

HR NETWORK EVENT

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Shared Parental Leave and Pay

Debbi Jackson

Department for Business, Innovation and Skills (BIS)

Recap of Family Related Leave & Pay

- **Maternity Leave**
- **Statutory Maternity Pay & Maternity Allowance**
- **Paternity Leave & Pay**
- **Additional Paternity Leave & Pay** – Children who are due or adopted on or before 4 April 2015.
- **Adoption Leave & Pay** – 26 weeks service. Paid at lower of 90% of earnings or flat rate (£138.18)
- **Unpaid Parental Leave** (“EU leave”) – For parents of children aged under 5

What's the problem?

- **Women assumed to be the primary carers**
 - Pay gap decreasing but still nearly 20%
 - Partially due to the “motherhood penalty”
 - Female talent is being wasted
 - Dads and Partners prevent from being primary carer
- **Lack of flexibility for employers and employees**
 - Current maternity and paternity leave systems are rigid and inflexible

What are we aiming to achieve?

- A **greater attachment to the labour market** for working parents, particularly women
- More **choice** and **flexibility** for families
- **Greater paternal involvement** at an early stage, leading to positive social outcomes
- A **cultural revolution!**

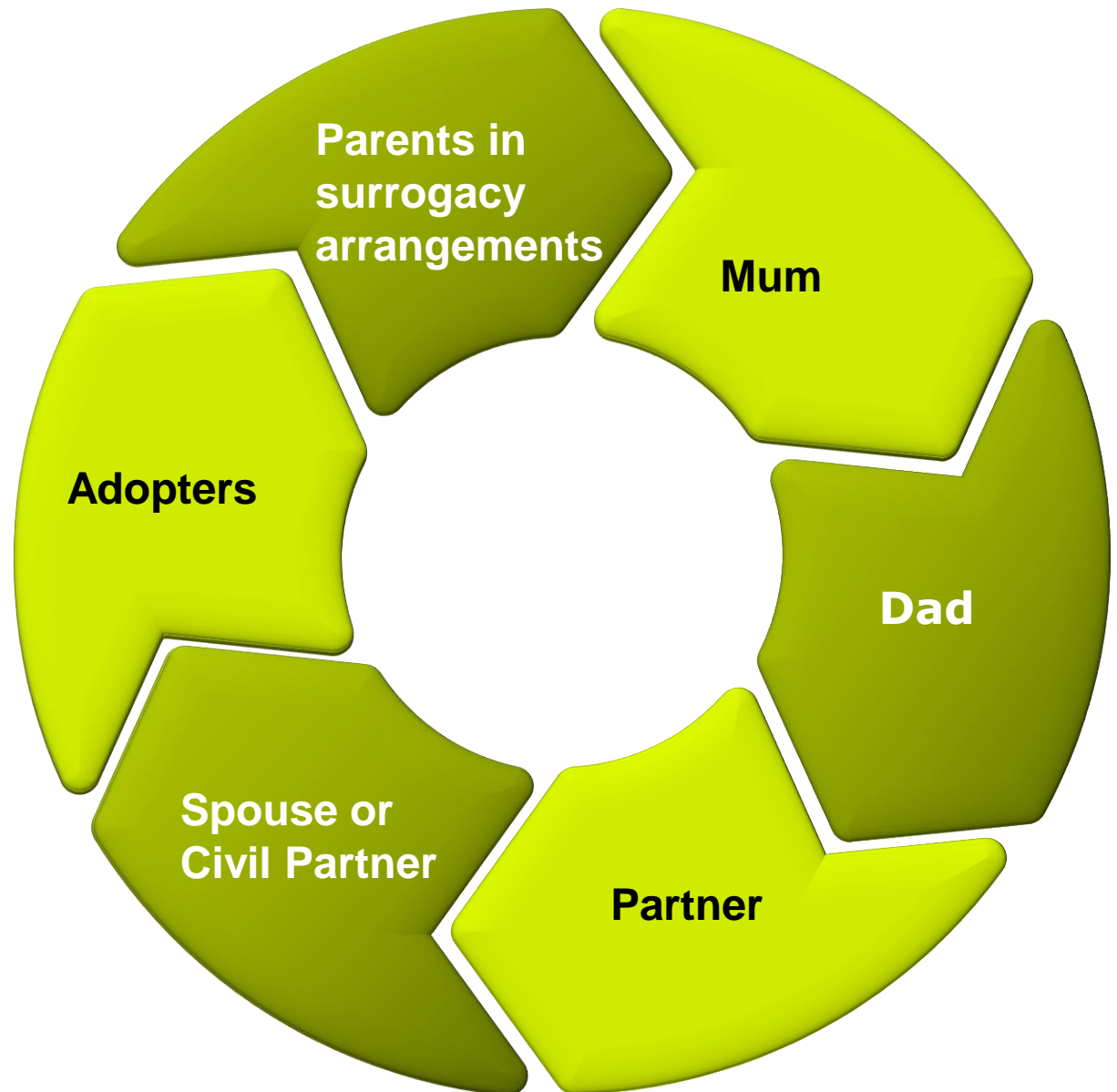
What are we doing?

- **Extension of right to request flexible working**
- **New right to unpaid time off for dads to attend up to 2 antenatal appointments**
- **Introducing shared parental leave & pay**
- **Unpaid parental leave - age of child raised to 18**

Shared Parental Leave & Pay

- For working parents whose baby is due on or after 5 April
- Created from the untaken balance of mother's maternity leave or pay/allowance
- Mothers can share up to 50 weeks of leave and up to 37 weeks of pay with the father or their partner
- Leave and pay must be taken by child's 1st birthday
- Can be stopped and started and parents can be at home together or stagger their leave

Who can share?



When is an employee eligible for SPL?

- **Mother must curtail her maternity leave** (i.e. take less than 52 weeks). Your employee must:
 - Have **the main responsibility for caring for the child** (along with the other parent) at date of child's birth
 - Meet a **“continuity of employment test”**
 - **Opt into SPL** with a “working” partner who meets an **“employment and earnings test”**
 - **Give you the correct notice** (normally 8 weeks)
 - **Provide additional information** (if you ask for this)
- If the mother is **not eligible for maternity leave** she can ‘create’ SPL for her employed partner to take by **curtailing her SMP or maternity allowance** period.

When is an employee eligible for ShPP?

An employee can only claim ShPP if **the mother has curtailed her 39 week SMP period** or her maternity allowance period and the employee:

- **Qualifies for SMP or paternity pay**
- **Qualifies for SPL**
- **Is on SPL in the weeks they claim ShPP** (if employee)
- **Is still working for you in the week before they take their first week of ShPP**

Curtailing mat leave to 'create' SPL

- Mother can curtail (cut short) her maternity leave to 'create' SPL for her or her partner to take by:
 - **Returning to work**
 - Giving **written notice** to her employer that she will end her maternity leave on a **specified date of her choice** (i.e. her 'leave curtailment date')
- To be binding the notice must be accompanied by:
 - **Mother's notice of her entitlement to SPL**; or
 - **A declaration from the mother confirming the other parent eligible for SPL and she consents to them taking SPL**

Curtailing SMP or MA to 'create' ShPP

- Returning to work doesn't end the mother's SMP period – mother **must give her employer written notice**. If given:
 - **After her return to work** – the SMP period ends **the same week she gives her employer the notice**
 - **Before her return to work** – the SMP period ends on the **date the mother specifies in the notice** (her 'pay curtailment date')
 - The 'pay curtailment date' must be at least 8 weeks' from the date the mother gives her employer the notice

How do I know if an employee qualifies ?

- **They will tell you!** – There will be **tools for employees** that enable them to give you the correct information
- You will know if the employee meets some of the qualifying conditions (e.g. length of service and pay)
- If the employee is the mother you will know if she:
 - Is entitled to maternity leave/pay/allowance
 - Has an untaken balance of maternity leave/pay/allowance
- You are entitled to rely on the information that your employee provides about the other parent (including whether they meet the ‘employment and earnings test’)

Notice of entitlement to SPL/ShPP

8 weeks before they take SPL or ShPP your employee will give you:

- Notice of entitlement to SPL/ShPP
- A declaration that they meet the eligibility criteria
- A declaration from the other parent that they meet the “employment and earnings test”

You have 14 days to **request** (if you wish):

- A copy of the birth certificate
- The name and address of the partner’s employer

The employee has 14 days to provide this information

Booking leave

- Employee must give **8 weeks notice** of periods of SPL
- They have up to **3 ‘booking notices’ per parent** (more if their employer agrees to this)
- Can use the 3 booking notices to book up to **3 single blocks of leave** (i.e. get 3 chunks of consecutive weeks)
- Can use a **single notice** to request two or more periods of leave (i.e. **discontinuous leave**) – employer can agree, suggest a different pattern/dates or refuse and require leave to be taken over consecutive weeks
- **Notice to vary** leave already booked **counts towards the cap of 3 notices**

Helen and Tom

HELEN TELLS EMPLOYER PREGNANT 😊

CURTAINS HER MATERNITY LEAVE & PAY AT 26 WEEKS & GIVES NOTICE OF HER ENTITLEMENT TO SPL AND ShPP ✓

STARTS MATERNITY LEAVE

BIRTH 😊

1ST BOOKING NOTICE (1 OF CAP OF 3) ✓

		MATERNITY LEAVE & PAY - 26 WEEKS				SPL - 4 WKS		WORK					
						ShPP - 4 WKS							
Minus 15 weeks	Minus 6 weeks	Minus 2 weeks	AT LEAST 8 WEEKS NOTICE GIVEN OF ALL PERIODS OF SPL & ShPP								Week 52		
			PL	SPL - 4 WKS		WORK	SPL - 10 WKS		WORK	UNPAID SPL - 4 WEEKS	WORK	UNPAID SPL - 4 WEEKS	WORK
				ShPP - 4 WKS			ShPP - 5 WKS						

2ND BOOKING NOTICE (2 OF CAP OF 3) ✓

3RD BOOKING NOTICE (3 OF CAP OF 3) ???

1ST BOOKING NOTICE (1 OF CAP OF 3) ✓

TOM TELLS EMPLOYER WILL TAKE PATERNITY LEAVE AND GIVES NOTICE OF HIS ENTITLEMENT TO SPL & ShPP 😊

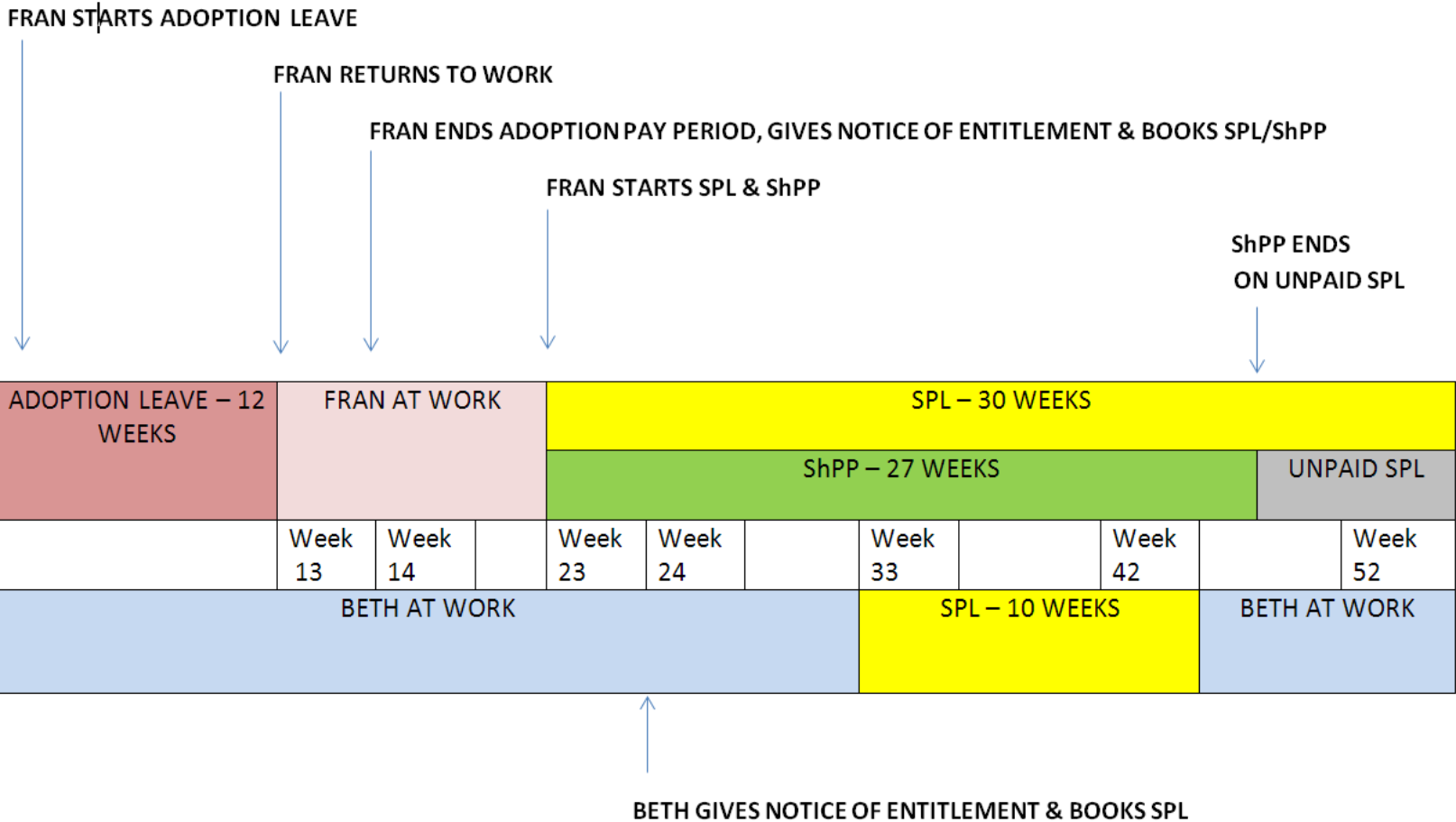
??? = Tom has applied for discontinuous leave, i.e. he has applied for more than one block of leave in a single notice

What about adoption?

- Adopters can opt into SPL and ShPP if one of them is **eligible for adoption leave or pay** and they **meet the eligibility criteria for SPL and ShPP**
- The trigger points are:
 - **Notification of matching** for adoption (rather than the due date)
 - **Placement** of the child with the adopter (rather than birth)

For example, adopter must have worked for you for 26 weeks at end of the **15th week before they are notified of a match**

Fran and Beth



Right to Return

- **Same job** if weeks of maternity, adoption, paternity and SPL **total 26 weeks or less in aggregate**
- **Same or similar job if total more than 26 weeks in aggregate** (same job unless it is not reasonably practicable, in which case it must be a suitable and appropriate job)
- **Unpaid parental leave of up to 4 weeks is disregarded.** Parental leave of 5 weeks or more triggers same or similar.

Redundancy

- Employee on SPL is a 'priority' over other employees at risk of redundancy (go to the top of the queue for suitable other vacancy, along with employees on maternity and paternity leave)

Protection from detriment

- An employee is protected from detriment arising from:
 - taking, seeking to take, or making use of the benefits of shared parental leave (SPL)
 - an employer believing that the employee was likely to take SPL
 - refusing to come into work on SPLiT days
- Dismissal relating to the above would constitute unfair dismissal (no qualifying period)

Guidance and help

- Parent guide: <https://www.gov.uk/shared-parental-leave-and-pay>
- Employer guide: <https://www.gov.uk/shared-parental-leave-and-pay-employer-guide>
- Technical guidance for employers – <https://www.wwww.bit.ly/1r21Xu1>
- Acas guide on shared parental leave – www.acas.org.uk/spl