Shared Parental Leave Policy

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## Introduction

This policy sets out the rights of employees to shared parental leave and pay. Shared parental leave enables mothers and adopters to commit to ending their maternity leave or adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave/adoption leave and opt in to shared parental leave and pay at a later date.

SPL allows parents to take up to 52 weeks leave in total on the birth of a child. They may be able to take this leave at the same time or at different times.

The mother must take 2 weeks compulsory maternity leave following the birth/placement date and this is included in any calculations for Shared Parental Leave and Pay. However, New Parent Support Leave and Pay (Paternity Leave) should not be counted as part of the 52 week leave total and 39 week statutory pay total when undertaking the shared parental leave calculations.

The Integrated Care Board (ICB) recognises that, from time to time, employees may have questions or concerns relating to their shared parental leave rights. It is ICB’s policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the shared parental leave provisions are complex, if an employee wishes to take shared parental leave, he/she should clarify the relevant procedures with the HR Department to ensure that they are followed correctly.

## Purpose / Policy Statement

This policy outlines the eligibility and arrangements for shared parental leave and pay in relation to the birth or adoption of a child from within or from outside the United Kingdom. It applies in relation to employees of the ICB, whether they are the mother, adopter or the partner.

Shared Parental Leave should not be confused with Ordinary Parental Leave, which is unaffected by shared parental leave. Ordinary Parental Leave is the entitlement to up to 18 weeks’ unpaid leave. The ICB provides a separate policy on Ordinary Parental Leave plus policies on Maternity & Adoption including Paternity Leave.

## Scope

This policy applies to employees of the ICB, whether they are the mother, adopter or the partner.

The policy does not apply to agency workers, bank workers, volunteers, students or contractors.

## Definitions

* **Expected week of childbirth (EWC)** - the week, beginning on a Sunday, in which the doctor or midwife expects your child to be born.
* **Parent** - One of two people who will share the main responsibility for the child's upbringing (and who may be either the mother, the father, or the mother's partner if not the father).
* **Mother** - means the mother or expectant mother of the child.
* **Partner** - means 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. 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.
* **Qualifying Week** - the fifteenth week before the expected week of childbirth.
* **Adopter** - means the person with whom the child is, or is expected to be, placed for adoption, or, in a case where two people have been matched jointly, whoever has elected to be the child's adopter for the purposes of adoption leave.
* **Adoptive Partner** - means the person who is married to, or the civil partner or the partner of, the adopter at the date on which the child is placed for adoption (for adoptions from overseas, at the date on which the child enters Great Britain). This includes someone, of either sex, who lives with the adopter and the child in an enduring family relationship but who is not the adopter's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.
* **Matched for adoption** - means an adoption agency deciding that a person would be a suitable adoptive parent for a child either individually or jointly with another person. A person is notified of having been "matched for adoption" with a child on the date on which the person receives notification of the adoption agency's decision.
* **Placed for adoption** - means placed for adoption under UK adoption laws, including placement with a local authority foster parent who is also a prospective adopter ("foster to adopt").
* **Official notification** - means written notification, issued by or on behalf of the relevant central authority, that it is prepared to issue a certificate to the overseas authority concerned with the adoption of a child from overseas, or that it has issued a certificate and sent it to that authority, confirming, in either case, that the adopter is eligible to adopt, and has been assessed and approved as being a suitable adoptive parent.
* **Continuous Leave** – a notification of a number of weeks taken in a single unbroken period of leave.
* **Discontinuous Leave** – a set number of weeks leave over a period of time, with breaks between the leave where the employee returns to work.

## Roles and Responsibilities

### Integrated Care Board

* + 1. The ICB Board is accountable and responsible for ensuring that the ICB has effective processes for family friendly policies in accordance with relevant legislation and best practice guidance.

### Chief Executive

* + 1. The Chief Executive is accountable for the policy and procedure being in place to ensure fair and equitable approach to family friendly policies.

### Policy Authors

* + 1. Policy authors are responsible for ensuring that this document is updated when any changes are made to legislation and/or the NHS Agenda for Change Terms and Conditions for Service for shared parental pay.

### Executive Chief People Officer

* + 1. The Chief People Officer oversees the implementation of this policy and is responsible for ensuring that managers take action to meet the organisation’s obligations to ensure equity and consistency.

### Line Managers

* + 1. Line managers are responsible for ensuring that this policy is applied fairly

and consistently within their own area. Managers should also ensure that

employees are made aware of this policy, when applicable, and understand their entitlements to shared parental leave and pay.

* + 1. Line managers should ensure that requests are dealt with reasonably, considered sensitively and dealt with punctually. Line managers are also responsible for submitting the information to the HR Service, where required, in a timely manner to ensure that accurate payment is made.

### All Staff

* + 1. Employees should understand the application of this policy and have a general understanding of their statutory and contractual entitlements.
    2. Employees are responsible for informing their managers in a timely manner (in line with the timescales stated in this policy), should they wish to take shared parental leave and for providing accurate information.

## Eligibility for Shared Parental Leave

### General Information

* + 1. For employees to be eligible to take shared parental leave, both parents/adoptive parents must meet certain eligibility requirements.
    2. You are entitled to SPL in relation to the birth of a child if:
  + you are the child's mother, and share the main responsibility for the care of the child with the child's father (or your partner, if the father is not your partner);
  + you are the father or the mother's partner and share the main responsibility for the care of the child with the mother (where the child's father does not share the main responsibility with the mother).
    1. You are entitled to SPL in relation to the adoption of a child if:
  + You share the main responsibility for the care of the child that the shared parental leave and pay relates to with the other parent (i.e. their partner or the child’s father) at the date of the child’s birth or placement for adoption.
    1. Further information about eligibility can be found on the following website:

<https://www.gov.uk/shared-parental-leave-and-pay>

This includes yearly updated information. Additional support can be provided by the HR or Payroll Team depending on the nature of the query.

### Mother’s Eligibility

* + 1. As the mother, you are eligible for shared parental leave if you:
  + have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remain in continuous employment with the ICB until the week before any period of shared parental leave that you take;
  + have at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
  + are entitled to statutory maternity leave in respect of the child; and
  + have given the necessary notices and declarations as summarised in this policy.
    1. In addition, for you to be eligible for shared parental leave, your partner must:
  + have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
  + have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks; and
  + have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child.

### Partner’s Eligibility

* + 1. As the partner you are eligible for shared parental leave if you:
  + have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remain in continuous employment with the ICB until the week before any period of shared parental leave that you take;
  + have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
  + comply with the relevant shared parental leave notice and evidence requirements as outlined within this policy.
  + In addition, for you to be eligible for shared parental leave, the mother must:
  + have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
  + have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks;
  + have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
  + be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave).

### Adopting Parents Eligibility Criteria

* + 1. To be able to access the shared parental leave system, the main adopter and his or her partner must both:
  + have been employed or self-employed during at least 26 of the 66 weeks before the week in which they were notified of being matched for adoption with the child (or in which the child entered Great Britain if the child is being adopted from abroad);
  + have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks; and
  + have the main responsibility for the child at the date of the placement for adoption (or on which the child enters Great Britain), apart from the responsibility of the other partner.
    1. The main adopter will qualify to take shared parental leave if he or she:
  + has at least 26 weeks' continuous employment by the end of the week in which he or she was notified of having been matched for adoption with the child (or received official notification in relation to an adoption from overseas) and remains in continuous employment with that employer until the week before any period of shared parental leave that he or she takes;
  + is entitled to statutory adoption leave in respect of the child;
  + has curtailed his or her statutory adoption leave, or returned to work before the end of the statutory adoption leave period; and
  + has complied with the relevant notice and evidence requirements.
    1. The main adopter's partner will qualify to take shared parental leave if he or she:
  + has at least 26 weeks' continuous employment by the end of the week in which the adopter was notified of having been matched for adoption with the child (or received official notification in relation to an adoption from overseas) and remains in continuous employment with that employer until the week before any period of shared parental leave that he or she takes; and
  + has complied with the relevant notice and evidence requirements.
    1. In addition, for the partner to be eligible, the main adopter must:
  + be entitled to statutory adoption leave or statutory adoption pay in respect of the child; and
  + have curtailed any entitlement to statutory adoption leave or returned to work before the end of the statutory adoption leave, or
  + have curtailed the adoption pay period (where he or she is entitled to statutory adoption pay but not statutory leave).

### If only one Parent is Eligible

* + 1. Sometimes only one of the parents may qualify for SPL. In such cases the eligible parent may still use SPL, for example, to allow them to request leave in separate blocks, since maternity/adoption leave must be taken in a continuous block without the possibility of returning to work and then restarting the maternity leave again. The mother/primary adopter must agree to end their maternity/adoption leave, pay or allowances on a future date in order to allow a period of SPL to be taken. Notices by the employee must be submitted in the required timeframes.

## Leave Entitlement

### Explanation of Leave Entitlement

* + 1. The total amount of SPL available is 52 weeks, less the weeks spent by the child's mother/adopter on maternity/adoption leave (or the weeks in which the mother/adopter has been in receipt of relevant occupational/statutory pay).
    2. The first two weeks following birth are the compulsory maternity leave period and are reserved for the mother. This means that the parents could take as shared parental leave 50 weeks between them. The SPL will be shorter if the mother begins her maternity leave (or takes her SMP or MA, if she is not entitled to maternity leave) prior to child’s birth. Any such period will need to be taken into account when calculating the overall SPL entitlement.
    3. SPL for adopting parents can begin at any time from the date on which the child is placed for adoption (for adoptions from overseas, at any time from the date on which the child enters Great Britain) or, where more than one child is placed for adoption through a single placement, the date of placement of the first child (for adoptions from overseas, at any time from the date on which the first child enters Great Britain).
    4. The mother's partner/adoptive partner can begin a period of shared parental leave at any time from the date of the child's birth. SPL entitlement is additional to ordinary paternity leave entitlement. If you are the partner, you should consider using your two weeks' paternity leave before taking SPL. Once you start SPL you will lose any untaken paternity leave entitlement.
    5. The mother/adopter and partner must take any shared parental leave within 52 weeks of birth or of the date on which the child is placed for adoption (for adoptions from overseas, within 52 weeks of the date on which the child enters Great Britain).
    6. Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the ICB is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of discontinuous blocks of leave (in which case the employee needs the ICB’s agreement).
    7. A maximum of three requests for leave per pregnancy/adoption can normally be made by each parent.
    8. Shared parental leave and pay must be taken within one year of the birth of the child, or the date the child was placed with the family in cases of adoption.

## Applying for Shared Parental Leave

### Notice Requirements for Shared Parental Leave

* + 1. The notices that the parents must give to the relevant employer to be able to take shared parental leave are made up of three elements. They are:
  + a curtailment notice (maternity / adoption) from the mother/adopter setting out when they propose to end maternity/adoption leave (unless the mother/adopter has already returned to work from maternity/adoption leave);
  + a notice of entitlement and intention (employee / partner / adopter / adoptive partner) a notice to opt into the SPL scheme including a written declaration that your partner has given his or her employer an opt-in notice and that you have given the necessary declarations in that notice. This is an initial, non-binding indication of each period of shared parental leave that you are requesting; and
  + a period of leave notice from (maternity / adoption) the employee setting out the start and end dates of each period of shared parental leave that he/she is requesting.
    1. The notice periods that are set out below in more detail are the minimum required by law. However, the earlier the employee informs the ICB of his/her intentions, the more likely it is that the organisation will be able to accommodate the employee's wishes, particularly if he/she wants to take periods of discontinuous leave.
    2. Employees are advised that, if they have already decided the pattern of shared parental leave that they would like to take, they can provide more than one type of notice at the same time. For example, the mother/adopter could provide a curtailment notice, notice of entitlement and intention and period of leave notice at the same time. Similarly, the partner could provide his/her notice of entitlement and intention and period of leave notice at the same time.

## Maternity Leave Curtailment Notice

Before the mother/adopter or their partner can take shared parental leave, the mother must either:

* + return to work before the end of her maternity leave (by giving the required 28 days' notice for NHS employees or 8 weeks’ statutory notice) of planned return;
  + provide the employer with a Maternity leave curtailment notice or Adoption leave curtailment notice 8 weeks before they wish to end maternity/adoption leave and enter into SPL.

The curtailment notice must be in writing and state the date on which maternity/adoption leave is to end. That date must be:

* + at least 8 weeks after the date on which the mother/adopter gave the curtailment notice to the employer;
  + at least one week before what would be the end of the maternity/adoption leave period; and
  + in birth situation – after the compulsory maternity leave period, which is the two weeks (or four weeks for factory workers) after birth;

If you are the mother/adopter, you must give us, at the same time as the curtailment notice, a notice to opt into the SPL scheme (mother) or opt into the SLP scheme (adopter) or a written declaration that your partner has given his or her employer an opt-in notice and that you have given the necessary declarations in that notice.

If you are the mother's/adoptive partner, you will only be able to take SPL once the mother has either:

* + returned to work;
  + given employer a curtailment notice to end maternity/adoption leave;
  + given employer a curtailment notice to end the relevant statutory pay (if applicable); or
  + in birth situation - given a curtailment notice to the benefits office to end MA (if mother is not entitled to leave or SMP).

The mother/adopter can withdraw notice curtailing maternity/adoption leave in limited circumstances. The withdrawal of a curtailment notice must be in writing and can be given only if the mother/adopter has not returned to work. The curtailment notice can be withdrawn if:

* + it is discovered that neither the mother/adopter nor the their partner are entitled to shared parental leave or statutory shared parental pay and the mother/adopter withdraws the leave curtailment notice within eight weeks of the date on which the notice was given;
  + the partner has died; or
  + in birth situations - the maternity leave curtailment notice was given before the birth of the child and the mother withdraws her maternity leave curtailment notice within six weeks of the child's birth.

Once you revoke a curtailment notice you cannot submit a second curtailment notice, unless it was revoked before the birth /child was placed.

If the mother or adopter revokes their notice to end their maternity or adoption leave they remain on maternity or adoption leave. Their entitlement to maternity or adoption leave is restored to a total of 52 weeks, even if their partner has taken shared parental leave prior to the mother/adopter revoking her leave curtailment notice.

## Opting in to SPL – Notice of Entitlement & Intention

To opt-in to shared parental leave the mother / adopter or the partner must complete the relevant notice of entitlement and intention:

* + Notice of Entitlement and Intention (mother)
  + Notice of Entitlement and Intention (mother's partner)
  + Notice of Entitlement and Intention (adopter)
  + Notice of Entitlement and Intention (adoptive partner)

and submit it to the HR department. This must not be done until the mother/adopter has returned from maternity/adoption leave, the curtailment notice has been given by the mother/adopter, or at the same time.

When submitting the notice of entitlement and intention from the employee, you must also provide:

* + a copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth - if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice); and
  + name and address of the other parent's employer (or a declaration that the other parent has no employer).

The employee has 14 days from the date of the request to send the ICB the required information.

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a notice of entitlement and intention, provided that he/she submits a Variation or cancelation of proposed shared parental leave form.

Any indication of leave intended to be taken that the employee provides in a variation of notice of entitlement and intention is non-binding until he/she provides a period of leave notice in relation to that period of leave.

There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

## Period of Leave Notice

Having opted into the SPL system you will need to submit a period of leave notice form (maternity) or period of leave notice form (adoption) to ‘book’ your leave.

A period of leave notice must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave.

You can vary or cancel the proposed shared parental leave dates following the submission of a period of leave notice, provided that you give the ICB a written period of leave variation or cancelation notice form not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The written notice can:

* + vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
  + request that a continuous period of leave become discontinuous periods of leave; or
  + request that discontinuous periods of leave become a continuous period of leave.

You can provide a combined total of up to three period of leave notices or variations of period of leave notices per pregnancy, although the ICB may waive this limit in some circumstances.

## Continuous and Discontinuous Periods of SLP

### Continuous Period of SLP

* + 1. You may submit a notification for a period of continuous leave, which is a number of weeks taken in a single unbroken period of leave.
    2. If your period of leave notice gives dates for a single continuous block of SPL you will be entitled to take the leave set out in the notice.
    3. You can give up to three period of leave notices. This may enable you to take up to three separate blocks of shared parental leave.
    4. Your manager will respond to your request normally within 14 days of the leave request being received. HR will write to you to confirm the arrangements.

### Discontinuous Period of SLP

* + 1. In general, a period of leave notice should set out a single continuous block of leave. We may, in some cases, be willing to consider a period of leave notice where the SPL is split into shorter periods (of at least a week) with periods of work in between. It is best to discuss this with your manager and/or HR in advance of submitting any formal period of leave notices. This will give us more time to consider the request and hopefully agree a pattern of leave with you from the start.
    2. All requests for discontinuous leave will be carefully considered on a case-by-case basis, weighing up the potential benefits for you and us against any adverse impact on the business. Agreeing to one request will not set a precedent or create the right for another similar pattern of SPL being granted.
    3. While we will consider your request for discontinuous leave, we may not be able to agree it. If we are unable to agree to your request straight away, there will be a two-week discussion period. At the end of that period, we will confirm any agreed arrangements in writing. If we have not reached an agreement, you will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in your notice (for example, if you requested three separate periods of four weeks each, you will be entitled to one 12-week period of leave). Alternatively, you may:
  + choose a new start date (which must be at least eight weeks after your original period of leave notice was given), and tell us within five days of the end of the two-week discussion period. If you do not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date of the first period of leave requested in the period of leave notice.
  + withdraw your period of leave notice within two days of the end of the two-week discussion period (in which case it will not be counted and you may submit a new one if you choose).

## Early Birth

If the employee gave period of leave notice (booked) to take SPL 8 weeks following birth of the child and the child is born early, the requirement to give 8 weeks’ notice of entitlement or to book periods of shared parental leave is deemed as being satisfied if the employee gives notice as soon as reasonably practicable after the birth. This means the parent can book a period of leave to start within 8 weeks of the actual birth if he or she gives the notice as soon as reasonably practicable after the child’s actual birth (i.e. there is no requirement for full 8 weeks’ notice).

Where an employee has notified his or her employer of their entitlement to shared parental leave or pay and has also given notice of a period of leave and/or pay to start within 8 weeks of the child’s expected week of birth and the child is born early, the employee may take the leave and pay that they have ‘booked’ early if they wish (i.e. they can bring the leave and pay that they have ‘booked’ forward so that they are taking it at the equivalent time to when they would have been had the baby had been born on time.

The employee must give a notice to vary the shared parental leave and pay that they originally applied for as soon as practicable following the birth. For example, if the mother’s partner was planning to take 2 weeks of paternity leave after the birth and being at home for a continuous period of 5 weeks, he or she could start their paternity leave after the birth and take the same amount of shared parental leave and pay 2 weeks later (i.e. after their paternity leave) if he or she notified us of the change as soon as reasonably practicable after their child’s birth.

## Shared Parental Leave Pay

If the mother or adopter curtails their entitlement to maternity/adoption pay or maternity allowance before they have used up their entitlement to 39 weeks' pay then Occupational/Statutory Share Parental Pay could be claimed for any remaining weeks.

## Statutory Shared Parental Pay (ShPP)

In order to qualify for statutory shared parental pay (ShPP):

* + you must satisfy the eligibility criteria for shared parental leave, and in addition.
  + each parent must have earned the Lower Earnings Limit (LEL) or more for the 8 weeks leading up to the qualifying week (as with shared parental leave, the qualifying week is the end of the 15th week before the week in which the baby is due to be born, or the week that the adopter is notified of being matched with a child).

Eligible employees will be entitled to claim up to 37 weeks of statutory shared parental leave pay (39 weeks minus the 2 weeks compulsory maternity leave), 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.

If you do not qualify for ShPP you may still qualify for shared parental leave only. Further details regarding statutory entitlement and pay can be found on the government’s website:

<https://www.gov.uk/shared-parental-leave-and-pay>

A family leave calculator is available on the government’s website, which helps individuals work out what statutory entitlement they may have for maternity, paternity and/or SPL.

## Occupational Shared Parental Pay

Occupational Shared Parental Pay can be paid at any point during the 52 week period (except the two weeks immediately following the birth/placement) where entitlement to receive this has not already been exhausted. Employees with more than 1 year’s continuous service with the NHS by the 11th week before the EWC or the date the child is placed for adoption/enters Great Britain, and who meet the requirements for ShPP, will be entitled to Occupational Shared Parental Pay.

Where an employee intends to return to work after a period of Shared Parental Leave, the maximum joint entitlement of an eligible couple to occupational shared parental pay will be as set out below. The maximum entitlement will only apply where either parent has not already received statutory or occupational maternity pay 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.

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

The ICB will not pay more than 26 weeks’ Occupational Shared Parental Pay in total – 8 weeks’ full pay (including the two weeks’ compulsory maternity/adoption leave) and 18 weeks’ half pay, to employees accessing occupational maternity or adoption or shared parental pay in total 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.

Occupational Shared Parental Pay will only be paid if the employee declares their intention to return to work for a period of three months, following the end of SPL.

For employees who decide prior to the commencement of SPL that they will not be returning to work for the ICB or another NHS authority for a minimum period of 3 months following their final period of leave, the period that would normally be paid at Occupational Shared Parental Pay will only be paid at the ShPP rate.

If an employee receives Occupational Shared Parental Pay and at a later date decides that he/she will not be returning to work for the ICB or another NHS authority, they will be obliged to repay any Occupational Shared Parental Pay received during the shared parental leave period.

If an employee is unsure whether or not he/she will be returning to the ICB or another NHS authority following the final period of SPL, they will be required to put any Occupational Shared Parental Pay ‘on hold’ until they decide whether or not they will be returning to work for a period of at least 3 months. If the decision is taken to return to work, the payment of occupational ShPP can be paid either upon the return to work (as a lump sum) or can be commenced at any point during the period of maternity leave.

## Other Terms & Conditions during Shared Parental Leave

During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by Occupational/Statutory Shared Parental Pay under the ICB’s contractual shared parental pay scheme if the employee is eligible for it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue. Pension contributions will continue to be deducted from salary during periods of paid O/SShPL. However, to ensure that pensionable service is not broken, pension contributions will be due to be paid on any periods of unpaid SPL. Any outstanding contributions will be recovered when the employee returns to work.

An employee on shared parental leave will progress through their pay step on the date the pay step is due unless a pay-step review meeting has taken place prior to the commencement of leave which confirmed that the required standards for pay progression would not be met. If a pay-step review cannot be conducted prior to the pay-step date, the pay-step point should be automatically applied in the individual’s absence.

## Annual Leave

Annual leave entitlement will continue to accrue at the rate provided under the employee’s contract and the Annual Leave policy.

An employee who has requested SPL should discuss their outstanding holiday entitlement with their line manager before the start of the first period of SPL. The ICB may:

* + Require the employee to take such outstanding holiday before commencing SPL;
  + If your SPL will continue into the next holiday year, agree in conjunction with the relevant Head of Department that any holiday entitlement that cannot reasonably be taken before starting your leave is carried over and taken on return to work after the end of SPL; or
  + For holiday entitlement in excess of the statutory minimum, pay the employee for any outstanding holiday leave as if the employee were leaving.

All holiday dates are subject to approval by your manager.

## Contact during Shared Parental Leave and SPLiT Days

An employee is encouraged to maintain reasonable contact with their line manager during their period of SPL. The ICB also reserve the right to maintain reasonable contact with the employee. This may be to discuss their plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update you on developments at work during your absence.

The ICB has no right to require an employee to carry out any work and the employee has no right to undertake any work during shared parental leave. However, the employee(s) may ask or be asked to work for the ICB (including attending training) on up to 20 days each during shared parental leave without that work bringing the period of shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLiT) days. SPLiT days are designed to help keep the employee up to date with any workplace developments and to assist in their return to work after a period of leave.

If a SPLiT day occurs whilst the employee is receiving full pay, no additional payment will be made. Where it occurs during a period of half pay or statutory pay only, pay will be ‘topped up’ so that the employee receives full pay for the hours worked. If it occurs during an unpaid period the employee will be paid at normal hourly rate for the hours worked. Payment for SPLiT days will be pensionable and will not exceed full pay on any occasion.

For SPLiT days worked the employee will be paid at their basic daily rate for the hours worked, less any occupational or statutory shared parental leave payments. If a SPLiT day is worked in the full pay period, the employer will make arrangements to ensure the employee receives a day of paid leave in lieu once the employee has returned to work. If a SPLiT day is worked on a day of leave in the half pay period, the employer will make arrangements to ensure the employee receives a half day of paid leave in lieu once the employee had returned to work.

## Sickness During Shared Parental Leave

An employee is only entitled to be absent from work on shared parental leave if they are caring for the child that the leave relates to whilst they are off work.

In the unlikely event that they are too ill to care for the child during a week that they are meant to be on shared parental leave, the employee should inform their line manager immediately. In these circumstances their entitlement to be on shared parental leave in the week that they are ill ceases but they may be entitled to be absent from work on sick leave, in this case the Absence Management Policy on sick leave will apply.

The employee may be able to apply to take the period of shared parental leave during which they were sick at a different date providing they have not exhausted the maximum of three requests for leave per pregnancy/adoption that can normally be made by each parent.

## Returning to work following Shared Parental Leave

An employee has the right to return to their job under their original contract and on no less favourable terms and conditions. If an employee would like to change their hours or other working arrangements on return from SPL they should make a request under the ICB’s Flexible Working Policy. It is helpful if such requests are made as early as possible.

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

If an employee decide they do not want to return to work and they have taken Occupational ShPP they will be liable to pay this back as detailed above.

If an employee is subject to redundancy and has previously taken six weeks continuous or more the employee is eligible for prioritisation in redeployment offers in a redundancy situation for 18 months from the child’s date of birth.

## Fraudulent Claims

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

## Further Guidance and Support

Employees can find further guidance on the following websites:

<https://www.gov.uk/shared-parental-leave-and-pay>

<https://www.acas.org.uk/shared-parental-leave-and-pay>

Employees can also seek support from either the HR or Payroll Team as appropriate and depending on their concerns/queries.

## Forms

The forms for Shared Parental Leave are available on the intranet. These are the forms and templates recommended by ACAS and can also be found on this website:

<https://www.acas.org.uk/shared-parental-leave-forms>

The use of the forms and templates provided by ACAS ensures a simpler process for those who have partners working outside of the ICB as they can use the same forms.

## Monitoring Compliance

The HR Team will be responsible for monitoring that this procedure is followed and may be consulted at any stage through the process to offer advice to those involved.

Monitoring information will be published and reported as appropriate.

Should the monitoring uncover any shortfalls in the implementation of the policy, the HR team will work with the relevant management team to draw up an action plan for improvement. This action plan may include, for example:

* + - * training for line managers
      * A risk assessment

It is also anticipated that any issues in respect of the implementation of the policy may be identified as a result of staff exercising their right via the ICB Grievance Policy.

## Staff Training

No essential (including mandatory) learning and development requirements have been identified for any staff groups, in order to fulfil the requirements stated within this policy.

Guidance can be sought from Human Resources team.

## Arrangements For Review

This policy will be reviewed no less frequently than every two years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed.

If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the Integrated Care Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the Integrated Care Board.

## Associated Policies, Guidance And Documents

#### Associated Policies

* Flexible Working Policy
* Absence Management Policy
* Annual Leave Policy
* Maternity and Adoption Leave Policy

## References

* NHS Terms and Conditions of Service - any reference is to the latest edition.
* ACAS (Advisory, Conciliation and Arbitration Service) guidance on Shared Parental Leave.
* Protection from Redundancy (Pregnancy and Family Leave) Act 2023.

## Equality Impact Assessment

The EIA at **Appendix A** has identified no equality issues with this policy.

## 

## Appendix A - Equality Impact Assessment

**INITIAL INFORMATION**

|  |  |
| --- | --- |
| **Name of policy:**  Shared Parental Leave  **Version number (if relevant):**  3.0 | **Directorate/Service**:  People Services |
| **Assessor’s Name and Job Title:**  Julia Atigla, HR Business Partner | **Date:**  31st May 2024 |

|  |
| --- |
| **OUTCOMES** |
| *Briefly describe the aim of the policy and state the intended outcomes for staff* |
| This policy sets out the rights of employees to shared parental leave and pay. Shared parental leave enables mothers and adopters to commit to ending their maternity leave or adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave/adoption leave and opt in to shared parental leave and pay at a later date. |
| **EVIDENCE** |
| *What data / information have you used to assess how this policy might impact on protected groups?* |
| The ICB monitors the composition of its workforce under the nine protected equality characteristics and reports on this annually. This information helps the ICB to assess the potential impact of its policies upon staff. |
| *Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why?* |
| Relevant Trade Unions have been consulted on the policy and any comments will be taken into consideration when the policy is published. |

**ANALYSIS OF IMPACT ON EQUALITY**

The Public Sector Equality Duty requires us to **eliminate** discrimination, **advance** equality of opportunity and **foster** good relations with protected groups. Consider how this policy / service will achieve these aims.

N.B. In some cases it is legal to treat people differently (objective justification).

* ***Positive outcome*** *– the policy/service eliminates discrimination, advances equality of opportunity and fosters good relations with protected groups*
* ***Negative outcome*** *–**protected group(s) could be disadvantaged or discriminated against*
* ***Neutral outcome***  *–**there is no effect currently on protected groups*

Please tick to show if outcome is likely to be positive, negative or neutral. Consider direct and indirect discrimination, harassment and victimisation.

| Protected  Group | Positive  outcome | Negative  outcome | Neutral  outcome | Reason(s) for outcome |
| --- | --- | --- | --- | --- |
| Age |  |  | x |  |
| Disability  (Physical and Mental/Learning) |  |  | x |  |
| Religion or belief |  |  | x |  |
| Sex (Gender) | x |  |  | The policy is clear that Shared Parental Leave is available beyond the traditional male/female gender roles of parents. |
| Sexual  Orientation | x |  |  |  |
| Transgender / Gender Reassignment |  |  | x |  |
| Race and ethnicity |  |  | x |  |
| Pregnancy and maternity (including breastfeeding mothers) | x |  |  |  |
| Marriage or Civil Partnership | x |  |  |  |

|  |
| --- |
| **MONITORING OUTCOMES** |
| Monitoring is an ongoing process to check outcomes. It is different from a formal review which takes place at pre-agreed intervals. |
| *What methods will you use to monitor outcomes on protected groups?* |
| It is anticipated that any issues in respect of the implementation of the policy will be identified via staff exercising their right via the ICB’s Grievance Procedure. |

|  |
| --- |
| **REVIEW** |
| *How often will you review this policy / service?* |
| Every 2 years or earlier if there are any significant changes in legislation, policy or good practice. |
| *If a review process is not in place, what plans do you have to establish one?* |
| N/A |

## Appendix B – Forms for Shared Parental Leave

**Shared Parental Leave forms (Maternity)**

Template forms for the birth parent or mother and their partner to confirm Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) entitlement with their employers.

**Forms below that need to be completed if:**

| **Form No** | **Both parents want to take SPL** | **Just the birth parent wants to take SPL** | **Just the partner wants to take SPL** | |
| --- | --- | --- | --- | --- |
| **Form 1** | Yes | Yes | Yes |
| **Form 2** | Yes | Yes | No |
| **Form 3** | No | No | Yes |
| **Form 4** | Yes | No | Yes |

**Shared Parental Leave forms (Adoption)**

Template forms for the primary adopter who’s taken adoption leave and/or pay and their partner to confirm entitlement to Shared Parental Leave (SPL) or Shared Parental Pay (ShPP) with their employers.

**Forms below that need to be completed if:**

| **Form No** | **Both parents want to take SPL** | **Just the primary adopter wants to take SPL** | **Just the partner wants to take SPL** |
| --- | --- | --- | --- |
| **Form 1** | Yes | Yes | Yes |
| **Form 2** | Yes | Yes | No |
| **Form 3** | No | No | Yes |
| **Form 4** | Yes | No | Yes |

**SPL forms (for parental order parents entitled to adoption leave and/or pay)**

Forms for a parental order parent (POP) who is entitled to adoption leave and/or pay and their partner to confirm their SPL and Shared Parental Pay (ShPP) entitlement with their employers. The parent entitled to adoption leave and/or pay is referred to as the ‘parental order parent’ in these forms.

**Forms below that need to be completed if:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Form No** | **Both parents want to take SPL** | **Just the POP wants to take SPL** | **Just the partner wants to take SPL** |
| **Form 1** | Yes | Yes | Yes |
| **Form 2** | Yes | Yes | No |
| **Form 3** | No | No | Yes |
| **Form 4** | Yes | No | Yes |