee may use SPLIT days to effect a gradual return to work by the employee towards the end of a long period of Shared Parental Leave or to trial a possible flexible working pattern.

## **8 FRAUDULENT CLAIMS FOR SHARED PARENTAL LEAVE AND PAY**

The UHB can, where there is a suspicion that fraudulent information may have been provided or where the organisation has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual 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.

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## Appendix 1 – Notice of entitlement and intention to take Shared Parental Leave

The employee, whether the mother or the partner, must provide the organisation with a non-binding notice of entitlement and intention. The employee's notice of entitlement and intention, which must be in writing and provided at least eight weeks before the start date of the first period of shared parental leave to be taken by the employee, must set out the following information.

To support employees with this, a standard [Shared Parental Leave Application Form](#) has been developed.

**If the employee is the mother/adopter**, the notice of entitlement and intention must set out: their name;

- the partner's name;
- the start and end dates of any statutory maternity /adoption leave taken or to be taken by the mother;
- the total amount of shared parental leave available;
- the date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption;
- how much shared parental leave the mother and partner each intend to take; and
- a non-binding indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave).

The mother's notice of entitlement and intention must include a declaration signed by her that:

- she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- the information she gives in the notice of entitlement and intention is accurate; and
- she will immediately inform the organisation if she ceases to care for the child.

In addition, the mother's notice of entitlement and intention must include a declaration signed by her partner:

- specifying the partner's name, address, and national insurance number (or declaring that the partner does not have a national insurance number);
- declaring that the partner satisfies, or will satisfy, the criteria for the employment and earnings test
- declaring that the partner is the father of the child, or is married to, the civil partner of, or the partner of, the mother;

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- declaring that the partner consents to the amount of leave that the mother intends to take; and
- declaring that the partner consents to the mother's employer processing the information in the partner's declaration.

**If the employee is the partner**, the partner's notice of entitlement and intention must set out:

- their name;
- the mother's name;
- the start and end dates of any periods of statutory maternity leave, statutory maternity pay or maternity allowance taken or to be taken by the mother;
- the total amount of shared parental leave available;
- the date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption;
- how much shared parental leave the partner and mother each intend to take; and
- a non-binding indication as to when the partner intends to take shared parental leave (including the start and end dates for each period of leave).

The partner's notice of entitlement and intention must include a declaration signed by the partner that:

- they satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- the information given by the partner in the notice of entitlement and intention is accurate; and
- they will immediately inform the organisation if they cease to care for the child or if the mother informs them that she no longer meets the requirement to have curtailed her maternity leave or pay period.

In addition, the partner's notice of entitlement and intention must include a declaration signed by the mother:

- specifying the mother's name, address, and national insurance number (or declaring that the mother does not have a national insurance number);
- declaring that the mother satisfies, or will satisfy, the conditions set out in section 2 and she will notify the partner if she no longer qualifies for maternity leave, statutory maternity pay or maternity allowance;
- declaring that the mother consents to the amount of leave that the partner intends to take;
- declaring that she will immediately inform the employee if she no longer meets the requirement to have curtailed her maternity leave or pay period; and

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- declaring that the mother consents to the partner's employer processing the information in the mother's declaration.

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## Appendix 2 – Notice of entitlement to Shared Parental Pay

In addition to what must be included in the notice of entitlement and intention to take Shared Parental Leave, any notice that advises of an entitlement for Shared Parental Pay must include:

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

To support employees with this, part two of the standard [Shared Parental Leave Application Form](#) asks for the information required to give notice of entitlement to Shared Parental Leave Pay.