
G1098 Family and domestic leave schemes

1 Scope

London Underground's (LU) Standard on Work-Life Balance highlights the point that employees are entitled to family leave which covers the categories of leave available to employees beyond their annual leave entitlement for a variety of reasons relating to family and domestic commitments, including maternity leave, paternity leave, adoption leave, parental leave, time off for dependants, death or illness of a near relative, funeral leave, moving house and domestic leave.

2 Background

These guidelines ensure that LU meets its legal obligations regarding allowing employees time off where required in order to meet family and caring responsibilities.

3 Maternity leave scheme

LU aims to ensure that women receive the best possible treatment during their pregnancy and following the birth of their baby. Employees are entitled to 26 weeks' ordinary maternity leave and 26 weeks' additional maternity leave regardless of their length of service. A minimum of two weeks must be taken after the baby is born. Employees with at least 26 weeks' service by the 'qualifying week' i.e. by the end of the 15th week before the expected week of childbirth (EWC) are entitled to 26 weeks' statutory maternity pay and occupational maternity pay.

Up to 11 weeks of maternity leave can be taken before the expected week of childbirth. Up to 52 weeks of maternity leave can be taken from the beginning of the week in which the child is born, assuming maternity leave started in the EWC.

All benefits are retained, with the exception of the effects on pay noted above. In all cases the employee has the right to return to the same job after ordinary maternity leave, and the same or similar job after additional maternity leave.

Pension

An employee can find out how taking maternity leave impacts upon their pension by contacting the TfL Pensions Office.

Shared Parental Leave

Eligible employees on Maternity Leave or in receipt of Statutory Maternity Pay or Maternity Allowance may be able to “opt” into the shared parental leave scheme. Please refer to the shared parental leave provisions of this document at page 9.

4 Ordinary paternity leave scheme

Ordinary Paternity Leave (OPL) gives eligible employees the option to take paid time off work to care for their child or support the child’s mother / primary adopter following the birth or adoption of a child.

Eligibility for OPL

To be eligible for OPL, with full pay, an employee must:

- be the child’s father or the husband, partner or civil partner of the child’s mother (in the case of a birth child) or be named on the adoption matching certificate (in the case of a child placed for adoption);
- have, or expect to have, responsibility for the child’s upbringing;
- be taking the time off to care for the child or to support the child’s mother / primary adopter.

Eligible employees are entitled to take one continuous period of OPL of either 1 full week or 2 full weeks (*N:B. Employees on FMR contracts of employment are entitled to take up to 3 full weeks, as per the terms of their contract*) which can start from any day of the week. Only one period of leave is available irrespective of whether more than one child is born as the result of the same pregnancy / placed for adoption.

OPL must be completed within 56 days of the actual date of birth or placement (or within 56 days of the expected date of birth where the child is born early).

Paternity Pay

During a period of OPL, employees will be entitled to receive their full contractual salary (inclusive of statutory paternity pay).

Notification requirements

Employees must notify their manager of their intention to take OPL at least 15 weeks before the baby is due or, in the case of adoption, no later than

7 days after being notified of being matched with a child. The Ordinary Paternity Leave and Pay Application Form must be used for this purpose. The employee should also provide a copy of the birth / matching certificate to their manager as soon as it is available.

Should an employee wish to change the start date of their OPL, or cancel their leave altogether, they must advise their manager of this in writing at least 28 days before the new start date, or the existing start date where this is earlier, or as soon as reasonably possible thereafter.

HR Services will respond in writing within 28 days of receipt of the application form, confirming the relevant start and end dates for OPL.

Additional Paternity Leave and Pay

If the employee's expected week of childbirth is before 5 April 2015, or if the date of placement of the child is before 5 April 2015, the employee may be entitled to Additional Paternity Leave and Pay. The employee should contact HRS for further information and guidance.

5 ADOPTION LEAVE

The provision of adoption leave allows employees who have 'primary carer' responsibility full adoption leave and pay (providing they meet the criteria), and their spouse or partner (secondary carer) adoption support (paternity leave and pay) providing they meet the criteria. The couple must choose which partner takes adoption leave and evidence of this must be provided e.g. confirmation letter from the partner's employer.

If the employee is not the primary carer of the child, he/she will be entitled to paternity leave (see section 4 above).

5.1 Entitlement to Adoption Leave

Adoption Leave

All employees will be entitled to take 26 weeks of Ordinary Adoption Leave (OAL) and 26 weeks of Additional Adoption Leave (AAL) to be taken at the end of OAL, provided they have been newly matched with a child for adoption by an approved adoption agency (adoption leave and pay is not available where a child is not newly matched for adoption, for example when a step parent is adopting a partner's child or children already in residence).

Adoption leave is also available to employees who are placed for adoption or to employees fostering a child under the "Fostering for Adoption" Scheme run by Local Authorities.

For employees who enter into surrogacy arrangements in relation to babies due on or after 5 April 2015, where the intended parents meet the criteria to apply for a Parental Order under the Human Fertilisation and Embryology Act 2008 and they intend to apply for an Order or have applied for one, they may be eligible for statutory adoption leave and pay and shared parental leave, subject to meeting the qualifying criteria (see below).

Pay Scheme

Where employees have been continuously employed by LU for 26 weeks leading into the week in which they are notified of being matched with a child for adoption, Occupational Adoption Pay (OAP) is payable at a rate equivalent to 100% of contractual salary inclusive of Statutory Adoption Pay (SAP) for the first 26 weeks. The following 13 weeks will be paid at SAP only, with the remaining 13 weeks of AAL being unpaid.

OAP is based on contractual salary at the date of commencement of OAL. Where applicable this includes shift allowance and overtime averaged over the previous 26 weeks. Back pay resulting from a consolidated base pay award which includes this date is also payable.

NB: For FMR employees with 26 weeks' service entering into adoption arrangements, the primary 'adopter' will be entitled to occupational pay inclusive of statutory adoption pay (SAP) of 34 weeks' contractual salary followed by 5 weeks of SAP and 13 weeks of unpaid statutory adoption leave.

6 Statutory Adoption Leave and Pay

Some employees may meet the qualifying period for statutory adoption leave and pay but have not been continuously employed by LU for 26 weeks leading into the week in which they are notified of being matched with a child for adoption. These employees will be entitled to statutory adoption leave and pay as outlined below.

SAP is paid for the first 6 weeks at a rate equivalent to 90% of average weekly earnings, with no upper limit. The remaining 33 weeks will be paid at whichever is the lower of either £139.18 per week or 90% of average weekly earnings. This is with effect from 5 April 2015. The average weekly earnings is a fixed government rate which is reviewed every year.

The remaining 13 weeks of AAL is unpaid.

Adoption leave in surrogacy cases

In surrogacy cases, for children due to be born to a surrogate mother **on or after 5 April 2015**, the qualifying criteria for OAL are that:

- The employee is one of the child's parental order parents. A "parental order parent" means a person who, at the date of the child's birth, has applied or intends to apply **within six months**, for a parental order under section 54 of the Human Fertilisation and Embryology Act 2008, and expects to be granted the order, or a person who has already been granted such an order.
- The employee has elected to be Parental Order Parent A (see Parental Parent Order A in surrogacy cases below).

The employee must notify LU by the end of the 15th week before the expected week of childbirth (EWC) that they intend to take OAL, and specify the EWC. LU may request a parental statutory declaration, which is a statutory declaration that the employee fulfils the criteria for a "parental order parent" and the employee will need to provide the parental statutory declaration within 14 days of LU's request. The employee will need to provide LU with the parental statutory declaration in order to be eligible for occupational adoption pay.

AAL in surrogacy cases

For children due to be born to a surrogate mother on or after 5 April 2015, the qualifying criteria for AAL are that:

- The employee elected to be Parental Order A.
- The employee took OAL in respect of the child.
- The employee's OAL did not end prematurely because the employee failed to apply for a parental order or the application for a parental order was not granted and any time limit for appeal or further application has passed, or if the child has died.

Parental Order A in surrogacy cases

"Parental Order Parent A" means the parent who has elected (with the agreement of the other parent) to be Parental Order Parent A and therefore qualify for adoption leave. The partner of Parental Order A may qualify for paternity leave, subject to the eligibility requirements.

Overseas Adoption

To qualify for Statutory Overseas Adoption Leave the employee must:

- Be the child's adopter
- Have received official notification confirming the central authority has, or is prepared to, issue a certificate confirming the employee is eligible to adopt and has been assessed and approved as a suitable adoptive parent

If the employee qualifies, the employee can take 52 weeks of Statutory Adoption Leave (26 weeks Ordinary Adoption Leave and 26 weeks Additional Adoption Leave).

Commencement of Adoption Leave

An employee can start the adoption leave either:

- On the date on which the child enters Great Britain; or
- Another date, which is no more than 28 days after the date on which the child enters Great Britain.

Adoption Leave can start on any day of the week.

The notification requirements

The employee must provide the following to LU:

- The right notice of when they want to start Adoption Leave and Pay;
- Evidence to confirm their entitlement; and
- This notice in writing if the employer asks for it.

There are three stages to the notice that must be given:

- The employee must inform LU that date on which they receive official notification and the date on which the child is expected to enter Great Britain.
- The employee must also give at least 28 days notice of the actual date that they want to start Ordinary Adoption Leave and Ordinary Adoption Pay. This notice can be given at stage one if the employee knows the date at that stage. Adoption Leave and Pay cannot start before the child enters Great Britain. The employee can change their mind about the start for the leave but must tell LU at least 28 days before the new date. If this is not possible the employee must inform LU as soon as is reasonably practical.

- The employee must inform LU of the date the child actually enters Great Britain. This must be done within 28 days of the child's date of entry. If the employee is also claiming Statutory Adoption Pay, they need to give evidence of the child's entry date. This could be a copy of a passport stamp or visa. Where requested by LU, the employee must also provide a copy of the official notification.

Time off for Appointments

The main (primary) adopter can take paid time off for up to five adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to two appointments. An employee is able to take a maximum of 6.5 hours unpaid time off for each of these visits.

Intended parents in a surrogacy arrangement also have the right to unpaid time off work to accompany the woman pregnant with their child to two antenatal appointments of up to 6.5 hours each.

Shared Parental Leave

Employees who qualify for statutory adoption leave or pay may be able to "opt" into the new shared parental leave scheme. Please refer to the shared parental leave provisions in this document.

Pensions

An employee can find out how taking adoption leave impacts upon their pension by contacting the TfL Pensions office.

Unpaid Parental Leave

Unpaid parental leave is available to employees who have, or expect to have, parental responsibility for a child. Employees are entitled to 18 weeks of unpaid parental leave for each child up until the child's 18th birthday. A maximum of four weeks leave per year can be taken in respect of each child which must be taken in blocks of one or more weeks. Parents of disabled children can take leave in blocks of one or more weeks or multiples of one day and for longer periods if required. Unpaid parental leave can be taken up until the child's 18th birthday.

Unpaid parental leave is a right for parents to take time off to look after a child or make arrangements for the child's welfare. Parents can use parental leave to spend more time with children and strike a better balance between their work and family commitments.

To qualify for unpaid parental leave employees must have completed at least a year's continuous service with LU. However, special rules apply for parents of children born, or placed for adoption, before 14 December 1999. They will be eligible for unpaid parental leave if they have completed one year's continuous service with another employer between 15 December 1998 and 9 January 2002.

Unpaid parental leave is for each child. Where there are multiple births each parent is entitled to 18 weeks for each child.

Shared Parental Leave Scheme

Introduction

Shared Parental Leave gives eligible employees the option to take shared parental leave ("SPL") in connection with the birth of a child, or placement of an adopted child, on or after 5 April 2015.

SPL enables eligible parents to share the care of their child during the first year after birth or adoption. It allows a mother and her partner or primary adopter and their partner to share the responsibility of working and caring for their child.

Entitlement

Eligible parents will be able to share up to 50 weeks of SPL and 37 weeks of shared parental pay within the first year after the child's birth or adoption, for the purposes of providing care.

Partners are not required to work for LU in order to benefit from SPL, but they must satisfy the minimum employment and earnings criteria (see below).

Eligibility

In order to be eligible for SPL an employee must be:

- the child's mother or primary adopter;
- the child's father; or
- the mother's or primary adopter's partner.

In addition, the employee must share the main responsibility for the care of the child with the mother, father or a partner, as appropriate.

The following conditions must also be satisfied:

- the employee must have 26 weeks' continuous service with LU at 15 weeks before the expected week of childbirth or being notified of being matched with an adoptive child and still be employed by LU in the week before leave is taken;
- the other parent must, in the 66 weeks leading up to the due date/matching date, have worked for at least 26 weeks and earned

an average of £30 in any 13 of those weeks (either in an employed or self employed capacity); and

- the employee and the other parent must have satisfied the correct notification requirements (outlined below).

SPL available

The maximum amount of SPL available to an employee is 50 weeks. This amount will be reduced by the number of weeks spent by the child's mother on maternity leave, or by the primary adopter on adoption leave (other than the first two weeks of compulsory leave). If the child's mother/primary adopter is not entitled to maternity leave or adoption leave, the maximum amount will be reduced by the weeks in which the mother /adopter is in receipt of Statutory Maternity Pay, Statutory Adoption Pay or Maternity Allowance.

The first two weeks of maternity leave or adoption leave do not count for the purposes of calculating the amount of SPL available. SPL must end no later than one year after the birth of the child or the child's date of placement for adoption.

How to take SPL

For the mother or primary adopter. If the employee meets the eligibility criteria above and they or their partner wish to take SPL, the employee must give notice to end their maternity or adoption leave early and opt in to SPL. Once the employee has given binding notice to end their maternity/adoption leave early, they cannot revert back to it except in specific circumstances, for example either the employee or their partner is not eligible for SPL. An employee cannot start SPL until after the compulsory maternity leave period (two weeks after birth). SPL can start any time after that but see comments on paternity leave below.

For the father/partner. The employee will only be able to take SPL if the mother has given notice to end her maternity or adoption leave early and opts into SPL. The employee should consider using their two weeks' paternity leave before taking SPL as they will not be able to take it once they start SPL and any untaken paternity leave entitlement will be lost.

For an employee to give notice to end their maternity/adoption leave and opt into SPL they must give LU **notice to opt into SPL**. A copy of the notice to opt into the SPL form that an employee should complete can be found as follows; [Form1:Curtailment and opt in notice \(PDF\)](#). It should be noted that once binding notice has been given, the other parent is able to commence SPL (subject to correct notice being given on their part to their

employer). It is not necessary to wait until the maternity/adoption leave has ceased.

Taking Periods of SPL: Notification Requirements

Once an employee has opted into the SPL system, if they want to take a period of leave, they will need to complete [Form 2: Notice to take Shared Parental Leave Form](#) (PDF)

Provided that both parents qualify for SPL, the employee can choose to take leave at the same time as their partner, or the employee can take it separately. SPL must be taken in blocks of complete weeks. It can be taken as one continuous block or in multiples of complete weeks.

A period of leave notice Form 2 must be submitted before a request can be considered. An employee may submit up to three period of leave notices in total.

If the employee requests a single continuous block of leave, their request will be automatically granted.

If the employee requests a pattern of multiple blocks of leave which is discontinuous, LU will enter into a **two week discussion period** with the employee, at the end of which LU will:

- agree to the employee's request;
- decline the employee's request; or
- propose an alternative pattern.

During the **two week discussion period**, the employee's Line Manager and/or PMA may seek to arrange an informal meeting with the employee to discuss their intentions and how they currently expect to use their SPL entitlement. The discussion may also include whether or how any request for discontinuous leave might be approved.

The employee will be informed in writing of the decision within **two weeks** of submitting their period of leave notice (Form 2). If no agreement has been reached, the employee can choose to take all of the leave in a continuous block starting on the date given in their notice. For example, if the employee requested three separate discontinuous leave periods of four weeks, they will be entitled to one 12 week period of leave which will begin on the original start date. Alternatively, the employee can, within five days of the end of the two week discussion period, choose a new start date (which must be at least eight weeks after the employee's original period of leave notice (Form 2) was given) or the employee can withdraw their period of leave notice (Form 2) (within fifteen calendar days of the

original notice), in which case it will not be counted and the employee can submit a new period of leave notice (Form 2).

Each request for SPL will be considered on a case-by-case basis: LU agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

Form 2 must be used to apply for SPL. The employee will also need to provide a signed declaration from them and a signed declaration from their partner. Those declarations are set out on Form 1.

If requested by LU within 14 days of the Notice of SPL Entitlement (Form 1) being given, the employee must produce within 14 days of LU's request the name and business address of the partner's employer (or a declaration that they have no employer) and a copy of the birth certificate or documentary evidence of the adoption from the adoption agency.

Varying or Cancelling leave

An employee can change or cancel a period of leave by notifying LU with the form linked to below. This form must be submitted at least eight weeks before the leave is due to start. A notice to cancel or change will count as one of the employee's three period of leave notices. Any new start date cannot be sooner than eight weeks from the date of the variation request. A notice to vary or cancel a period of leave will count as one of the employee's three leave notices unless:

- the variation is as a result of the child being born earlier or later than the Expected Week of Childbirth;
- The variation is in response to a request from LU ; or
- LU has agreed to accept more than three period of leave notices.

To vary or cancel leave, an employee must complete [Form 3: Notice to vary or cancel Shared parental leave](#) (PDF)

Pay during SPL

Eligible employees may be entitled to take up to 37 weeks of statutory shared parental pay (ShPP). The number of paid weeks available will depend on the number by which the mother/adopter reduced their statutory maternity/ adoption pay or maternity allowance period. In order to be eligible for statutory ShPP, the employee (or their partner) must have been eligible for statutory maternity or adoption pay or maternity allowance, the employee must remain in continuous employment until the



first week of ShPP has begun and have followed the proper notice requirements.

Statutory ShPP is currently paid at the rate of £139.58 a week (as at 5 April 2015) or 90% of the employee's average weekly earnings, whichever is lower. This rate is amended from time to time by the Government.

Where employees have been continuously employed by LU for 26 weeks leading into the 15th week before the expected week of childbirth or being notified of being matched with an adoptive child, occupational shared parental pay is payable at a rate equivalent to 100% contractual salary inclusive of statutory ShPP for the first two weeks. This entitlement is additional to any pay the employee has received during maternity, adoption or paternity leave. The following weeks will be paid at statutory ShPP only or will be unpaid depending upon whether the 37 weeks of statutory ShPP have been exhausted.

Keeping in touch

LU will maintain reasonable contact with employees during SPL. Contact may include keeping employees aware of any changes happening at work, including any job vacancies or promotional opportunities that arise. Keeping in touch can help make it easier for both managers and employees when the time comes to return to work.

Employees are not obliged to do any work or attend any events during SPL but if both the line manager and the employee agree, the employee can take up to 20 SPLIT days without bringing the period of the employee's SPL and ShPP to an end. This is in addition to the 10 keeping in touch ("KIT") days that are available during maternity/adoption leave. These SPLIT days do not have to be limited to the usual work carried out by the employee and could be used for training or other events. Any work carried out on a day shall constitute a day's work for these purposes. It may be helpful for the employee to use some of the SPLIT days to ease the return to work. The employee will be paid at their normal basic rate of pay for time spent working on a SPLIT day and this will be inclusive of any ShPP entitlement.

SPLIT days and KIT days must be taken with the prior approval of the employee's line manager.

SPLIT days and KIT days do not extend the period of SPL.

Returning to work

An employee must give their Line Manager eight weeks' notice in writing if they want to end a period of SPL early.

If an employee would like to extend their SPL, the employee must submit a new period of leave notice at least eight weeks before the date the employee is due to return to work, assuming the employee still has SPL entitlement remaining and has not already submitted three period of leave notices. If the employee is unable to request more SPL, the employee may be able to request annual leave or ordinary (unpaid) parental leave, which will be subject to business need.

All employees have the right to return to the same job if they have been on SPL and/or any other type of maternity, adoption or paternity leave for 26 weeks or less.

If an employee has been on leave for more than 26 weeks, the employee has the right to return to the same job unless this is not reasonably practicable. In that case, the employee has the right to return to another job that is suitable and appropriate and on terms and conditions no less favourable.

LU wishes to encourage all employees to return to work following SPL as there are positive benefits to the business in retaining skilled and experienced employees. However, if the employee decides they do not want to return to work, they should speak to their Line Manager about their notice of resignation in line with their contract of employment.

Salary and Benefits

During SPL, an employee's contract of employment continues in force and they continue to benefit from their usual terms and conditions of employment with the exception of pay as described above.

Where employees are eligible for performance related pay this will be assessed for the period that they are at work.

In addition to the above, employees are eligible to keep their normal travel facilities for the full period of SPL. Spouse/dependants or other nominees will also retain oyster pass and/or privilege facilities.

Pensions

An employee can find out how taking SPL impacts upon their pension by contacting the TfL Pensions office.

Annual Leave

Annual leave may be taken at any time up to the start of SPL at a mutually acceptable time. Entitlement to annual leave and Bank Holidays will continue to accrue during SPL. Employees are encouraged to use this leave before returning to work but are not required to do so.

Flexible Working

If an employee wishes to change their hours or other working arrangements on return from SPL, they should consult the Flexible Working Guidelines as they may wish to make a formal flexible working application.

7 UNPAID ANTE-NATAL APPOINTMENTS

Expectant fathers or the spouse, civil partner or partner (including different sex or same sex partners) have the right to unpaid time off work to attend up to 2 unpaid ante-natal appointments up to a maximum of 6.5 hours with the mother pregnant with the child.

Intended parents in surrogacy have the right to unpaid time-off work to accompany the woman pregnant with their child to two ante-natal appointments of up to 6.5 hours each.

8 TIME OFF FOR DEPENDANTS

Employees are entitled to reasonable time off work, without pay, in order to deal with unforeseen circumstances regarding dependants. Such leave covers such a period as may be deemed reasonable in the circumstances (not usually more than two days).

A 'dependant' is defined for these purposes as a spouse, child or parent of the employee, or any person who lives in the same household as the employee other than by reason of being his or her employee, tenant, lodger or boarder. In some instances this definition is widened to include anybody who can reasonably be said to rely upon the employee for assistance.

In view of the emergency nature of the circumstances in which this time off is likely to be required, a notice period is not appropriate. However, the employee must tell his or her manager the reason for the absence, preferably in advance but in any case as soon as is reasonably practicable, and how long he or she expects to be absent. The employee must confirm this in writing where required, in accordance with normal practice regarding absence from work for any reason.

9 ILLNESS OR DEATH OF A NEAR RELATIVE

As an alternative to time off for dependants, a statutory right for employees who qualify (see above), employees having to deal with the illness or death of a near relative may apply for the discretionary benefit of special leave with pay to cover the situation. Managers may grant up to 3 day's leave with pay.

10 FUNERAL LEAVE

Employees may apply for leave to attend the funeral of a near relative. This is normally for one day but may be extended up to one contractual week according to the circumstances, such as distance to travel, responsibility for making funeral arrangements and/or administration of the estate. Further details are available from local HR offices.

11 MOVING HOUSE

An application for leave for the purpose of moving both furniture and personal effects consequent upon a change of personal address may be submitted in advance to the employing manager. One day's leave with pay on a day which is, where possible, convenient to both management and employee, may be granted at the employing manager's discretion. Leave for this purpose will not normally be granted more frequently than once in four years.

12 DOMESTIC LEAVE

An employee may apply for domestic leave in circumstances not covered by any of the above categories where undue hardship would otherwise occur. Such an application should be submitted, in advance where possible, to the employing manager, who may grant leave with or without pay depending on the circumstances. However, annual leave should be taken in the first instance where possible.

13 REPORTING REQUIREMENTS

In order to meet the requirements of the Work-Life Balance Standard, managers should ensure that where employees make use of the provisions of these guidelines reporting arrangements are correctly complied with. This includes HRS, absence returns and so on.

14 SUPPORTING DOCUMENTS

These guidelines are supported by:

- Work-Life Balance Standard



15 RESPONSIBILITIES

Overall responsibility for the document rests with Employee Relations and HR Policy

16 PERSON ACCOUNTABLE FOR THE DOCUMENT

Person accountable for the document
Terry Deller Senior ER Manager and Jo Page HR Policy Manager