

CONTROLLED DOCUMENT

Shared Parental Leave Procedure

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1. Introduction

- 1.1 This purpose of this procedure is to provide information to staff and managers about Shared Parental Leave (SPL) and the processes that should be followed. Further advice can be provided by Human Resources First Contact and information is also available on the HR section of the intranet
- 1.1. SPL allows families more choice over how they look after their children in the first year after birth, adoption or the foster to adopt scheme. Under SPL eligible fathers and partners are able to request more leave from work during this time period.
- 1.2. Staff have the same entitlement to maternity/adoption/paternity leave and pay. Under SPL, an eligible mother, adopter or parental order parent may choose to reduce their maternity/adoption leave early and opt in to SPL.

2. Definitions

The following definitions are used in this procedure:

Mother	The mother or expectant mother of the child.
Person giving birth	Individual who is giving birth who does not identify as the mother.
Primary adopter	The adopter in a couple with primary caring responsibilities (the person who is eligible for adoption leave/pay. They can be any gender).
Partner	The father of the child, or the person who, at the date of the child's birth, is married to, the civil partner of, or the partner of the mother/ person giving birth. This includes someone, of either sex, who lives with the mother and the child in an enduring family relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.
Parental order parent(s)	The intended parents in a surrogacy arrangement where they are eligible for and intend to apply for a Parental Order making them the legal parents of the child that they are having with the help of a surrogate mother.
Parents	Any of the above
Compulsory maternity/ adoption leave	The two week period immediately following the birth/ start of adoption leave the birth mother/ primary adopter is legally required to take as

	maternity/ adoption leave.
Match	When an adopter is approved to adopt a child/ children
Placement	This refers to a 'fostering for adoption' placement only
Maternity/Adoption leave curtailment notice	Notification from the mother/ primary adopter/ intended parent setting out when they propose to end maternity/ adoption leave (unless they have already returned to work from maternity/ adoption leave).
Notice of entitlement and intention	Notification from a member of staff giving an initial, non-binding indication of each period of shared parental leave that they are requesting.
Period of leave notice	Notification from a member of staff setting out the start and end dates of each period of shared parental leave that they are requesting.
Continuous period of leave	An unbroken period of leave e.g. 8 weeks
Discontinuous period of leave	Leave over a period of time with breaks in between where the member of staff returns to work e.g. 4 weeks SPL, 2 weeks at work, 4 weeks SPL.

3. Eligibility Criteria

3.1 SPL can only be used by two people:

- The mother/ person giving birth/ primary adopter/ parental order parent and;
- One of the following:
 - The father of the child; or
 - The spouse/ civil partner/ partner of the child's mother/ person giving birth/ primary adopter/ parental order parent.

3.2 The member of staff must have been continuously employed for at least 26 weeks by the end of the 15th week before the expected week of childbirth/ matching for adoption/ placement in a 'fostering for adoption' scheme.

3.3 The member of staff must remain continuously employed until the week before any period of SPL.

- 3.4 Both parents must share the main responsibility for the care of the child at the time of the birth/ adoption/ placement.
- 3.5 The mother/ person giving birth/ primary adopter/ parental order parent must be entitled to maternity/ adoption leave or to statutory maternity/ adoption pay or maternity allowance.
- 3.6 The mother/ person giving birth/ primary adopter/ parental order parent must curtail their entitlement to maternity/ adoption leave or have returned to work.
- 3.7 Both parents must have provided their employers with notice of entitlement and intention to take SPL.
- 3.8 Both parents must have given their employer a period of leave notice.
- 3.9 Both parents must provide their employer with any evidence requested (e.g. birth certificate, matching certificate, details of partner's employer) within 14 days of the request.
- 3.10 The other parent must have worked for at least 26 of the 66 weeks leading up to the child's expected due/matching date and have earned at least £30 a week in 13 of those weeks (not necessarily continuously).
- 3.11 It is the member of staff's responsibility to check that they are eligible for SPL and to give a written declaration confirming this (see Section 7).

4. Shared Parental Leave Entitlement

- 4.1 Eligible staff may be entitled to take up to 50 weeks of SPL. The number of weeks available is calculated using the mother's/ person giving birth's/ primary adopter's/ parental order parent's entitlement to maternity/ adoption leave which allows them to take up to 52 weeks leave.
- 4.2 A mother/ person giving birth/ primary adopter/ parental order parent may return to work before the full entitlement to maternity/ adoption leave has been taken, or by giving notice to curtail their leave at a specified date in the future. The remainder of the entitlement can then be converted into SPL.
- 4.3 SPL can be taken by the parents separately or at the same time.
- 4.4 The minimum period of leave that can be taken is one week.
- 4.5 SPL must be taken in complete weeks.
- 4.6 SPL can be taken as one continuous period or discontinuous periods.
- 4.7 SPL must be taken during the 12 months following the birth/ adoption/ placement of the child.

- 4.8 Parents can each make three periods of leave notices. This includes any request to change an agreed period of leave.

5. Pay During Shared Parental Leave

5.1 Statutory Shared Parental Pay

Eligible staff will be entitled to claim up to 37 weeks of statutory shared parental leave pay (ShPP), less any weeks of statutory maternity pay, maternity allowance or statutory adoption pay that has already been claimed by either partner. ShPP can be claimed following the birth or placement of the child, but not at the same time as the compulsory two weeks of leave following the birth or placement of the child. ShPP is paid at a rate set by the government each year.

The maximum entitlement to ShPP is 37 weeks. The amount of shared parental pay available will depend on how much statutory maternity/adoption pay or maternity allowance the mother/adopter/parental order parent has been paid when her maternity/adoption leave or pay period ends.

The remaining 13 weeks of SPL are unpaid.

5.2 Occupational Shared Parental Pay

Occupational shared parental pay (OShPP) can be paid where a member of staff has 12 months' continuous service with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth, or at the beginning of the week in which they are notified of being matched with a child for adoption, or by the 15th week before the baby's due date if applying via a surrogacy arrangement; and

- they notify their employer of their wish to take shared parental leave and provide a minimum of eight weeks' notice, through the submission of a booking notification form or other local process; and
- they intend to return to work with the same or another NHS employer for a minimum period of three months after their shared parental leave has ended; and
- the mother/ person giving birth/ or primary adopter has returned to work following maternity or adoption leave, or has provided the binding notice confirming that they intend to bring their maternity or adoption leave and pay entitlements to an early end.

Occupational OShPP is as follows and is a joint entitlement for an eligible couple. The maximum entitlement will only apply where either parent has not already received statutory or occupational maternity pay, maternity allowance or statutory or occupational adoption pay in respect of the child. Where such pay (excluding pay during the compulsory two-week

maternity/adoption leave period) has been received by either parent, the maximum joint entitlement set out below will reduce proportionate to the amount of maternity or adoption pay which has either been taken and paid to either parent, or notified as intending to be taken by either parent.

- for the first six weeks of absence the member of staff will receive full pay. Full pay is inclusive of any ShPP. The total receivable cannot exceed full pay;
- for the next 18 weeks of absence the member of staff will receive half of full pay plus any ShPP. The total receivable cannot exceed full pay;
- for the next 13 weeks, the member of staff will receive any ShPP that they are entitled to under the statutory scheme.
- for the final 13 weeks, the member of staff will receive no pay.

An NHS employer (as defined at Annex 1) will not pay more than 26 weeks, 8 weeks' full pay (including the two weeks' compulsory leave) and 18 weeks' half pay, to staff accessing occupational maternity or adoption or shared parental pay in aggregate to an eligible couple. This is irrespective of whether one or both parents are NHS employees as shared parental leave and pay is a joint entitlement.

Where a member of staff has 12 months' continuous service with the NHS, and their reference period was whilst employed by another NHS organisation, the Trust will pay the occupational shared parental pay. The member of staff will have to claim the statutory shared parental pay from their previous Trust, or directly from the Department for Work and Pensions.

6. Maternity/ Adoption Leave Curtailment Notice

- 6.1 If the mother/ person giving birth/ primary adopter/ parental order parent is employed by the Trust and wishes to apply for SPL they must give 8 weeks' notice to end their entitlement to maternity/ adoption leave using the form in Appendix A. This can be completed before or after the birth/ adoption/ placement.
- 6.2 A mother/ person giving birth must take a minimum of 2 weeks' compulsory maternity leave immediately following the birth.
- 6.3 An adopter is required to take 2 weeks' compulsory adoption leave before curtailing their leave however this does not have to be after the child is placed for adoption as adoption leave can start up to 14 days prior to a child being placed for adoption.
- 6.4 In a surrogacy arrangement the qualification period for adoption leave and pay relates to the baby's due date and actual date of birth.
- 6.5 If the notice is given after the birth/ adoption then it is binding.

- 6.6 If the notice is given before the birth/ adoption/ placement, it can be revoked up to 6 weeks after the birth/ placement.

7. Notification of Entitlement and Intention to Take Shared Parental Leave

- 7.1 If a member of staff is eligible for, and intends to take SPL they must provide their manager with a 'notification of entitlement and intention to take shared parental leave' using the form in Appendix B for mothers/ person giving birth/ primary adopters/ parental order parent or Appendix C for the partner of the mother/ primary adopter/ parental order parent.
- 7.2 This must be submitted to the manager at least 8 weeks before the start of the first period of SPL.
- 7.3 The member of staff must also submit a 'booking notice for a period of leave' form (Appendix D) which details the start and end dates of the leave requested. This can be submitted at the same time as the 'notice of entitlement' or separately.
- 7.4 The booking notice for a period of leave can request one or more periods of leave.
- 7.5 If the notice has been given before the child is born/ adopted/ placed then the start date may be expressed as a number of days from the date of birth/ adoption/ placement.
- 7.6 Each parent can make three booking notices for a period/s of leave, including request(s) to vary a period of leave that has already been arranged (see Section 9 below).
- 7.7 The member of staff's shared parental leave and pay entitlements will be confirmed in writing (using the template on the HR section of the intranet) by the line manager to the member of staff with a copy kept on the personal file and a copy forwarded to Payroll in order that the application can be processed.

8. Agreeing Shared Parental Leave

The flow chart in Appendix E outlines the options below.

8.1 Continuous period of leave

If a member of staff requests one period of continuous leave, they are entitled to take this. The Trust cannot refuse this period of leave as long as the member of staff meets the eligibility criteria.

8.2 Discontinuous period of leave

- 8.2.1 Where a member of staff makes a booking for a period of discontinuous leave, the manager has to consider the proposed leave but does not have to agree to it.
- 8.2.2 Managers are required to respond in writing to the request with an outcome within 14 calendar days. It may be appropriate to meet with the member of staff to discuss their request further and to discuss alternatives.
- 8.2.3 Possible outcomes are:
- Agree to the period of leave requested;
 - Propose alternative dates;
 - Refuse the leave without proposing alternative dates.
- 8.2.4 Proposing alternative dates will not count as one of the three leave notices.
- 8.2.5 If no agreement can be reached within 14 calendar days, the member of staff can withdraw their request. This will not count as one of their three notices to book leave. Alternatively, the discontinuous period of leave defaults to a period of continuous leave.
- 8.2.6 The member of staff has 5 calendar days to choose the start date of this period of continuous leave but it cannot start sooner than 8 weeks from the date of the original notification. If the member of staff does not choose a date, the date will automatically be the date the requested discontinuous leave would have started.

9. Cancelling or Varying Shared Parental Leave

- 9.1 There may be situations where a parent wishes to change an agreed period of leave e.g. vary start and end dates, vary the amount of leave, ask for a single period of leave to become discontinuous or vice versa.
- 9.2 Any such request must be made in writing and should clearly detail the proposed changes. It must be made at least 8 weeks before the varied dates begin.
- 9.3 Any request to vary SPL will count as one of the three notices of leave. If the member of staff has used up all of their notices the Trust is under no obligation to agree to cancel/ vary the leave but can still consider it.

10. Contact during Shared Parental Leave

10.1 Reasonable Contact

Prior to going on SPL, the member of staff and manager should discuss and agree any contact during SPL. This can help the member of staff keep up to date with any changes at work and ease their return to work.

10.2 SPLIT Days

10.2.1 During SPL a member of staff and manager will be able to agree up to 20 Shared Parental Leave in Touch (SPLIT) days without it bringing SPL to an end. These may be used for training, team meetings or work.

10.2.2 Each parent is entitled to 20 SPLIT days.

10.2.3 SPLIT days must be mutually agreed e.g. neither the manager or member of staff can insist upon them.

10.2.4 For SPLIT days worked the member of staff will be paid at their basic daily rate for the hours worked, less any occupational or statutory SPL payments. If a SPLIT day is worked in the full pay period, the member of staff will receive a day of paid leave in lieu once they have returned to work. If a SPLIT day is worked on a day of leave in the half pay period, the member of staff will receive a half day of paid leave in lieu once they have returned to work.

10.2.5 Working for part of any day will count as one SPLIT day.

10.3 Returning to Work after SPL

Staff have the right to return to the same job if they have taken any combination of maternity, adoption, paternity or shared parental leave.

11. Terms and Conditions during Shared Parental Leave

11.1 All terms and conditions of employment continue during SPL with the exception of remuneration.

11.2 All requests for SPL must be handled fairly and consistently to ensure staff are not discriminated against.

12. Special Circumstances

12.1 Early Birth

12.1.1 If the child is born before the expected due date and the member of staff had booked to take SPL within the first 8 weeks of the due date, they can take this same period of time off by requesting to vary their leave as soon as possible. This variation notice will not count as one of the three notifications.

12.1.2 Any leave arranged after the first 8 weeks of the due date is still bound by the eight-week notice required to vary leave.

12.1.3 If the child is born more than 8 weeks before their expected due date and the notification of entitlement to SPL and/or notice to book SPL have not been given, then there is no need to give 8 weeks notice before the period of leave starts. The notices should be given as soon as is reasonably practicable after the actual birth.

12.2 Death of a child before or during birth, or within the first year

12.2.1 If a child dies before the parents have submitted a notice or entitlement to take SPL, they cannot opt into SPL as caring for a child is part of the eligibility criteria.

12.2.2 If the parents have opted into SPL and have booked leave they will still be entitled to take this leave. They will not be able to book any further leave and only one variation can be given to reduce a period of leave.

12.2.3 A member of staff on SPL may cancel agreed SPL and return to work by giving the Trust 8 weeks notice of their return to work.

12.3 Parent no longer caring for the child

12.3.1 If there is a change in circumstances and a member of staff will no longer be responsible for caring for the child, their entitlement to SPL and pay will cease with immediate effect. Staff are required to notify their manager of this immediately.

12.3.2 Any outstanding SPL can only be transferred to the other parent if they get the signed agreement of the other parent to a notice confirming a variation of leave entitlement (Section 9).

12.4 Death of a parent during the child's first year

12.4.1 If a parent dies and the other parent is taking, or is entitled to SPL, then they will continue to be eligible. Any SPL that was due to be taken by the deceased parent may be transferred to the other parent if they are eligible for SPL.

12.4.2 If it is necessary for the other parent to take a further period of SPL or to vary pre-agreed leave then notice must be given as soon as is reasonably practicable if 8 weeks notice cannot be given. If three notices to take leave have been made, they must be allowed to submit one further notice to book/change SPL.

12.5 Multiple births/Adoptions

In the case of multiple births/adoptions there is no entitlement to extra SPL.

13. References

Shared Parental Leave Regulations 2014

Shared Parental Pay (General) Regulations 2014

Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014

Employment Rights Act 1996

Child and Families Act 2014

Equality Act 2010

14. Associated Policy and Procedural Documentation

Equal Opportunities in Employment Policy

Maternity Procedure

Adoption Procedure

Work Life Balance Policy

Shared parental leave: Maternity/Adoption leave curtailment notice

Name	
Job Title	
Department	
Employee Number	
Contact Details (i.e. address/email/phone number)	
I wish to bring my maternity/adoption leave to an end to be able to take shared parental leave. I have also completed a Notification of Entitlement and Intention to take SPL form and my partner has provided a notice of entitlement and intention to take shared parental leave to his/her employer and that I consent to the amount of leave that he/she intends to take.	
I wish to end my maternity/adoption leave on:	
I wish my statutory maternity/adoption pay period (if applicable) to end on:	
Signed	
Date	
<p>Notes</p> <p>You should complete and submit this form alongside the Notification of Entitlement and Intention to take SPL form.</p> <p>Please think very carefully before you submit this form. Once the form is submitted, you can withdraw your curtailment notice only in limited circumstances.</p> <p>The date on which you end your maternity/adoption leave must be at least:</p> <ul style="list-style-type: none"> • eight weeks after the date on which you provide this notice to the organisation; • two weeks after you give birth or two weeks after adoption leave has started; • one week before what would have been the end of your additional maternity/adoption leave. 	

**Notification of Entitlement and Intention to Take Shared Parental Leave –
 Mother/ Person giving birth/ Adopter/Parental Order Parent * (delete as
 appropriate)**

* I wish to provide the Trust with an initial indication of my proposed shared parental leave, as well as the required declarations from myself and my partner.	
Section A: To be completed by member of staff	
Name	
Job Title	
Department/Ward	
Employee Number	
Contact Details (i.e. address/email address/phone number)	
Date maternity/adoption* leave started	
Date maternity/adoption leave* expected to end	
Expected week of birth/date of birth or week of placement/date of placement *	
Total amount of shared parental leave available to both parents	
Intended number of weeks leave to be taken by mother/ person giving birth/ adopter *	
Intended number of weeks leave to be taken by partner	
Intended dates of leave for mother/ person giving birth/ adopter *	
Intended dates of leave for partner	
Section B - Declarations to be completed by member of staff	
I have/will have 26 weeks continuous service with the Trust 15 weeks before the expected week of childbirth/placement*	
I will have remained in continuous employment with the Trust in the week before any period of	

shared parental leave I take	
At the date of the child's birth, I have/will have the main responsibility, apart from my partner, for the care of the child	
I am entitled to statutory maternity/adoption leave *in respect of the child	
I have complied with the Trust's maternity/adoption *leave curtailment requirements/returned to work before the end of my statutory maternity leave period, and will comply with the Trust's shared parental leave notice and evidence requirements	
The information that I have provided is accurate	
I will immediately inform the Trust if I cease to care for the child	
Section C – Declarations to be completed by member of staff's partner	
Name	
Address	
National Insurance Number	
I satisfy/will satisfy the following eligibility requirements to enable the other parent to take shared parental leave:	
I have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth/adoption	
I have average weekly earnings of at least £30 for any 13 of those 66 weeks	
At the date of the child's birth/adoption *, I have/will have the main responsibility, apart from the other parent, for the care of the child	
I am the father of the child, or am married to, the civil partner of, or the partner of, the other parent	
I consent to the amount of shared parental leave that the other parent intends to take	
I consent to your organisation processing the information provided in this form	
Section D: signatures	
Signed (mother/ person giving birth/ adopter/parental order parent):	
Date:	
Signed (partner):	
Date:	

Notification of Entitlement and Intention to Take Shared Parental Leave - Partner

I wish to provide the Trust with an initial indication of my proposed shared parental leave, as well as the required declarations from myself and my partner.	
Section A: To be completed by member of staff	
Name	
Job Title	
Department/Ward	
Employee Number	
Contact Details (i.e. address/email address/phone number)	
Date mother/ person giving birth/ adopter/parental order parent started maternity/adoption leave	
Date maternity/adoption leave expected to end	
Expected week of birth/date of birth/date of matching for adoption	
Total amount of shared parental leave available to both parents	
Intended number of weeks leave to be taken by mother/adopter/parental order parent	
Intended number of weeks leave to be taken by partner	
Intended dates of leave for mother/ person giving birth/ adopter/parental order parent	
Intended dates of leave for partner	
Section B - Declarations to be completed by member of staff	
I have/will have 26 weeks continuous service with the Trust 15 weeks before the expected week of childbirth/adoption	
I will have remained in continuous employment	

with the Trust in the week before any period of shared parental leave I take	
At the date of the child's birth/adoption, I have/will have the main responsibility, apart from the other parent, for the care of the child	
I am entitled to statutory maternity/adoption leave in respect of the child	
I have complied with the Trust's maternity/adoption leave curtailment requirements/returned to work before the end of my statutory maternity/adoption leave period, and will comply with the Trust's shared parental leave notice and evidence requirements	
The information that I have provided is accurate	
I will immediately inform the Trust if I cease to care for the child	
Section C – Declarations to be completed by member of staff's partner	
Name	
Address	
National Insurance Number	
I satisfy/will satisfy the following eligibility requirements to enable the mother/adopter/parental order parent to take shared parental leave:	
I have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth/adoption	
I have average weekly earnings of at least £30 for any 13 of those 66 weeks	
At the date of the child's birth/adoption, I have/will have the main responsibility, apart from the other parent, for the care of the child	
I am the father of the child, or am married to, the civil partner of, or the partner of, the other parent	
I consent to the amount of shared parental leave that the other parent intends to take	
I consent to your organisation processing the information provided in this form	
Section D: signatures	
Signed (mother/ person giving birth/ adopter/parental order parent):	
Date:	
Signed (partner):	
Date:	

Booking Notice For A Period Of Shared Parental Leave

Section A – To be completed by member of staff	
Name	
Job Title	
Department/Ward	
Employee Number	
Contact Details (i.e. address/email address/phone number)	
Details of Leave – Continuous Period	
Dates	
No of weeks	
Signed	Date
Details of Leave – Discontinuous Period	
Dates	
Pattern	
No of weeks	
Signed	Date
Section B – To be completed by manager	
Continuous period accepted (Note - A single, continuous period <u>must</u> be authorised)	
Date member of staff notified:	
Discontinuous period declined	
Date member of staff notified (Note - must be within 14 days)	
Where applicable: Details of alternative arrangements agreed?	
Period of leave to be taken as continuous period starting from	
Date confirmed to member of staff in writing	

Shared Parental Leave Application Flowchart

