

SHARED PARENTAL LEAVE POLICY

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Transformation

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Patients first • Personal responsibility • Passion for excellence • Pride in our team

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History

| Issue | Date Issued | Brief Summary of Change | Approved by |
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| 1 | Nov 2001 | New Policy | Management board |
| 2 | Mar 2003 | In accordance with Agenda for Change Terms and Conditions of Service and latest legislation. | Policy Group and Management Board |
| 3 | Jul 2008 | Incorporation of Maternity Support (Paternity Leave), Adoption Leave, Parental Leave, Fertility Treatment. Change of Policy Name. | Acting Director of Resources |
| 4 | Nov 2010 | In accordance to changes in legislation | Trust Executive Committee |
| 5 | Apr 2013 | In accordance with changes to legislation and introduction of Surrogacy section | Equality & Diversity Steering Group |
| 6 | May 2014 | Amendment to return to work, annual leave, re-wording of sections 17 and 18 (miscarriage and still birth). Eligibility criteria for parental leave changed in line with national guidance. | TEC |
| 7 | Mar 2015 | In accordance with changes to legislation – introduction of Shared Parental Leave | |
| 8 | Jun 2018 | In accordance with changes to legislation – removal of additional paternity leave following the introduction of Shared Parental Leave. Removal of Parental Leave as this is detailed within the Work life Balance Policy. | |
| 9 | Oct 2020 | Change of Policy Name | TEC |
| 10 | July 2023 | Review and Update of Policy | |

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ASHFORD & ST PETER'S HOSPITAL NHS FOUNDATION TRUST

SHARED PARENTAL LEAVE POLICY

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INTRODUCTION

1. Ashford & St. Peter's Hospitals NHS Foundation Trust (ASPH) is committed to supporting working parents to achieve a good work life balance. This policy sets out the Trust's arrangements for supporting employees wishing to access shared parental leave.
2. The policy sets out the provisions for shared parental leave and pay. The policy sets out flexible, fair and supportive arrangements and is part of a suite of policies providing support and benefits to employees with parenting or caring responsibilities:

Adoption Leave and Surrogacy Policy
Annual leave policy
Buying and Selling Annual Leave Scheme
Career Break Policy
Flexible Working Policy
Shared Parental Leave Policy
Special Leave Policy
Maternity Leave and Fertility Treatment Policy

SCOPE

3. This policy applies equally to every employee, regardless of their sexual orientation, gender identity or gender expression.

DEFINITIONS

4. **Mother:** The biological parent who gives birth, regardless of their gender identity
5. **Partner:** the child's biological father or the partner of the mother/adopter. This can be a spouse, civil partner; or a partner who is living in an enduring relationship with the mother and the child, regardless of their gender identity
6. **SPL:** Shared Parental Leave
7. **ShPP:** Shared Parental Pay
8. **Continuous Leave:** a number of weeks taken in a single unbroken period of leave
9. **Discontinuous Leave:** 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 employee returns to work
10. **Curtail** - where an eligible mother brings their maternity/ adoption leave and, if appropriate, pay or allowance entitlement to an end early.

KEY RESPONSIBILITIES

11. **Employees** have a responsibility to:

- Ensure that they are aware of the entitlements set out in this document.

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- Adhere to the procedures outlined within this policy.
- Submit application forms and associated documents in a timely manner
- Maintain clinical practice and professional registration whilst on leave.
- Comply with requests to attend Occupational Health.
- Agree a way of keeping in touch with their manager before they commence their leave.

12. Managers have a responsibility to:

- Maintain confidentiality at all times.
- Ensure policy implementation and compliance within their area of responsibility.
- Discuss leave and pay entitlements with their employees.
- Ensure application forms and Staff Changes Forms are completed and submitted to HR / Payroll in a timely manner.
- On notification of an employee's pregnancy, to perform and document a risk assessment of their work and to take necessary actions to reduce or remove any identified risks to the employee or their unborn child.
- On notification that an employee intends to continue to breastfeed on return to work, to perform and document a risk assessment of their work and to take necessary actions to reduce or remove any identified risks to the employee or their child.
- Agree a way of keeping in touch with employees before they commence their leave and keep them informed about any relevant developments within the Department and Trust during their leave.
- Agree return to work arrangements that includes local induction programme, statutory and mandatory training updates, ensure professional registration is up to date and provide any other support and training as necessary.
- Ensure policy implementation and compliance within their area of responsibility.

13. Human Resources have a responsibility to:

- Advise employees of the support available to them and of their rights and obligations under this policy.
- To confirm the employee's paid and unpaid leave entitlements under this agreement (or statutory entitlements if the employee does not qualify under this agreement), along with the planned return date and the notice required to return earlier than planned.
- To provide guidance in general that supports the employee

14. Payroll has a responsibility to:

- Advise employees of their pay entitlements under this policy.
- Ensure that payments are made in line with both current Occupational and Statutory regulations.
- To ensure that the necessary data and proof has been collected from the employee to satisfy Department of Work and Pensions (DWP) auditing.
- Ensure that payments are made timely in line with normal salary crediting.
- Ensure that pension contributions are continued to be made during any period when the employee is receiving ShPP.
- Update ESR to reflect the leave taken

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WHAT IS SHARED PARENTAL LEAVE (SPL)?

15. Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year following birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for their child. All eligible employees have a statutory right to take SPL. There may also be an entitlement to some Shared Parental Pay (ShPP).
16. Mothers, fathers and partners of mothers of children due on or after 5 April 2015, or adoptive parents who are notified of having being matched with a child on or after 5 April 2015 have the right to opt to take SPL.
17. Opting in to take SPL means that eligible mothers, fathers or partners may elect to share up to 50 weeks' SPL within the first year of the child's life provided that the mother/principal adopter has reduced or agreed to reduce her entitlement to Maternity/Adoption Leave and Pay. The mother/ principal adopter can share their leave with only one other person.
18. Employees who are eligible can therefore choose to end Maternity or Adoption Leave/Pay and commence Shared Parental Leave/Pay. This policy provides further information on eligibility for Shared Parental Leave and Pay entitlements.

ELIGIBILITY TO SHARED PARENTAL LEAVE

19. The amount of leave available is calculated using the mother/principal adopter's entitlement to Maternity/Adoption Leave (52 weeks), and to qualify for SPL a mother/principal adopter must:
 - Have a partner.
 - Be entitled to either maternity/adoption leave or to Occupational/Statutory Maternity/Adoption Pay or Maternity Allowance.
 - Have reduced or given notice to reduce, their maternity/adoption leave, or their pay/allowance (if not eligible for maternity/adoption leave).
20. The partner must have worked for 26 of the 66 weeks up to the child's due/matching date and earned at least £390 in total in 13 weeks of the 66 weeks (the 'earning and employment' test). This figure is subject to change from time to time in accordance with government set requirements.
21. A parent (partner) intending to take SPL must:
 - Be an employee.
 - Share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption.
 - Have properly notified their entitlement and intention to take SPL, complying with the SPL process, and provided the necessary declaration and evidence.
 - Have been continuously employed for at least 26 weeks by the end of the 15th week before the expected week of childbirth/or at the point of being notified they have been matched with a child, and still be employed at the start of the leave period (the 'continuity test').

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ENTITLEMENT TO SHARED PARENTAL LEAVE

22. The earliest that SPL can commence is 2 weeks after the date on which the child is born, or 2 weeks after the date of placement of the child for adoption, and it must end no later than 12 months after that date. Any SPL not taken by the first birthday or first anniversary after adoption will be lost.
23. The maximum amount of leave that can be shared is 50 weeks regardless of the number of children born as a result of pregnancy or the number of children placed under the same adoption arrangement.
24. Requests for a single continuous block of a number of complete weeks will be granted.
25. An employee taking SPL can split their leave into up to 3 separate blocks instead of taking it all in one go, even if they are not sharing the leave with their partner. Requests for up to 3 discontinuous blocks will be considered but may not be granted, as this decision will be made by taking into consideration the needs of the service.
26. If both parents are taking SPL then they can take their leave at the same time as each other, or at different times. However, the combined time off can only reach a maximum of 50 weeks leave and 37 weeks ShPP.
27. You must give at least 8 weeks' notice before a block of leave begins.
28. SPL can start for the partner while the mother or adopter is still on maternity or adoption leave as long as she has given binding notice to end her leave (or pay if she is not entitled to leave as outlined in the Maternity/Adoption Leave policies). Where the mother/adopter curtails their leave, this will draw an end to any occupational maternity entitlements which are still in place at the time of the curtailment.

REQUESTING FURTHER EVIDENCE OF ELIGIBILITY

29. Following notification of intention to take SPL a request may be made for:
 - The name and business address of the partner's employer (where the employee'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, when 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.
30. In order to be entitled to SPL, the employee must produce this information within 14 days of any request.

PREMATURE BIRTH

31. If the child is born before their expected due date and the employee had booked to take SPL within the first eight weeks of the due date, they may take the same period of time off after the actual birth without having to provide eight weeks' notice, by submitting a notice to vary their leave (appendix 2) as soon as is reasonably practicable. Unlike most other variation notices, this would not count as one of the employee's three notifications.

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- 32. Any leave arranged after the first eight weeks of the due date is still bound by the eight-week notice required to vary leave.
- 33. If the child is born more than eight weeks before their expected due date and the notice of entitlement to SPL and/or a notice to book SPL have not yet been given, then there is no requirement to give eight weeks' notice before the period of leave starts. The notices should be given as soon as is reasonably practicable after the actual birth.

DEATH OF A CHILD

- 34. In the event of the death of the child before the parents have submitted a notice of entitlement to take SPL then they cannot opt into SPL because a qualifying condition is caring for a child. The mother will remain entitled to maternity leave and the mother's partner could still qualify for statutory paternity (new parent) leave.
- 35. If the parents have opted into SPL and they have booked leave, they will still be entitled to take the booked leave. No further notice booking leave can be submitted and only one variation notice can be given to reduce a period of leave or to rearrange a discontinuous leave arrangement into a single block of leave

FIXED-TERM OR TRAINING CONTRACTS

- 36. An employee who is on a fixed term or training contract which expires after the 11th week before the expected week of childbirth and who satisfies the conditions above will have their contract extended to allow them to receive the 39 weeks which includes paid occupational and statutory shared parental pay and the remaining 13 weeks of unpaid shared parental leave, providing they submit the required notifications prior to the end of the fixed term contract and continue to meet the continuity of employment test and employment and earnings test.
- 37. In this instance, applications for SPL must be made for continuous SPL only, with the length of SPL to be taken specified.
- 38. If there is no right of return to be exercised because the contract would have ended if pregnancy/adoption had not occurred, the repayment provisions will not apply.
- 39. Employees on fixed-term contracts who do not meet the twelve months' continuous service condition may still be entitled to Statutory Shared Parental Pay.
- 40. Where an employee is on a planned rotation of appointments with one or more NHS employers as part of an agreed programme of training, they will have the right to return to work in the same post or in the next planned post irrespective of whether the contract would otherwise have ended if pregnancy/adoption had not occurred. In such circumstances the employee's contract will be extended to enable the practitioner to complete the agreed programme of training.
- 41. Absence on shared parental leave (paid and unpaid) up to 50 weeks before a further NHS appointment shall not constitute a break in service.
- 42. When the contract is extended and the employee has no contract to return to this Trust, there is no entitlement to sick leave when shared parental leave ends.

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43. When the contract is extended and the employee has no contract to return to this Trust, payment will be made in lieu of any annual leave accrued during leave.

NOTICE TO CURTAIL MATERNITY OR ADOPTION LEAVE

44. 2 weeks maternity/adoption leave must be taken immediately following the birth or placement of a child.

45. For those employees who intend to take Shared Parental Leave immediately after the mandatory 2 weeks maternity/adoption leave, an application form for SPL (appendix 1) must be completed and submitted along with their application for maternity/adoption leave.

46. An employee already on maternity/adoption leave who wishes to give notice to curtail their maternity leave in order to apply for shared parental leave must give 8 weeks notice, using the notice form in appendix 3.

47. If an employee has given notice to curtail their maternity or adoption leave they may revoke (withdraw) the notice only if they have not returned to work, the curtailment date has not passed and one of the following circumstances apply:

- Where it is discovered in the 8 weeks following the notice that neither the mother/adopter nor their partner had any entitlement to SPL or pay.
- In the event of the death of the partner.
- For the mother only – if the notice was given before the birth and the employee revokes her maternity leave curtailment notice in the 6 weeks following the birth.

48. If the employee revokes their notice in the first two instances, there is no further opportunity to opt into SPL at a later date for the same child.

49. If an employee revokes their maternity leave curtailment notice within 6 weeks of the birth in the last of the above circumstances; they will be able to opt into SPL at a later date with the same partner. Employees will either return to work and give notice of entitlement to SPL; or give another notice to curtail their maternity leave.

BOOKING AND VARYING SHARED PARENTAL LEAVE

50. 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.

51. Following notification of their intention to take shared parental leave, an employee should provide notice to book a period of leave by completing the shared parental leave application form, appendix 1.

52. The minimum period of notice to book or amend a period of leave shall be 8 weeks.

53. An employee can provide up to three notices to book leave. This includes notices to vary a previously agreed pattern of leave.

54. Each of the three notices to book leave may include a single, continuous or discontinuous block of leave.

55. Confirmed leave arrangements can be amended by the submission of a notice to vary the agreed period of leave. An employee can submit a notice to extend a period of leave, end

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it sooner than previously agreed or consolidate a number of discontinuous weeks in to a single block of leave using a variation notice (appendix 2). Please note that 8 weeks' notice must be given but flexibility should be provided in the event of early and late births.

APPROVING LEAVE REQUESTS

- 56.** Requests for single (continuous) blocks of leave cannot be refused.
- 57.** In instances where discontinuous periods of leave are requested, employers are not obliged to agree the requested pattern.
- 58.** A 14 day discussion period between the employee and employer will commence on the date the employee submits the booking notice. The review will look at the requested pattern of leave and discuss possible alternatives.
- 59.** In the limited circumstances where the employer refuses the requested pattern, they will explain the reason for the refusal. The employee cannot be prevented from taking the amount of leave they have requested within that notice, but the employer has authority over how and when it is taken.
- 60.** In instances where a discontinuous period of leave has been refused and an alternative period has not been agreed during the discussion period, the total combined weeks' leave requested on that notice may be taken as a single continuous block. This should commence on a date specified by the employee but be no less than eight weeks from the date the original notice was provided to the employer.
- 61.** The employee has five days from the end of the two-week discussion period in which to confirm the date their leave will commence. In instances where the employee specifies no date, leave will commence on the start date of the first period of discontinuous leave that was originally applied for.

WITHDRAWING A LEAVE REQUEST

- 62.** An employee is not entitled to withdraw a notice for a single continuous block of leave but may do so with the employer's express permission.
- 63.** An employee may withdraw their notice to book discontinuous blocks of leave within 15 days of submitting their notice providing an agreement has not been reached with their employer about when they will be absent from work. Once the 15th day has passed any changes to a period of leave must be made by using a variation notice and a minimum of eight weeks' notice must be provided.
- 64.** If a notice is withdrawn it will not count towards the three booking notifications cap.
- 65.** Employees may give notice or vary their SPL by using appendix 2

ENTITLEMENT TO NHS CONTRACTUAL SHARED PARENTAL PAY (ShPP)

- 66.** An employee working full-time or part-time will be entitled to paid and unpaid shared parental leave under the NHS occupational shared parental leave and pay scheme if:

- i) they have 12 months' continuous service with one or more NHS employers at

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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;

- ii) they notify the Trust of their wish to take shared parental leave and provide the necessary notice as outlined in section 10.
- iii) they confirm that the other parent meets the statutory "employment and earnings test" by being an employed or self-employed earner in the UK for a total of 26 weeks (not necessarily continuously) in the 66 weeks preceding the week the child is due to be born or matched for adoption. The individual must have earned at least an average of £30 (gross) a week in 13 of those 26 weeks (not necessarily continuously). This amount can be amended from time to time by the Secretary of State.

67. The application form for shared parental leave is attached in appendix 1. This must be completed by the employee and their manager before being sent to the HR Department as soon as the MATB1 form has been issued by the GP/midwife or the adoption confirmed.

68. Eligible employees 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.

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

70. In addition to meeting the eligibility requirements for SPL, an employee 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 employee must intend to care for the child during the week in which ShPP is payable;
- the employee 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 employee must remain in continuous employment until the first week of ShPP has begun;
- the employee must give proper notification in accordance with the rules set out below.

71. Where an employee 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.

72. 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 employee and their partner each intend to claim, and a non-binding indication of when the employee

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- expects to claim ShPP;
- a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the organisation should they cease to be eligible.

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

- their agreement to the employee claiming ShPP and for the organisation to process any ShPP payments to the employee;
- (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.

EMPLOYEES WITH LESS THAN TWELVE MONTHS CONTINUOUS NHS SERVICE

74. If an employee does not satisfy the conditions in Section 14 for Occupational Shared Parental Pay they may be entitled to Statutory Shared Parental Pay subject to having 26 weeks' continuous service with this Trust at the 15th week before the baby is due.

75. If they do not have the 26 weeks' continuous service with the Trust to qualify for Statutory Shared Parental Pay, or their earnings are too low for them to qualify for Statutory Shared Parental Pay, or they do not qualify for another reason, they will be advised to claim contact their local Jobcentre Plus office to find out about possible benefits.

76. In such circumstances the employee must still complete the application form for shared parental leave which is attached at appendix 1. This must be sent to the HR Department as soon as the MATB1 or adoption form has been issued.

77. If an employee does not qualify for Occupational Shared Parental Pay or Statutory Shared Parental Pay they are able to work bank shifts.

PAID SHARED PARENTAL LEAVE: AMOUNT OF PAY

78. Eligible employees 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.

79. 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.

80. 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.

i) for the first six weeks of absence the employee will receive full pay. Full

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pay is inclusive of any ShPP. The total receivable cannot exceed full pay;

ii) 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;

iii) for the next 13 weeks, the employee will receive any ShPP that they are entitled to under the statutory scheme.

iv) for the final 13 weeks, the employee will receive no pay.

81. An NHS employer (including this Trust) will not pay more than 26 weeks pay, made up of 8 weeks' full pay (including the two weeks' compulsory leave) and 18 weeks' half pay, to employees 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.

82. By prior agreement with the employer occupational shared parental pay (the full and half pay entitlement) may be paid in a different way, for example a combination of full pay and half pay or a fixed amount spread equally over the shared parental leave.

CALCULATION OF SHARED PARENTAL LEAVE PAY

83. For contractual shared parental leave and pay purposes full pay includes all enhancements, leads, allowances and on calls based on the average pay of the three months prior to assessment.

84. Full pay will be calculated using the average weekly earnings rules used for calculating Statutory Shared Parental Pay entitlements, subject to the following qualifications:

i) in the event of a pay award or move to a higher pay point being implemented before the paid shared parental leave period begins, the shared parental pay should be calculated as though the pay award or new pay point had effect throughout the entire Statutory Shared Parental Pay calculation period. If such a pay award was agreed retrospectively, the shared parental pay should be re-calculated on the same basis;

ii) in the event of a pay award or move to a higher pay point being implemented during the paid shared parental leave period, the shared parental pay due from the date of the pay award or new pay point should be increased accordingly. If such a pay award was agreed retrospectively the shared parental pay should be re-calculated on the same basis;

iii) in the case of an employee on unpaid sick absence or on sick absence attracting half pay during the whole or part of the period used for calculating average weekly earnings, in accordance with the earnings rules for Statutory Shared Parental Pay purposes, average weekly earnings for the period of sick absence shall be calculated on the basis of notional full sick pay.

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

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BANK WORKERS

85. Bank workers may be entitled to Statutory Shared Parental Pay and leave if they have worked one shift per week, continuously for 26 weeks at the 15th week before the expected date of childbirth. They will not be entitled to contractual shared parental leave or pay from the Trust.

CONFIRMING SHARED PARENTAL LEAVE AND PAY

86. Following discussion with the employee, the employer should confirm in writing:

- i) the employee's paid and unpaid shared parental leave entitlements under this agreement (or statutory entitlements if the employee does not qualify under the agreement);
- ii) the confirmed leave pattern, including start and end dates, for each block of shared parental leave the employee and employer have agreed will be taken;
- iii) confirmation of the notification process and the required notice periods for instances where agreed blocks of leave need to be amended; and
- iv) the length of any period of accrued annual leave which it has been agreed may be taken following the end of shared parental leave

TERMS AND CONDITIONS DURING SHARED PARENTAL LEAVE

87. During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary.

88. Employees absent on paid or unpaid shared parental leave will retain their original incremental date and the period of leave shall count towards service qualification for additional annual leave.

ACCRUAL OF ANNUAL LEAVE DURING SPL

89. Annual leave and Bank Holidays will continue to be accrued at the normal rate during paid and unpaid shared parental leave.

90. Annual leave and Bank Holidays accrued during shared parental leave is usually taken immediately upon the employee's return from shared parental leave.

91. If it is agreed that an employee will return from shared parental leave on reduced hours then annual leave accrued prior to and during the shared parental leave will usually be taken immediately after the shared parental leave period and before the reduction in hours is implemented. This means that the leave will be taken as full time hours (or previous part-time hours), and the new part-time hours agreed will not commence until this annual leave has been taken.

92. By agreement with the line manager, accrued annual leave may be used to facilitate a phased return to work following shared parental leave.

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PENSION DURING SHARED PARENTAL LEAVE

- 93.** Pension contributions are due regardless of whether an employee's leave is paid or unpaid.
- 94.** Pension contributions are deducted on the amount of pay received during the shared parental leave.
- 95.** Pension contributions will be due for any period of nil pay and will be collected when the employee returns to work. Any arrears will be based on the pay prior to the commencement of the nil pay and will be collected over a period equal to the unpaid leave period.
- 96.** Added years contributions and Additional Pension Purchases will continue to be payable on the normal full rate pensionable pay. If the employee is purchasing additional pension, they should contact the Pensions Officer before shared parental leave commences.
- 97.** An employee who leaves work to care for a child without intending to return should, for pension purposes, be regarded as terminating their employment on the last working day unless they contact the Pensions department to make the necessary arrangements to extend their contributory service to cover the period of shared parental leave.

CAR LEASE

- 98.** An employee on shared parental leave is obliged by the terms and conditions of the agreement to continue payment of a car lease.

ANTE-NATAL CARE

- 99.** Please refer to section 20 of the Maternity & Fertility Treatment Policy

KEEPING IN CONTACT DURING SPL

- 100.** Before going on leave, the manager and the employee should discuss and agree any voluntary arrangements for keeping in contact during the employee's shared parental leave including:
- i) any voluntary arrangements that the employee may find helpful to help keep in touch with developments at work and, nearer the time of their return, to help facilitate their return to work;
 - ii) keeping the employer in touch with any developments that may affect their intended date of return.

SHARED PARENTAL LEAVE IN TOUCH DAYS (SPLIT)

- 101.** An employee on shared parental leave can carry out up to 20 days' paid work at the Trust.
- 102.** Any days of work will not extend the Shared Parental leave period.

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- 103. This will enable employees on shared parental leave to work either continuously or on odd days without bringing an end to their shared parental leave and pay.
- 104. Work can be consecutive or not and can include training or other activities which enable the employee to keep in touch with the workplace.
- 105. 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
- 106. If a SPLIT day is worked in the full pay period, the Trust will make arrangements to ensure the employee receives a day of paid leave in lieu once the employee has returned to work.
- 107. Working for part of any day will count as one SPLIT day.
- 108. A risk assessment must be carried out for any employee who is breastfeeding and facilities will be provided. See section xx of the Maternity & Fertility Treatment policy for more details.
- 109. Managers must inform the Payroll department of any SPLIT days taken by filling in a changes form once the employee has returned to work. The manager needs to detail the date of the SPLIT day and the number of hours worked on that day
- 110. Employees are also able to work, for example through Trust Bank, only during the **unpaid** part of their shared parental leave.

PREGNANCY OCCURRING DURING SHARED PARENTAL LEAVE

- 111. Paid and unpaid shared parental leave counts as continuous and qualifying service for subsequent periods of Maternity, New Parent, Adoption or Parental leave. This means that an employee who becomes pregnant while on Shared Parental leave is entitled to further periods of Maternity leave and may be entitled to a further period of Shared Parental leave. However, as occupational maternity and shared parental pay and statutory maternity and shared parental pay are calculated on the level of average weekly earnings during the 8 week period, 15 weeks prior to the expected week of childbirth, the employee may not qualify for any pay during the subsequent period(s) of leave.

RETURNING TO WORK AFTER SHARED PARENTAL LEAVE

- 112. The employee shall be entitled to return to their job under the original contract with terms and conditions that are no less favourable, provided they comply with the conditions of this policy and procedure.
- 113. An employee intending to return to work at the end of their pre-booked shared parental leave period will not be required to give any further notification although their manager may contact them during their leave to confirm their intention to return.
- 114. If the employee 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 organisation at least 8 weeks' notice of their date of early return. This will count as one of the employee'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.

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- 115.** Employees taking annual leave at the end of shared parental leave will be deemed to have returned to work on the first day of annual leave and managers must submit a changes form confirming the employee's return effective from this date. The period of annual leave will form part of the three month minimum period of return after shared parental leave has ended.
- 116.** In the event of illness immediately following the date the employee was due to return to work after shared parental leave, normal sick leave provisions will apply as necessary and the employee will be deemed to have returned to work on the original return to work date. A GP fit note will be required regardless of duration and should be provided upon return to work, i.e. the fit note should be signed/dated by the medical practitioner at the time of the sickness absence, not retrospectively.
- 117.** It is the responsibility of the manager to ensure a Staff Changes of Employment Details Form is completed and passed to Human Resources following the employee's return to work as verification that the employee is back on duty.
- 118.** Where an employee returns to work at another NHS Trust, it is their responsibility to ensure proof of employment is sent to ASPH's HR Department.
- 119.** Employees returning to work as a Bank worker must be available to work at least one shift per week when requested to do so, for a minimum of three months following their return.
- 120.** For those returning to work as a Bank worker either at ASPH or elsewhere the employee must provide evidence of this to ASPH's HR Department.
- 121.** Employees who do not return to work for a minimum of three months at either this Trust or another NHS employer within 3 months of the end of their shared parental leave shall be liable to pay back the whole of their Occupational Shared Parental Pay, less any Statutory Shared Parental Pay, received.
- 122.** Employees who, at the point of requesting SPL, do not intend to return to work in the NHS should still submit the application form (*Appendix 1*) with a formal written resignation and the MAT B1 certificate to their Manager who will forward it to Human Resources. The manager should acknowledge the resignation and make the employee a leaver on ESR in the normal way.
- 123.** If at the end of shared parental leave the employee wishes to return to work on different hours the manager has a duty to facilitate this wherever possible in line with service needs. Requests must not be unreasonably refused and Managers are advised to consider flexible alternatives, including arrangements on a temporary basis. Further information can be found in the Trust's Flexible Working Policy.

OTHER BENEFITS AND INFORMATION

- 124.** For information regarding post-natal care and breastfeeding mothers Nursery and Childcare provisions, please refer to sections 27 and 30 within the Maternity and Fertility Treatment Policy. This policy is available on the Trust intranet.
- 125.** There are occasions when employees are entitled to other statutory benefits/allowances and information about all statutory maternity/adoption, Shared Parental Leave and paternity rights can be found using the following links:

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<http://www.direct.gov.uk/en/Parents/Moneyandworkentitlements/workandfamilies/index.htm>

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

HELP AND SUPPORT

126. The Trust's Employee Assistance Programme provided by Care First is a source of free advice, information and support on having children including counselling if appropriate. The Freephone number is 0800 174319. Care First is available 24 hours a day, 7 days a week, 365 days a year and is accessible by phone or online. The EAP can provide information booklets, articles, resource information on support services in your local area and even short term face-to-face counselling.

DISSEMINATION AND IMPLEMENTATION

127. This policy will be available to all staff through publication on the Intranet. Copies can also be requested from the Human Resources Department.

128. The line manager will be responsible for ensuring their staff are made aware of this policy and for ensuring compliance.

MONITORING

129. The policy will be monitored both on an ongoing basis and in terms of a formal, annual review. Regular feedback will be discussed at the Senior HR Team meeting. The annual review will include ensuring that the policy complies with any change to employment legislation.

EQUALITY IMPACT ASSESSMENT

130. An assessment of this policy has been carried out in accordance with the Trust's Equality Impact Assessment framework.

ARCHIVING ARRANGEMENTS

131. This is a Trust-wide document and archiving arrangements are managed by the Quality Department who can be contacted to request master/archived copies.

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APPENDIX 1

SHARED PARENTAL LEAVE (SPL) APPLICATION FORM

Note:

It is fraudulent for both parents to claim the full Shared Parental Leave (SPL) allowance. The total taken between both parents must not exceed the total permitted allowance, even if the two individuals take leave at the same time.

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

This application should be submitted as soon as practicable and in any event not less than eight weeks before commencement of shared parental leave. You should regard submission of this application as your written notification to the Trust of your intention to commence shared parental leave.

Section 1 – To be completed by the employee of the Trust

| | | | |
|--|--|------------------------------------|--|
| I am the: | | | |
| <input type="checkbox"/> Mother/ primary adopter or | | | |
| <input type="checkbox"/> Father or spouse, civil partner or partner of the child's mother/ primary adopter | | | |
| Surname | | Forename(s) | |
| Home Address | | | |
| Employee No | | Post Title | |
| Department/ Ward | | Contact No. Work/ mobile | |
| Division | | Site | |
| Name of Line Manager | | Managers Contact No./ Ext | |

Section 2 To be completed by the employee of the Trust

| |
|---|
| I am requesting to take a period of: |
| <input type="checkbox"/> Continuous SPL |
| <input type="checkbox"/> Discontinuous SPL |

| | | |
|--|--------------------------|------------------------|
| Expected/ actual date of Child Birth/ placement of the child | | |
| Dates of SPL requested | Start Date of SPL | End Date of SPL |
| | | |
| Total No of weeks SPL requested (up to 50 weeks) | | |
| Dates & No of weeks SPL previously taken (if applicable) | | |
| <input type="checkbox"/> I confirm the Mother/ primary adopter is entitled to statutory maternity/adoption pay or maternity allowance and has ended or given notice to reduce any maternity/adoption entitlements | | |

Section 3 To be completed by the employee of the Trust

| | |
|--|-----------------------------------|
| Start date with the NHS: | Start date with the Trust: |
| I have at least 26 weeks continuous service with the Trust at the end of the 15th week before the expected date of child birth/ matching date. | |
| | <input type="checkbox"/> |

Section 4 - To be completed by the partner of the employee

| | | | |
|--|--|----------------------------------|--|
| I am the: <input type="checkbox"/> Mother/ primary adopter or <input type="checkbox"/> Father or spouse, civil partner or partner of the child's mother/ primary adopter | | | |
| Surname | | Forename(s) | |
| Home Address | | National Insurance Number | |

| | | | |
|--|--|---------------------------------|--|
| Start date of SMP/ MA/ SAP | | End date of SMP/ MA/ SAP | |
| <p>Please provide the following information to support your intention to take SPL</p> <ul style="list-style-type: none"> The name and business address of the partner's employer (where the employee'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, when 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. <p>I confirm that:</p> <ul style="list-style-type: none"> The employee named above will have the main responsibility (apart from myself) for the upbringing of the child The employee is, to my knowledge, the only person (apart from myself) exercising the entitlement to shared parental leave I consent to the amount of leave and pay the employee is seeking to take I have 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 If the employee no longer satisfies the eligibility conditions I will inform the employee I consent to Ashford and St. Peter's Hospital NHS Foundation Trust processing my information as contained in this form The information contained on the form is accurate | | | |
| Signed: | | Date | |

Section 5

I, the person named in section 1, understand and confirm that:

- I have read the Maternity, Adoption, Paternity and Parental Leave Policy and Procedure before completing this form.
- I am giving notice that I am entitled to and intend to take SPL
- I have, or will have, been continuously employed for 26 weeks at the end of the 15th week before the week in which the child is due / at the point of being notified I have been matched with a child
- I will remain employed with the Trust until any period of SPL that I intend to take
- I had (or will have) the main responsibility for the care of the child at the time of the child's birth / adoption (along with my partner who has made the declaration below)
- I / my partner is entitled to maternity / adoption leave, my/their maternity / adoption leave period is reduced and the remaining weeks are now available as SPL, to share.
- I will inform the Trust immediately if I am no longer caring for my child
- My partner and I will not exceed the total amount of SPL that we are entitled to.
- The information provided in this declaration is accurate and true

If claiming ShPP (including any occupational ShPP)

- My partner meets the statutory "employment and earnings" test as set out in paragraph 66 of the Trust's SPL Policy.

| | | | | | |
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- I fully understand that if I fail to return to work for the stipulated period, I shall be liable to refund any occupational shared parental leave pay to which I am not entitled.
- I understand and agree to inform the Trust if I take up any employment whilst in receipt of ShPP (including bank work). I understand that the Trust will cease my payments upon my return to work with the NHS and will also cease my payments upon my return to work with any other employer during the contracted hours I would normally work with the Trust and that the matter will be formally investigated. I understand that ShPP may resume if I have an agreement to take a further period of discontinuous leave, subject to eligibility.

Document to include with your application

- Medical evidence of the pregnancy (normally a MATB1 certificate), birth (normally a birth certificate) or adoption (normally a matching certificate) in order to receive any applicable Shared Parental Leave Pay

| | | | |
|---|--|-------------|--|
| Employee's Signature | | Date | |
| Manager's Signature | | Date | |
| Manager's Name in Block Capitals | | | |

Section 6: To be completed for applications of **discontinuous shared parental leave**

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

Where there is concern over accommodating the notification, the line manager or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the organisation

| | | | |
|---|--|-------------|--|
| <input type="checkbox"/> I <u>agree</u> to the above named employee's application for discontinuous shared parental leave <input type="checkbox"/> I <u>do not</u> agree to the above named employee's application for discontinuous shared parental leave | | | |
| Manager's Signature | | Date | |
| Manager's Name in Block Capitals | | | |

APPENDIX 2

NOTICE TO VARY OR CANCEL SHARED PARENTAL LEAVE

You should complete this form to inform us if you wish to cancel or change the dates on which you take Shared Parental Leave ("SPL"). You should complete and submit this form to us at least eight weeks before the original start date and the new start date.

You should refer to our Shared Parental Leave Policy and/or speak to HR for further information before completing this form.

| | | | |
|--|--|--------------------|--|
| I am the: <input type="checkbox"/> Mother/ primary adopter or <input type="checkbox"/> Father or spouse, civil partner or partner of the child's mother/ primary adopter | | | |
| Surname | | Forename(s) | |
| Home Address | | | |
| Employee No | | Post Title | |
| Previous intended SPL start date | | | |
| Previous intended SPL end date | | | |
| I am providing notice of my intention to: <input type="checkbox"/> Cancel my SPL <input type="checkbox"/> Change the dates of my SPL | | | |
| If you wish to changes the dates of your SPL, please fill in the information below: | | | |

| | |
|--|--|
| I am requesting to take a period of: <input type="checkbox"/> Continuous SPL <input type="checkbox"/> Discontinuous SPL | |
| Expected/ actual date of Child Birth/ placement of the child | |

| | |
|---|--|
| Dates of SPL requested (Start date End Date) | |
| Total No of weeks SPL requested (up to 50 weeks) | |
| Dates & No of weeks SPL previously taken (if applicable) | |
| <input type="checkbox"/> I confirm the Mother/ primary adopter is entitled to statutory maternity/adoption pay or maternity allowance and has ended or given notice to reduce any maternity/adoption entitlements | |

I confirm that I wish to vary the dates on which I take SPL as detailed above. I understand that I need to give at least eight weeks' written notice if I wish to make any further variations to the dates on which I take SPL.

| | | | |
|---|--|-------------|--|
| Employee's Signature | | Date | |
| Manager's Signature | | Date | |
| Manager's Name in Block Capitals | | | |

APPENDIX 3

NOTICE TO CURTAIL MATERNITY/ADOPTION LEAVE

This notice is to inform Ashford & St Peter's NHS Foundation Trust that you wish your maternity/adoption leave and pay (or just your maternity/adoption pay if you are no longer in employment); to end in order that the person who shares main responsibility to care for the child can take shared parental leave.

Your partner/the other parent is not entitled to take shared parental leave until you have submitted this notice of curtailment.

You must give at least eight weeks' notice of your curtailment date.

If you are entitled to maternity leave the curtailment date must be at least two weeks after the birth of your child.

If you are in receipt of maternity allowance you must also submit a curtailment notice to the relevant government agency.

| | |
|---|--|
| I will for my maternity/adoption leave/pay to end on: | |
| PRINT NAME | |
| SIGN | |
| DATE: | |

APPENDIX 4

Equality Impact Assessment Summary

Name: HR Business Partners & Advisors

Policy/Service: Shared Parental Leave Policy

Background

- Description of the aims of the policy
- Context in which the policy operates
- Who was involved in the Equality Impact Assessment

The aims of the policy are:

- To provide the fair, consistent and effective application of maternity, maternity support (paternity), adoption, parental leave and fertility treatment leave provisions
- To ensure that employees entitled to the above are informed of their rights surrounding maternity, maternity support (paternity), adoption, fertility treatment, parental leave and their employment.

The policy operates within Agenda for Change NHS Terms and Conditions, current employment legislation such as the Work and Families Act 2006, the Trusts Single Equality Scheme and other Trust policies such as the Flexibility in Employment Policy. This policy impacts on all staff, line managers and Trust Union representatives.

The Equality Impact Assessment involved the following:

- HR Department Professionals
- Payroll Department
- Trust Policy Group
- Occupational Health Department

Methodology

- A brief account of how the likely effects of the policy was assessed (to include race and ethnic origin, disability, gender, culture, religion or belief, sexual orientation, age)
- The data sources and any other information used
- The consultation that was carried out (who, why and how?)

The following data source was used:

- ESR report on the number of staff who had maternity leave, adoption leave, paternity leave and parental leave last year
- ESR report on the number of grievances raised last year relating to application of maternity leave or returning from maternity leave on flexible working arrangements
- Article on maternity leave and subsequent career progression.

The following consultation was carried out:

- HR professionals were asked to comment on the policy in particular on the compliance with current legislation, ease of usage for staff and also whether any issues had arise in the past year that are not addressed in the policy.
- Payroll department was asked to comment and put forward suggestions in relation to the paperwork needed by that department in order for maternity, adoption and paternity pay and KIT days to be paid.
- Payroll were also asked to clarify entitlement for payment by the Trust for SMP, SAP

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and SPP

- OH were asked to comment and update the risk assessment information and checklist for pregnant employees

Key Findings

- Describe the results of the assessment
- Identify if there is adverse or a potentially adverse impacts for any equalities groups

The assessment highlighted that the maternity section of the policy benefits all female staff in the Trust of child bearing age and adversely affects men, same sex couples and those who may not be able to have children.

However adoption leave and paternity leave are available for same sex couples.

A separate section has been added with regards to fertility treatment however more leave days are granted to the female partner who is undergoing the treatment.

The policy is available for all staff but accessibility is restricted for those staff who do not have access to the Trust intranet therefore there is more responsibility on managers to provide the staff member with a copy of the policy.

Access is also restricted for those staff whose understanding of English, because it is a second language to them, is not so good compared to other staff therefore it is important that these staff can ask for the policy to be translated into their first language.

It has been highlighted that there is no data available on career progression of those staff who have taken maternity leave.

Conclusion

- Provide a summary of the overall conclusions

As per UK legislation currently there are more entitlements for women than men however this may change in the future. There are also other types of leave available to men, same sex couples and those couples who may not be able to have children. For Trust male staff they are entitled to 2 weeks Paternity Leave. For those in same sex couples and couple who may not be able to have children, they are entitled to Adoption Leave which has virtually the same entitlements as Maternity Leave.

This policy promotes good relations between Trust staff, line managers and staff side representatives.

Further monitoring is needed on the career progression of those staff who have taken maternity leave

Recommendations

- State recommended changes to the proposed policy as a result of the impact assessment
- Where it has not been possible to amend the policy, provide the detail of any actions that have been identified
- Describe the plans for reviewing the assessment

To merge Adoption Leave, Maternity Support (Paternity) Leave and Parental Leave into the Maternity Leave Policy.

Ensure wording is included about translating the policy into other formats (ie Braille, another language) for those staff requiring this.

To ensure monitoring of the number of staff taking maternity, adoption, paternity and parental leave.

To survey those staff who have taken maternity leave to see whether they have had access to career progression.

Guidance on Equalities Groups

| | |
|--|---|
| Race and Ethnic origin (includes gypsies and travellers) (consider communication, access to information on services and employment, and ease of access to services and employment) | Religion or belief (include dress, individual care needs, family relationships, dietary requirements and spiritual needs for consideration) |
| Disability (consider communication issues, access to employment and services, whether individual care needs are being met and whether the policy promotes the involvement of disabled people) | Sexual orientation including lesbian, gay and bisexual people (consider whether the policy/service promotes a culture of openness and takes account of individual needs) |
| Gender (consider care needs and employment issues, identify and remove or justify terms which are gender specific) | Age (consider any barriers to accessing services or employment, identify and remove or justify terms which could be ageist, for example, using titles of senior or junior) |
| Culture (consider dietary requirements, family relationships and individual care needs) | Social class (consider ability to access services and information, for example, is information provided in plain English?) |