

Division of labour? How SPL will impact your business

Recent changes to employment legislation mean that couples can split parental leave after the birth of a child, something that will affect every business across the UK Words **Rob Gray**

Waiting for new employment legislation to hit is a bit like expecting a baby. There's plenty of time to prepare, but when the momentous day arrives some of the demands can still prove a shock to the system. And if that sounds stressful, spare a thought for those poor souls who had no idea it was coming.

Judging from our research for this piece, ignorance is certainly the position many print bosses will find themselves in with respect to the introduction of Shared Parental Leave (SPL), a new piece of employment law designed to help fathers stay at home with their offspring for longer, if they so choose. SPL regulations came into force on 1 December 2014 and will apply to parents of babies due on or any time after 5 April 2015. And as things stand, so far the changes have escaped the notice of many in this sector.

The new law means it is more than just a good night's sleep that may be curtailed. Eligible women will be able to cut short their right to maternity leave, passing on to their partners the amount they do not take themselves. Couples will be able to share 50 weeks' leave and 37 weeks' pay. Adoptive parents have similar rights.

SPL is a completely new right for parents. The government has given families

greater flexibility when deciding who will take time off work to look after their new baby. At its heart, SPL is intended to encourage shared parenting from the early stages of pregnancy and avoid discrimination against women by blowing away the automatic assumption that they will be the ones to care for the baby.

So, what steps should employers be taking? Carole Banwell, employment solicitor at BPIF Legal, urges printers to hold informal discussions with parents- or adopters-to-be as early as possible. "That way, you may at least have a good idea as to the employee's intentions with regards to SPL in good time to work around and accommodate them to everyone's satisfaction, and thereby avoid sudden or unexpected staffing issues."

Split allocation

In essence, SPL introduces the right for parents, or other relevant persons such as partners, with at least 26 weeks' continuity of employment to choose – up to a point – how to share 52 weeks' childbirth- or adoption-related leave between them. Specifically, they have the right to split the leave into two blocks, or to take more scattered patterns, in blocks of at least a week at a time, if the employer consents.

Employers should keep on top of the issue by drawing up a specific new SPL pol-



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icy. This should set out the details of the right and outline the process for applying for SPL, including the request procedure where the couple wishes to take the leave in discontinuous blocks. The policy should also clarify whether any contractual enhanced maternity pay payable to others on maternity leave will also be extended to fathers where they take SPL.

Although a policy will provide a valuable framework, good communication is equally important in preventing problems spiralling out of control. Employers should ensure their staff are aware of SPL, company procedures for notification and open dialogue as early as possible to ensure surprises are avoided and the time available for resource planning is maximised. As



numerous good employers have discovered with the implementation of previous regulations, an open dialogue usually helps both employees and employers understand the implications for each other and reach a mutually satisfactory solution.

“We have a very good system of maternity leave working at the moment, and the majority of employees return to work at the end of that leave,” says CFH Docmail managing director Dave Broadway. “I am not expecting any major issues as a result of this legislation. We accept that currently mothers have this right, and we work with our employees to ensure that it works for them and us. I see no reason to discriminate against fathers for the same right where the parents wish to take advantage

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Dani Novick Mercury Search & Selection

of this. It may even work in our favour, as we have some very key female employees who might spend some of their maternity year back with us.”

Broadway argues that, as with the recent case on overtime being included in holiday pay – something CFH has done for a while – most legislative changes don’t have much impact on companies that already have “the right attitude” towards their employees. It is, he feels, exploitative employers that will face more problems.

But another print boss, who wished to remain anonymous, was scathing of SPL, describing it as a policy set by people who are not at the coalface and one that takes an unrealistic approach to lower margin manufacturing sectors such as print.

“Our industry is almost entirely made up of smaller companies employing highly skilled staff, where a skill shortage is emerging due to a lack of training since 2007,” he says.

“This means that temporary cover for absence is not often available. The only solution to cover hours then is to work overtime subject to European directives being met. This assumes that staff are prepared to cover absence with overtime. If not, highly expensive equipment stands idle with the resultant loss of income and probable loss of jobs.

“All very well if you are entirely service based, but manufacturers, which in part printers are, will find this legislation damaging. Unlike Germany, for instance, there are few females within the machine operating sector, something we would like to change, and so until now there has been no noticeable effect on production cost – this will change. This has been poorly thought out by those who, in my opinion, have little business experience.”

Uncertain impact

Of course, at this early stage it’s difficult to predict exactly how much of an impact SPL will have. Early indications suggest it will not be huge, however. A pointer may be provided by the 2011 introduction of Additional Paternity Leave, for which take-up was low. According to a TUC analysis published in 2013, less than 1% of eligible fathers – only one dad out of every 172 – took advantage of APL.

A key reason why demand for APL proved to be so weak was because the statutory rate of pay is relatively low and was seldom topped up by employers – in contrast to the first two weeks of Paternity Leave, which generally was topped up by employers. The low statutory rate is therefore also likely to be an obstacle for many men in the case of SPL, which is replacing APL.

While the arrival of SPL will be a welcome development for some fathers, for many financial necessity will likely be a fac-

tor dissuading them from taking a significant amount of time off on just SPL, which currently stands at £138.18 per week and is only payable for 37 of the 50 weeks’ leave.

Then there is also the question of culture and attitudes in certain parts of the print business.

“Dress it up whatever way you want and maybe pretend that it wouldn’t happen,” says George Thompson, managing director at recruitment agency Harrison Scott Associates, “but I don’t see many male minders telling their colleagues ‘I am taking six months off to look after the baby’. If you think that I am living in another age or that all who work in a male-dominated manufacturing environment are all PC, then you haven’t spoken to enough production staff to understand what they really think. There might be a higher take-up within print management companies as they are more corporate.”

Another factor is that most men think that working is a lot easier than looking after a baby. However, in couples where both are enthusiastically pursuing careers – and for either to take a full year off could be overly disruptive, affecting future prospects – splitting the entitlement evenly down the middle might be an acceptable compromise.

Although the print sector has been adversely affected, as many sectors have been by the great recession, there are still areas of the country and in particular certain job functions where full employment exists. As Thompson points out, from a recruitment perspective it can be a difficult task to fill a job for a year. Moreover, it would be “extremely challenging to say the least” to line up cover for just six months.

SPL also requires employers to fine tune their antennae to pick up on what is happening outside their own organisation. Those that do not run the risk of being blindsided by hidden dangers.

“If you employ a woman and she becomes pregnant, you have plenty of warning and understand the implications for their potential absence,” says Mercury Search & Selection director Dani Novick. “SPL raises the possibility that the pregnancy of someone who doesn’t actually work for you has implications for absence and resource management. It creates a relationship between the employer and a family rather than the employer and an individual. Currently in many organisations, employers or managers pay little attention to the pregnancy of a male employee’s wife. That will have to change.”

The message is clear. Get yourself acquainted with SPL matters. And by this I do not mean Celtic’s home form in the Scottish Premier League. 



HRtoolkit

Below is our essential cut-out-and-keep guide to dealing with the new Shared Parental Leave legislation

Need to know The ins and outs of SPL

The basics

- Parents retain their entitlement to maternity, paternity or adoption leave. Employed mothers will continue to be entitled to 52 weeks of maternity leave and 39 weeks of statutory maternity pay or maternity allowance. However, an eligible mother or adopter can choose to reduce maternity/adoption leave early and opt into SPL.
- A birth mother must take at least two weeks maternity leave following the birth of a child – four weeks for manual work in a factory environment – but can otherwise choose to end her maternity leave at any stage.
- Paid Paternity Leave of two weeks will continue to be available to fathers, and a mother's or adopter's partner. However, Additional Paternity Leave will be scrapped on 4 April in favour of SPL.
- Adopters have the same rights as other parents with respect to SPL.
- To qualify, the mother or adopter must be entitled to, and have given notice to curtail their, maternity or adoption entitlements and must share the main responsibility for caring for the child with the child's father or their partner. For a parent to be eligible for SPL they must be an employee and they must pass the continuity of employment test. In turn, the other parent in the family must meet the employment and earnings test.
- Continuity of employment test: the person must have worked for the same employer for at least 26 weeks at the end of the 15th week before the week in which the child is due (or at the week in which an adopter was notified of having been matched with a child or adoption) and is still employed in the first week that Shared Parental Leave is to be taken.
- Employment and earnings test: the person must have worked for at least 26 weeks in the 66 weeks

leading up to the due date and have earned above the maternity allowance threshold of £30 per week in 13 of the 66 weeks.

- If an employee wishes to take SPL they must provide their employer with a notice of entitlement. The notice must be given at least eight weeks before the start of a period of SPL.

Putting a policy in place

There is no legal obligation to have a SPL policy but employers would be wise to establish one to provide a framework for managers to work to, ensuring consistent and appropriate responses. Shared Parental Leave is a legal entitlement. Qualifying employees have the legal right to choose to take SPL, to determine when they take it and to not suffer any detriment for using or seeking to use SPL, so employers should make sure they get it right. A policy should include:

- A statement advising that all notices for a continuous period of

leave, from eligible employees, will be accepted and that all requests for discontinuous leave will be considered

- The amount of notifications to book/vary leave available to the employee
- How employees should inform their employer of their entitlement to SPL, who the notification should be sent to and what should be included in it
- How a notice to book leave will be handled
- The time limits for dealing with a notice to book SPL
- Shared Parental Leave in Touch days
- Contact during SPL
- The payments an employee may be entitled to while on SPL

Communication is vital

- Employers should ensure that employees are aware of SPL and company procedures for notification.
- Open dialogue as early as possible

to minimise surprises.

- The right to continuous leave is a legal entitlement which cannot be refused but employers can suggest alternative dates which may suit the business better by agreement with the employee.
- Each eligible parent can give their employer up to three separate notices booking or varying leave. Each notice can be for a block of leave, or the notice may be for a pattern of 'discontinuous' leave involving different periods of leave. If a parent asks for a continuous block of leave the employer is required to agree to it. However, where the notification is for discontinuous blocks of leave the employer can refuse and require that the total weeks of leave in the notice be taken in a single continuous block. It is therefore beneficial for the employee and employer to discuss and attempt to agree a way in which the different blocks of leave can be taken.
- Failing to respond is bad practice and default provisions will apply. It is far better for the employer to be proactive and engage with the employee to try to find mutually agreeable leave. It may not always be possible but these regulations provide for quite a bit of flexibility which with the right attitude on both sides could be good for both parents and business.
- The legislation provides for SPLIT (Shared Parental Leave in Touch) days where the employer and employee can agree up to 20 days where the employee attends work. There is no obligation on either party to agree these but they can be useful for specific meetings or training sessions. SPLIT days are also an excellent way of re-integrating an employee who has been on leave – allowing them to get back up to speed before their full time return.

