

# SHARED PARENTAL LEAVE POLICY

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## 1. What is Shared Parental Leave?

Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child. All eligible staff have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. This policy sets out the statutory rights and responsibilities of staff who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).

The Trust recognises that, from time to time, staff may have questions or concerns relating to their shared parental rights. It is the Trust's policy to encourage open discussion with staff to ensure that questions and problems can be resolved as quickly as possible. Staff should clarify the relevant procedures with [HR department/name of individual] to ensure that they are followed.

## 2. Who is eligible for Shared Parental Leave?

SPL can only be used by two people:

1. The mother/adopter and
2. One of the following:
  - the father of the child (in the case of birth) or
  - the spouse, civil partner or partner of the child's mother/ adopter.

Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.

Additionally a staff member seeking to take SPL must satisfy each of the following criteria:

- the mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
- the staff member must still be working for the Trust at the start of each period of SPL;
- the staff member must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date;
- the staff member's partner must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned an average of at least £30 (this is correct as of 2015 but may change annually) a week in any 13 of those weeks;
- the staff member must correctly notify the Trust of their entitlement and provide evidence as required.

### **3. The Shared Parental Leave entitlement**

Eligible staff may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.

A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

SPL can commence as follows:

- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
- The adopter can take SPL after taking at least two weeks of adoption leave
- The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).

Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.

SPL will generally commence on the staff member's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave" below).

If the staff member is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period (see "Shared Parental Pay" below).

SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

### **4. Notifying the Trust of an entitlement to Shared Parental Leave**

A staff member entitled and intending to take SPL must give their line manager notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL.

Part of the eligibility criteria requires the staff member to provide the Trust with correct notification. Notification must be in writing and requires each of the following:

- the name of the staff member;
- the name of the other parent;
- the start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available;
- the date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the staff member was notified of having been matched with the child and the date of placement for adoption;
- the amount of SPL the staff member and their partner each intend to take
- a non-binding indication of when the staff member expects to take the leave.

The staff member must provide the Trust with a signed declaration stating:

- that they meet, or will meet, the eligibility conditions and are entitled to take SPL;
- that the information they have given is accurate;
- if they are not the mother/adopter they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter;
- that should they cease to be eligible they will immediately inform the Trust.

The staff member must provide the Trust with a signed declaration from their partner confirming:

- their name, address and national insurance number (or a declaration that they do not have a national insurance number);
- that they are the mother/adopter of the child or they are the father of the child or are the spouse, civil partner or partner of the mother/adopter;
- that they satisfy the 'employment and earnings test' (see "Who is eligible for Shared Parental Leave?" above), and had at the date of the child's birth or placement for adoption the main responsibility for the child, along with the staff member;
- that they consent to the amount of SPL that the staff member intends to take;
- that they consent to the Trust processing the information contained in the declaration form; and
- (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.

## **5. Requesting further evidence of eligibility**

The Trust may, within 14 days of the SPL entitlement notification being given, request:

- the name and address of the partner's employer (where the staff member's partner is no longer employed or is self employed their contact details must be given instead)
- 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 an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption

In order to be entitled to SPL, the staff member must produce this information within 14 days of the employer's request.

## **6. Fraudulent claims**

The Trust can, where there is a suspicion that fraudulent information may have been provided or where the Trust has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual Trust investigation and disciplinary procedures, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

## **7. Discussions regarding Shared Parental Leave**

A staff member considering/taking SPL is encouraged to contact the SBM to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the Trust to support the individual.

The SBM may upon receiving a notification of entitlement to take SPL seek to arrange an informal discussion with the staff member to talk about their intentions and how they currently expect to use their SPL entitlement.

Upon receiving a leave booking notice the SBM will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can without further discussion be approved in the terms stated in the staff member's notice booking leave, a meeting may not be necessary.

<<This one potential way to hold a meeting in relation to SPL, An employer may wish to amend the process to fit in with their usual workplace practice>> Where a meeting is arranged it should take place in private and be arranged in advance. If the initial date is problematic then another date will be arranged if possible. If an alternative date cannot be arranged then the meeting may be held over the telephone.

At the meeting the staff member may, if they wish, be accompanied by a workplace colleague, trade union representative.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the staff member is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the staff member and the Trust, and what the outcome may be if no agreement is reached.

## **8. Booking Shared Parental Leave**

In addition to notifying the employer of entitlement to SPL/ShPP, a staff member must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.

The staff member has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either (a) a single period of weeks of leave; or (b) two or more weeks of discontinuous leave, where the staff member intends to return to work between periods of leave.

[Allowing a staff member to submit three notifications to book/vary leave is the statutory minimum and employers may find it preferable to specify a higher/unlimited number of notifications]

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

The staff member must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

## **9. Continuous leave notifications**

A notification 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).

A staff member has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the employer has been given at least eight weeks' notice.

A staff member may submit up to three separate notifications for continuous periods of leave.

## **10. Discontinuous leave notifications**

A single notification may also contain a request for two or more periods of discontinuous leave, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the staff member returns to work (for example, an arrangement where a staff member will take six weeks of SPL and work every other week for a period of three months).

Where there is concern over accommodating the notification, the Trust or the staff member may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the staff member and the the Trust (see "Discussions regarding Shared Parental Leave" above).

The Trust will consider a discontinuous leave notification but has the right to refuse it. If the leave pattern is refused, the staff member can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

## **11. Responding to a Shared Parental Leave notification**

Once the SBM receives the leave booking notice, 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.

All notices for continuous leave will be confirmed in writing.

All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the staff member and to the Trust against any adverse impact to the business.

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 staff member to be granted a similar pattern of SPL.

The staff member will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th day after the leave notification was made. The request may be granted in full or in part: for example, the Trust may propose a modified version of the request.

If a discontinuous leave pattern is refused then the staff member may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the staff member chooses to take the leave in a single continuous block, the staff member has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the staff member does not choose a start date then the leave will begin on the first leave date requested in the original notification.

## **12. Variations to arranged Shared Parental Leave**

The staff member is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the Trust in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Any variation or cancellation notification made by the staff member, including notice to return to work early, will usually count as a new notification reducing the staff member's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the Trust requesting it be changed, and the staff member being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the Trust.

## **13. Statutory Shared Parental Pay (ShPP)**

Eligible staff may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

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

In addition to meeting the eligibility requirements for SPL, a staff member seeking to claim ShPP must further satisfy each of the following criteria:



- the mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
- the staff member must intend to care for the child during the week in which ShPP is payable;
- the staff member must have an average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child's expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;
- the staff member must remain in continuous employment until the first week of ShPP has begun;
- the staff member must give proper notification in accordance with the rules set out below.

Where a staff member is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.

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

- the start and end dates of any maternity/adoption pay or maternity allowance;
- the total amount of ShPP available, the amount of ShPP the staff member and their partner each intend to claim, and a non-binding indication of when the staff member expects to claim ShPP;
- a signed declaration from the staff member confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the Trust should they cease to be eligible.

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

- their agreement to the staff member claiming ShPP and for the Trust to process any ShPP payments to the staff member;
- (in the case whether the partner is the mother/adopter) that they have reduced their maternity/adoption pay or maternity allowance;
- (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.

#### **14. Terms and conditions during Shared Parental Leave**

During the period of SPL, the staff member's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a car, laptop, mobile phone and gym membership) will continue and contractual annual leave entitlement will continue to accrue.

Pension contributions will continue to be made during any period when the staff member is receiving ShPP but not during any period of unpaid SPL. Staff member contributions will be based on

actual pay, while the Trust's contributions will be based on the salary that the staff member would have received had they not been taking SPL.

#### **15. Annual Leave**

SPL is granted in addition to a staff member's normal annual holiday entitlement. Staff are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the staff member should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the staff member's holiday year.

#### **16. Contact during Shared Parental Leave**

Before a staff member's SPL begins, the Trust will discuss the arrangements for them to keep in touch during their leave. The Trust reserves the right in any event to maintain reasonable contact with the staff member from time to time during their SPL. This may be to discuss the staff member'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.

#### **17. Shared Parental Leave in Touch days**

A staff member can agree to work for the Trust (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. 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.

The Trust has no right to require the staff member to carry out any work, and is under no obligation to offer the staff member any work, during the staff member's SPL. Any work undertaken is a matter for agreement between the Trust and the staff member. A staff member taking a SPLIT day will receive full pay for any day worked. If a SPLIT day occurs during a week when the staff member is receiving ShPP, this will be effectively 'topped up' so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of SPL.

A staff member, with the agreement of the Trust, may use SPLIT days to work part of a week during SPL. The Trust and the staff member may use SPLIT days to effect a gradual return to work by the staff member towards the end of a long period of SPL or to trial a possible flexible working pattern.

#### **18. Returning to work after Shared Parental Leave**

The staff member will have been formally advised in writing by the Trust of the end date of any period of SPL. The staff member is expected to return on the next working day after this date, unless they notify the Trust otherwise. If they are unable to attend work due to sickness or injury, the Trust's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the staff member wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the Trust at least eight weeks' notice of

their date of early return. This will count as one of the staff member's notifications. If they have already used their three notifications to book and/or vary leave then the Trust does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

On returning to work after SPL, the staff member is entitled to return to the same job if the staff member's aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, he or she will return to the same job. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the staff member is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

If the staff member also takes a period of unpaid parental leave of 4 weeks or less this will have no effect on the staff member's right to return and the staff member will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.

If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the staff member will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

## **19. Special Circumstances and further information**

In certain situations a staff member's rights and requirements regarding SPL and ShPP may change. In these circumstances the Trust will abide by any statutory obligations and a staff member should refer to the documents listed below and/or clarify any issues or queries with HR.

Law relating to this document:

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

## **20. Shared parental leave form**

Use this form to opt in to the shared parental leave scheme following the birth of a child. A separate form is available for adoptive parents. Please see the Shared Parental Leave Policy for more information.

If you are the child's mother you must also submit a signed curtailment notice to bring your maternity leave entitlement to an end.

It may be useful to discuss this form, in particular dates in sections B and C with your manager before completing this form.

### Shared parental leave opt-in form (birth)

Use this form to opt in to the shared parental leave scheme following the birth of a child. A separate form is available for adoptive parents. Please see our Shared Parental Leave Policy for more information.

If you are the child's mother you must also submit a signed curtailment notice to bring your maternity leave entitlement to an end.

It may be useful to discuss this form, in particular the dates in sections B and C, with your manager and/or HR before completing it.

<b>Section A: Basic information</b>		
<p><b>Guidance notes.</b> Shared parental leave may be shared between a child's mother and either the child's father or the person who, at the date of the child's birth, is her partner. Both parties must expect to share the main responsibility for the child's upbringing.</p> <p>"Partner" means the mother's spouse, civil partner, or other person living with her in an enduring family relationship, but who is not her sibling, parent, child, grandparent, grandchild, aunt, uncle, niece or nephew.</p>		
A1	Staff member's name	
A2	I am the child's mother*/child's father*/mother's partner* (*delete as appropriate)	
A3	Child's expected week of birth	
A4	Child's actual date of birth (if known)	
A5	Child's place of birth (if known)	
A6	Child's name (if known)	
<b>Section B: Maternity leave, statutory maternity pay or maternity allowance</b>		

**Guidance notes.** If you are the mother, please give your maternity leave (ML) dates below. If you are still on ML you must also submit a maternity leave curtailment notice to bring your ML to an end.

If you are the child's father or the mother's partner, please give the mother's ML dates. If she is not entitled to statutory ML (for example, because she is an agency worker, self-employed or unemployed), give the dates she started and ended (or will end) her statutory maternity pay (SMP) or maternity allowance (MA) period as applicable. She must give her employer notice to curtail her ML or SMP period, or give notice to the Department for Work and Pensions to curtail her MA period as appropriate.

B1	ML / SMP / MA start date	
B2	ML / SMP / MA end date	
B3	Total ML / SMP / MA (weeks)	

**Section C: Shared parental leave**

**Guidance notes.** The total shared parental leave (SPL) available is 52 weeks minus the mother's ML, SMP, or MA period (see B3).

The first period of shared parental leave cannot start until at least two weeks after the child is born and at least eight weeks after you submit this opt-in notice.

C1	Total SPL available (whole weeks).	
C2	Number of whole weeks' SPL intended to be taken by you.	
C3	Number of whole weeks' SPL intended to be taken by the person you will share SPL with.	
C4	Indication of dates you would like to take shared parental leave.	
C5	The dates in C4 will be treated as a non-binding until a period of leave notice is given.  If you want to treat this notice as a period of leave notice to take SPL on the dates given in C4 tick here.	.....



<b>Section D: Statutory shared parental pay</b>		
<b>Guidance notes.</b> The total statutory shared parental pay (SSPP) available is 39 weeks minus the mother's SMP or MA period (see B3).		
D1	Total SSPP available (whole weeks).	
D2	Number of whole weeks' SSPP intended to be taken by child's mother.	
D3	Number of whole weeks' SSPP intended to be taken by child's father/mother's partner.	
D4	Indication of dates you would like to take SSPP.	
D5	<p>The dates in D4 will be treated as a non-binding until a notice to take SSPP is given.</p> <p>If you want to treat this notice as a notice to take SSPP on the dates given in D4 tick here.</p>	.....

<b>Section E: Staff member's declaration</b>
<p><b>Guidance notes.</b> "Child" means the child referred to in Section A.</p> <p>"Partner" means spouse, civil partner, or other person living with you in an enduring family relationship, but not a sibling, parent, child, grandparent, grandchild, aunt, uncle, niece or nephew.</p>
<p>I am the child's mother and I am entitled to statutory ML. I have submitted a curtailment of maternity leave notice (or will submit it before the person I am sharing SPL with takes SPL and at least eight weeks before the first date on which I intend to take SPL).*</p> <p><i>or</i></p> <p>I am the child's father or the child's mother's partner.*</p> <p>(*delete one as applicable.)</p>

I had at least 26 weeks' continuous employment at the end of the 15th week before the expected week of childbirth (EWC) and have remained continuously employed since then.

My normal weekly earnings in the eight-week period ending with the 15th week before the EWC were not less than the lower earnings limit (£111 for 2014-15). *(delete if not applicable)*

I expect to share the main responsibility for the care of the child with the person who has completed Section F.

I intend to care for the child during each week that I am on shared parental leave and receiving SSPP.

I will immediately inform Human Resources if I cease to care for the child, or to otherwise satisfy the conditions for entitlement to shared parental leave or SSPP.

The information I have given in this notice is accurate.

**Signed** .....

**Date** .....

**Section F: Declaration by person taking shared parental leave with staff member**

**Guidance notes.** "The staff member" and "the child" are the staff member and child referred to in Section A.

If the staff member is the child's mother, you must be the child's father or the mother's partner.

If the staff member is not the child's mother, you must be the child's mother.

"Partner" means spouse, civil partner, or other person living with you in an enduring family relationship, but not a sibling, parent, child, grandparent, grandchild, aunt, uncle, niece or nephew.

Name	
Address	
National Insurance number	
You employer's name and address (if employed) or your business address if self-employed.	

I am the mother of the child and I am (or was) entitled to ML, SMP or MA. I have curtailed my ML, SMP or MA, or will have done so by the time your staff member starts parental leave.\*

*or*

I am the child's father.\*

*or*

I am the partner of the child's mother.\*

*(\*delete as applicable)*

I expect to share the main responsibility for the care of the child with your staff member.

I have worked in an employed or self-employed capacity in at least 26 of the 66 weeks immediately before the EWC.

My average weekly earnings are at least £30, taking the 13 highest-earning weeks in the 66 weeks immediately before the EWC.

I consent to your staff member taking shared parental leave and claiming SSPP as set out in this notice and will immediately inform them if I cease to satisfy any of the conditions in this declaration.

I consent to the information in this declaration being used for the purposes of administering shared parental leave and pay.

**Signed** .....

**Date** .....