

## UNDERGRADUATE LAWS PROGRAMME BLOG

## Video transcript: Shared parental leave

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So today I'm going to talk to you about shared parental leave. And shared parental leave was introduced to replace additional paternity leave. Additional paternity leave was never very popular. A study by TUC in 2013 found that less than one percent of eligible fathers chose to take the leave. And additional potential leave allowed a birth mother or adoptive parent to share part of their leave with their partner. But it was quite inflexible, the child had to be at least twenty weeks old and the birth mother or adoptive parent had to return to work for their partner to take any leave. So it didn't prove very popular. So in April 2015 it was replaced by shared parental leave and this offers more benefits as long as the birth mother has had a period of compulsory maternity leave two to four weeks depending on which sector and she's in and you can then choose how you divide the leave who takes what when and so it's designed to be more flexible than the additional paternity leave was. So you'd expect that the take-up on this would have been increased.

But recent studies have shown that still take-up is less than one percent. So the government has recently launched a campaign called "share the joy" and to try and get more people to know about this right and to think about using it. A link has been given to you on the page for this blog posting to that campaign and the website contains information about what shared parental leave is and who's eligible for it and how it can be taken. It also contains some testimonials and people saying how great that parental leave is.

So why is take-up so low? Well a study by Working Families in 2017 found that 48% of fathers said that they wouldn't want to use it and a third of those gave the reason being financial reasons. And you can see why that is. Shared parental leave pay is quite low and it's paid either the statutory rate or ninety percent of the worker's earnings whichever is the lower. Now the statutory rate from April 2018 is going to be £145.18 which is subject to taxation. So you can see that it's not a very large amount. There's also the issue that not many companies at the moment are offering enhanced shared parental leave pay and there's been quite a bit of litigation in this area. So we've had the case of Snell and Network Rail in that company they offered enhanced shared parental leave pay for birth parents and at the primary adoptive parent but only the statutory rate for the partners or secondary adoptive parent and they later agreed that that was indirect discrimination and changed the policy. We've also had some cases of companies offering enhanced maternity leave pay but only statutory shared parental leave pay. So for example we've had the case of Hextall v Chief Constable of Leicestershire Police and where it was held that paying enhanced maternity leave but only statutory shared parental leave was not discrimination but then we had the case of Ali v Capita Customer Management Limited where the opposite decision was reached. And those cases are currently on appeal and we're waiting for the decision and hopefully that will provide some clarity in this area.

Of course it might not just be financial aspects. There is also a cultural aspect to this. A woman gets 52 weeks maternity leave or a person gets 52 weeks adoption leave and with shared parental leave you don't get 52 weeks each it has to be shared between you and your partner, so it could be that the primary parent might choose not to share their leave and particularly because in the UK there is a culture that women tend to be the ones responsible for child care and but that's not necessarily the case and more men are getting and involved on this.

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I personally would support the use of shared parental leave and shared parental leave pay. I used additional paternity leave back in the day and I can see the benefits that it has for our family so I would strongly recommend the use of shared parental leave and I'm quite happy that the government is currently promoting this as a means of leave for families. It's a beneficial right I think for employees to have and one that you might want to consider if you're ever making that decision yourself.