

# Shared Parental Leave Policy

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## 1. Context and basic principles

The University of Cambridge aims to provide shared parental leave benefits which comply with both the letter and the spirit of the law and meet all the statutory requirements.

Shared Parental Leave enables eligible parents to choose how to split the available leave between them and enables them to be off work together or at different times. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child in the first 52 weeks following birth or adoption, instead of simply taking maternity/adoption and paternity leave.

All eligible employees have a statutory right to take Shared Parental Leave.

## 2. Eligibility

Employees may be entitled to Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) if:

- their baby is due on or after 5 April 2015
- they adopt a child on or after 5 April 2015

The following individuals may be entitled to Shared Parental Leave:

- the mother/adopter; **and**
- one of the following:
  - the father of the child (in the case of birth); or
  - the partner of the child's mother/ adopter.

For these purposes a 'partner' is a spouse, civil partner or someone (whether of the same sex or a different sex) living with the mother/adopter in an enduring family relationship (but is not the mother/adopter's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew).

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 all of the following criteria:

- where the employee is the mother/adopter of the child they must be entitled to statutory maternity/adoption leave;
- where the employee is the father or partner of the mother/adopter, the mother/adopter must be entitled to statutory maternity pay ('SMP') or statutory adoption pay ('SAP'), statutory maternity or adoption leave, or maternity allowance ('MA');
- the employee must still be employed by the University in the week before the leave is to be taken;
- the employee must have a minimum of 26 weeks' continuous employment at the end of the Qualifying Week;
- the other parent must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the EWC (or in the case of adoption the Qualifying Week), to have worked for at least 26 weeks and earned an average of at least £30 per week (this is correct as of 2015 but may change annually) for 13 of those weeks;
- both parents must give the necessary statutory notices and declarations (as summarised below), including notice to end any maternity or adoption leave, SMP or SAP, or MA periods.

The Qualifying Week is the 15<sup>th</sup> week before the Expected week of Childbirth (EWC) or, where the child is being adopted, the week the adoption agency notifies the employee that they have been matched with a child for adoption

The Expected Week of Childbirth (EWC) is the week, beginning on a Sunday, in which the doctor or midwife expects the child to be born.

### **3. Policy**

#### **3.1 Statement of Policy**

This policy sets out the statutory and contractual rights and responsibilities of employees who wish to take statutory Shared Parental Leave. However this policy

does not form part of any employee's contract of employment and may be amended from time to time.

The University recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. It is the University's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible.

3.1.2 The legislation relevant to this policy is:

- The Shared Parental Leave Regulations 2014
- The Shared Parental Pay (General) Regulations 2014
- The Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014
- The Statutory Maternity Pay and Statutory Adoption Pay (Curtailed) Regulations 2014
- Employment Rights Act 1996
- Child and Families Act 2014
- Equality Act 2010

### **3.2 Duration of Shared Parental Leave**

3.2.1 Eligible parents are entitled to take or share up to 52 weeks Shared Parental Leave during the child's first year in their family, less the weeks spent by the mother on maternity leave (or in receipt of SMP or MA) or, where the employee is adopting, less the weeks of adoption leave taken by either the employee or their partner (or the weeks in which the partner has been in receipt of SAP if they were not entitled to adoption leave).

If the employee is the mother, she cannot start Shared Parental Leave until after the compulsory maternity leave period, which lasts until two weeks after birth.

Where the employee is adopting, either the employee or their partner must take at least two weeks of adoption leave and/or pay.

The father/partner can take Shared Parental Leave immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements. Shared Parental Leave is in addition to any paternity leave entitlement but any untaken paternity leave entitlement will be lost once the father/partner starts a period of Shared Parental Leave.

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.

### **3.3 Opting into Shared Parental Leave and Pay**

An employee intending to take Shared Parental Leave must give their Institution notification of their intention to take to Shared Parental Leave using a CHRIS 75a, at least eight weeks before they intend their period of Shared Parental Leave to start.

Part of the eligibility criteria requires the employee to provide the University with the correct notification. The CHRIS 75a form captures all the required information.

Notification must be in writing and requires each of the following:

- the name of the employee;
- the name of the other parent;
- the start and end dates of any statutory maternity/adoption leave taken or to be taken by the mother/adopter (or where not taken the dates of any SMP or MA period, or in the case of adoption, the dates of SAP);
- the total amount of Shared Parental Leave available (being 52 weeks minus the number of weeks of maternity or adoption leave, MA , SMP or SAP, taken or to be taken);
- the date on which the child is expected to be born and the actual date of birth
- 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;
- the amount of Shared Parental Leave the employee and their partner each intend to take (the employee can change the allocation by giving a further written notice and the employee does not have to use their full allocation);
- if the employee is claiming statutory shared parental pay (ShPP), the total ShPP available (being 39 weeks minus the number of weeks of SMP, MA or SAP taken or to be taken); how many weeks of available ShPP will be allocated to the employee and how many to the other parent (the employee can change the allocation by giving a further written notice and the employee does not have to use their full allocation);
- a non-binding indication of when the employee expects to take the leave (including suggested start and end dates for each period of leave);
- declarations by you and the other parent that you both meet the statutory conditions to enable you to take Shared Parental Leave and ShPP (as set out at section 3.8).

Where the employee is not the mother and the mother is still on maternity leave or claiming SMP or MA, the employee will only be able to take Shared Parental Leave once the mother has either:

- (a) returned to work;
- (b) given her employer a curtailment notice to end her maternity leave;
- (c) given her employer a curtailment notice to end her SMP (if she is entitled to SMP but not maternity leave); or
- (d) given the benefits office a curtailment notice to end her MA (if she is not entitled to maternity leave or SMP).

Similarly, if the employee's partner is taking adoption leave or claiming SAP from their employer, the employee will only be able to take Shared Parental Leave once their partner has either:

- (a) returned to work;
- (b) given their employer a curtailment notice to end adoption leave;
- (c) given their employer a curtailment notice to end SAP (if they are entitled to SAP but not adoption leave).

### **3.4 Requesting further evidence of eligibility**

The University may request, within 14 days beginning on the date on which the employee gives notice of an intention to take Shared Parental Leave:

- the name and business address of the partner's employer ( or where the employee's partner has no employer a declaration to that effect);
- in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth);
- in the case of adoption, one or more documents issued by the adoption agency containing the name and address of the adoption agency, the date on which the adopter was notified of having been matched with the child and the date on which the agency expects to place the child with the adopter.

The employee must produce this information within 14 days of the employer's request.

### **3.5 Ending maternity leave or adoption leave**

If the employee is the child's mother and wants to opt into the Shared Parental Leave scheme, or if the employee is taking adoption leave, and wants to opt into Shared Parental Leave:

- they must give the University at least eight weeks' written notice to end their maternity leave or adoption leave via a CHRIS61 (a curtailment notice) before they can take Shared Parental Leave. The notice must state the date their maternity or adoption leave will end. The mother can give the notice before or after they give birth, but they cannot end their maternity leave until at least two weeks after birth. Similarly, notice can be given before or after adoption starts but at least 2 weeks adoption leave must be taken; and
- at the same time as the curtailment notice is given, the employee must also give notice to opt into the Shared Parental Leave scheme (see section 3.3) or a written declaration that the other parent has given their employer an opt-in notice and that the employee has given the necessary declarations in that notice.

The other parent cannot start Shared Parental Leave until the curtailment notice has been given.

### **3.6 Booking Shared Parental Leave Dates**

In addition to opting into the Shared Parental Leave system an employee will also need to book their leave by giving the University a period of leave notice using a form CHRIS 75b.

This notice can be given at the same time as the opt-in notice (form CHRIS 75a), or it can be given later, as long as it is given at least 8 weeks before the start of the employee's leave.

Once the HR Division receives an agreed application from an Institution, 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.

The period of leave notice can either give the dates the employee wants to take leave or, if the child has not been born yet or placed with the adopter, the notice can state the number of days after birth/placement that the employee wants the leave to start and end.

Each application may contain either (a) a single period of weeks of leave; or (b) two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

Shared Parental Leave can only be taken in complete weeks but may begin on any day of the week. For example if a week of Shared Parental Leave began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of Shared Parental Leave, the next period of Shared Parental Leave can start on any day of the week.

An employee can give up to three periods of leave notices. This may enable the employee to take up to three separate blocks of Shared Parental Leave (although if an employee gives notice to vary or cancel a period of leave this will in most cases count as a further period of leave notice).

### *3.6.1 Continuous leave*

A period of leave notice can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).

If the employee submits a period of leave notice requesting one continuous block of leave, the employee will be entitled to take the leave set out in the notice.

All applications for continuous leave will be confirmed in writing by the HR Division.

### *3.6.2 Discontinuous leave*

A single period of leave notice may also be for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of Shared Parental Leave with periods of work in between (for example, an arrangement where an employee will take six weeks of Shared Parental Leave and then work every other week for a period of three months).

The Institution will consider a discontinuous leave application but has the right to refuse it.

If an employee requests a discontinuous period of leave, the Institution will either agree it or start a two week discussion period with a view to agreeing an arrangement that meets both the needs of the employee and the Institution. The request may be granted in full or in part: for example, the Institution may propose a modified version of the request. At the end of that period, any agreed arrangements will be confirmed in writing. If it has not been possible to reach agreement the employee will be entitled to take the full amount of leave requested as one continuous block, starting on the start date given in the period of leave notice. Alternatively the employee may:

- choose a start date (which is at least eight weeks from when the period of leave notice was originally given) and must notify the employer of that date within 5 days of the end of the two week period; or
- withdraw the period of leave notice within 15 days of giving it (in which case the notice will not be counted and the employee may submit a new one if they choose).

All requests for discontinuous leave will be carefully considered by the Institution, in liaison with the HR Division if necessary, weighing up the potential benefits to the employee and to the Institution against any adverse impact.

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.

Final formal grant of leave will be confirmed in writing by the HR Division.

### **3.7 Discussions regarding Shared Parental Leave**

An employee considering/taking Shared Parental Leave is encouraged to contact their Institution to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the Institution to support the individual.

The Institution may, upon receiving a notification of entitlement to take Shared Parental Leave (under section 3.3), seek to arrange an informal discussion with the employee to talk about their intentions and how they plan to use their Shared Parental Leave entitlement.

Once the Institution receives a period of leave notice (under para 3.6) the Institution will usually arrange a meeting with the employee to discuss it. Where a request for discontinuous leave can without further discussion be approved in the terms stated in the employee's application, a meeting may not be necessary.

### **3.8 Statutory Shared Parental Pay (ShPP)**

Eligible employees may be entitled to take up to 39 weeks ShPP while taking Shared Parental Leave (less any weeks of SMP, MA or SAP claimed by the employee or their partner).

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

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

- where the employee is the mother/adopter, they must be/have been entitled to SMP/SAP or MA and must have reduced their maternity/adoption pay period or maternity allowance period;
- the employee must at the date of the child's birth/ placement for adoption have the main responsibility, apart from the partner, for the care of the child;
- the employee must be absent from work and intend to care for the child during each week in which ShPP is received;
- the employee must have normal weekly earnings for the period of eight weeks ending with the 15<sup>th</sup> week before the EWC (or at the end of the week in which the adopter is notified of having been matched for adoption with the child) which are not less than the lower earnings limit for national insurance contributions;
- the employee must have at least 26 weeks continuous employment as at the end of the Qualifying Week and remain in employment until the last week before taking Shared Parental leave;
- the employee must give proper notification in accordance with the rules set out above.

In addition, in order for the employee to be eligible, their partner must:

- at the date of the child's birth/ placement for adoption have the main responsibility, apart from the partner, for the care of the child;
- have been employed or been a self-employed earner for at least 26 of the 66 weeks leading up to the EWC (or at the end of the week in which the adopter is notified of having been matched for adoption with the child);
- Have average weekly earnings of at least the maternity allowance threshold in the 13 highest earning weeks in the 66 weeks leading up to the EWC(or at the end of the week in which the adopter is notified of having been matched for adoption with the child);
- where the employee is the mother/adopter, they must be/have been entitled to SMP/SAP or MA and must have reduced their maternity/adoption pay period or maternity allowance period.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give the University written notice advising whether they intend to claim ShPP (and if so for what period). To avoid duplication, if possible, this should be included as part of the notice of entitlement to take Shared Parental Leave.

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

- the total number of weeks for which the employee would be entitled to ShPP (disregarding any intention there may be for their partner to claim ShPP);



- the total number of weeks in which the employee and their partner each intend to claim ShPP, and a non-binding indication of when the employee expects to claim ShPP;
- a signed declaration from the employee confirming:
  - that the information they have given is correct;
  - that they meet, or will meet, the criteria for ShPP;
  - (where the employee is the mother) that they will immediately inform the organisation should they cease to be eligible or (where the employee is the partner) that they will immediately inform the employee if the mother ceases to be entitled;
  - (where the employee is the mother) the date on which the maternity pay period or maternity allowance period began and the number of weeks by which it will be reduced.

It must be accompanied by a signed declaration from the employee's partner confirming:

- their agreement to the employee claiming ShPP
- they met/will meet the criteria for their partner to be entitled to ShPP
- they consent to the University processing the information they have provided;
- their name, address and NI number
- (in the case whether the partner is the mother/ adopter) the date on which her maternity pay period or maternity allowance period began and the number of week by which it will be reduced;
- (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.

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

All of the above information is captured in the CHRIS75a and CHRIS75b forms.

### **3.9 Enhanced Shared Parental Pay (EShPP)**

3.9.1 University employees eligible to take Shared Parental Leave are entitled to 18 weeks Shared Parental Leave at full pay, minus any weeks enhanced maternity/adoption or paternity pay they have already received.

3.9.2 EShPP is inclusive of any Statutory Shared Parental Pay (ShPP) to which the employee is entitled. If the amount due is less than the ShPP to which the employee is entitled, only ShPP will be payable. The amount payable cannot be more than the employee's usual weekly earnings.

3.9.3 ESShP is subject to the condition that no work is undertaken during the paid period of leave other than 'SPL in touch days' (see 'SPLIT days' below).

3.9.4 Payment will normally be made through the payroll on the employee's normal pay date.

3.9.5 Where an employee chooses not return to work for a minimum of three months after a period of SPL they will be required to repay any EShPP that they have received.

3.9.6 An employee may opt to hold over any EShPP that is in excess of their statutory entitlement and receive this as back pay owing to them once they have returned to work for a period of not less than three months.

### 3.9.7 *Repayment*

If an employee decides not return to work after taking SPL, or returns to work but subsequently decides not to continue in the employment of the University for a period of at least three months, the University has the right to reclaim any EShPP that they received that is in excess of any ShPP that they have received.

If an employee returns to work but does not subsequently continue in employment for a period of at least three months, the amount deducted will be a proportion of the excess pay as follows:

Up to one month	All EShPP
One month up to two months	Two-thirds of EShPP
Two months up to three months	One-third of EShPP

## 3.10 **Benefits during leave**

3.10.1 During Shared Parental Leave the contract of employment continues in force. All terms and conditions of the contract continue with the exception of stipend or salary. Continuity of service is maintained, and any standard incremental progression taking place during the Shared Parental Leave will be implemented.

### 3.10.2 *Annual leave accrual*

Annual leave entitlement as stated in the relevant contract of employment will continue to accrue as normal for the entire period of Shared Parental Leave. All accrued annual leave must be taken within three months of returning to work following Shared Parental Leave.

[Annual leave calculator](#)

### 3.10.3 *Effect on sabbatical leave*

For academic staff with an entitlement to leave under Statute D,II,5, all terms on Shared Parental Leave are counted as reckonable service for sabbatical leave purposes.

### 3.10.4 *Pension Implications*

For members of both the USS and the CPS during any period of paid Shared Parental Leave, pension benefits are accrued as if the member is at work. The following paragraphs give general information about the procedures operating in the two pension schemes available to staff in the University. However this does not cover all individual circumstances and any member of staff who has queries on their pension entitlement should contact the Pensions Office for information.

For members of USS, contributions are maintained in full for any period when the member is in receipt of any pay, whether contractual (EShPP) or statutory (ShPP). Where a member is not entitled to EShPP or to ShPP, contributions also have to be maintained for the first 39 weeks of SPL pay or the period up to two weeks after the baby's birth/placement if this is longer. The member's contributions during this period are based on their actual income and any shortfall is made up by the University. A member of USS on unpaid leave is treated as being on suspended membership of the scheme and does not receive any service credits. On their return they may, if they wish, buy in this service by paying both employer and employee contributions.

For members of CPS, contributions are paid based on the salary actually received. When a member goes on unpaid leave they cease to accrue service for the period of that leave. On their return they may buy in the missing service, and are required to pay only the employee's contributions.

#### *3.10.5 Contact during Shared Parental Leave*

Before an employee's Shared Parental Leave begins, the Institution will discuss the arrangements for them to keep in touch during their leave. The University reserves the right in any event to maintain reasonable contact with the employee from time to time during their Shared Parental Leave. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

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

An employee can agree to work for the University (or attend training) for up to 20 days during Shared Parental Leave without bringing their period of Shared Parental Leave to an end. These are known as "Shared Parental Leave In Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes

SPLIT days are in addition to any KIT days that the mother/adopter may have taken during their maternity/adoption leave.

The University has no right to require an employee to carry out any work, and is under no obligation to offer an employee any work, during the employee's Shared Parental Leave. Any work undertaken is a matter for agreement between the Institution and the employee.

An employee, with the agreement of the organisation, may use SPLIT days to work part of a week during SPL. The Institution 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.

### *3.10.7 Payment of SPLIT days*

An employee will receive full pay (at the appropriate rate according to their salary spine point), inclusive of any ShPP, for the hours worked during a SPLIT day.

Alternatively, an employee may choose to take paid 'time off in lieu' (TOIL) instead of payment for hours worked. Therefore, an employee who takes a SPLIT day may choose to receive no additional payment for that day beyond their ShPP but instead choose to gain an additional day's annual leave to be taken after their return to work

### *3.10.8 Support during Shared Parental Leave*

An employee who is due to go on, or is currently taking Shared Parental Leave, is entitled to access all of the usual support networks available to staff. This includes within their Institution (e.g. Institution Administrator), within HR (e.g. HR Business Manager/Adviser) the Occupational Health Service and Counselling Service.

## **3.11 Cancelling the decision to end maternity or adoption leave**

The mother or adopter may be able to change their decision to end their maternity or adoption leave early in order to take Shared Parental Leave. The mother or adopter may be able to revoke a leave curtailment notice by serving a revocation notice.

A curtailment notice can only be revoked if the maternity/adoption leave has not yet ended and one of the following applies:

- (a) if the employee realises that neither they nor the other parent are in fact eligible for Shared Parental Leave or ShPP, in which case they can revoke the curtailment notice in writing up to eight weeks after it was given;
- (b) if the mother gave the curtailment notice before giving birth, the mother can revoke it in writing up to six weeks after birth; or
- (c) if the other parent has died.

Once the employee has revoked a curtailment notice they will be unable to opt back into the Shared Parental Leave scheme, unless the employee was the child's mother and revoked it in the circumstances in paragraph (b) above.

## **3.12 Variations to a granted period of Shared Parental Leave**

The employee is permitted to vary or cancel an agreed and booked period of Shared Parental Leave using a CHRIS75c.

The Employee can cancel a period of leave by notifying the University at least eight weeks before the start date in the period of leave notice.

The Employee can change the start date for a period of leave, or the length of the leave, by notifying the University at least eight weeks before the original start date and the new start date.

If a child is born before the EWC the employee may be able to start SPL in the eight weeks following birth even though they cannot give eight weeks' notice. If the employee has given a period of leave notice to start SLP on a date in the eight weeks following the EWC, but their child is born early they can move the start date forward by the same number of days. In such cases the Employee is asked to notify the University in writing of the change as soon as they can.

The Employee can combine split periods of leave into a single continuous period of leave by notifying the University in writing at least eight weeks before the start date of the first period.

The Employee can request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between. The University will consider any such request as set out in section 3.6

If the employee wishes to return to work earlier than the expected return date, they must give at least eight weeks' notice of the new return date.

If the employee wishes to extend their Shared Parental Leave, assuming they still have unused Shared Parental Leave entitlement remaining, the employee must give the University notice at least eight weeks before the date they were due to return to work.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as one of the employee's three period of leave notices unless a change is as a result of a child being born earlier or later than the EWC (or being placed for adoption earlier or later than the expected placement date), or as a result of the Institution requesting it be changed, or if agreed otherwise

If they have already used their three period of leave notices to book and/or vary leave then the University does not have to accept the notice to return early but may do at its discretion.

Any variation will be confirmed in writing by the HR Division.

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

The employee will be 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 the University otherwise. If the Employee is unable to attend work due to sickness or injury, the University's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

On returning to work after Shared Parental Leave, the employee is normally entitled to return to work to the same position they held before starting Shared Parental Leave on the same terms and conditions of employment.

However, if it is not reasonably practicable for the Employee to return to the same position, they will be offered another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances:

(a) if the Employee's Shared Parental Leave and any maternity, paternity or adoption leave they have taken adds up to more than 26 weeks in total (whether or not taken consecutively); or

(b) if the Employee took Shared Parental Leave consecutively with more than four weeks of ordinary parental leave.

If the Employee wants to change their hours or other working arrangements on return from Shared Parental Leave they should make a request under the Flexible Working Policy. It is helpful if such requests are made as early as possible.

If the Employee decides they do not want to return to work they should give notice of resignation in accordance with their contract.

### **3.14 Special Circumstances**

In certain situations an employee's rights and requirements regarding Shared Parental Leave and ShPP may change. In these circumstances the University will abide by any statutory obligations.