



## Shared Parental Leave (Birth) Policy

Version: 2

Date: 01/02/2024

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## Document Control

<b>Title</b>	Shared Parental Leave (Birth) Policy
<b>Supersedes</b>	1.0
<b>Owner</b>	Lisa-Marie Flynn
<b>Circulation/Distribution</b>	All Staff
<b>Review Period</b>	Annually

## Version History

<b>Next Review Date</b>		01/02/2025		
<b>Version</b>	<b>Date</b>	<b>Amendments</b>	<b>Author</b>	<b>Status</b>
0.1 to 0.4	Oct 2021 to Oct 2022	Initial Draft – Reviewed by the HR Team & the Trust Board. Consultation Process – Draft shared with the working group consisting of Senior Leaders, HR, and the Trade Unions.	Lisa-Marie McGrath	Consulted & Reviewed, and implemented agreed points
1.0	01/12/2022	Final Draft – Approved by the CEO and The Trust Board	Lisa-Marie McGrath	Approved
2.0	01/02/2024	N/A	Lisa-Marie Flynn	Approved

## Shared Parental Leave (Birth) Policy

### 1. ABOUT THIS POLICY

- 1.1 This policy outlines the arrangements for shared parental leave and pay in relation to the birth of a child. Please see the Shared Parental Leave (Adoption) Policy if you are adopting a child.
- 1.2 This policy applies to employees.

### 2. FREQUENTLY USED TERMS

- 2.1 The definitions in this paragraph apply to this policy.

**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 will share the main responsibility for the child's upbringing (and may be either the mother, the father or the mother's partner if not the father).

**Partner:** your spouse, civil partner or someone is living with you in an enduring family relationship, but not your sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.

**Qualifying Week:** the fifteenth week before the EWC.

### 3. WHAT IS SHARED PARENTAL LEAVE?

- 3.1 Shared parental leave (**SPL**) may be available if your child is expected to be born on or after 5 April 2015.
- 3.2 It gives you and your partner more flexibility in sharing your child's care in the first year after birth than simply taking maternity and paternity leave. Assuming you are both eligible, you can choose how to split the available leave between you and decide to be off work simultaneously or at different times. You may be able to take leave in more than one block.

### 4. ENTITLEMENT TO SPL

- 4.1 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 with your partner;

- you are the child's father and share the main responsibility for the care of the child with the child's mother; or
- you are the mother's partner and share the main responsibility for the child's care (whereas the child's father does not share the main responsibility with the mother).

4.2 The following conditions must also be fulfilled:

- you must have at least 26 weeks' continuous employment with us by the end of the Qualifying Week and still be employed by us in the week before the leave is to be taken;
- the other parent must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the EWC and had average weekly earnings of at least £30 during 13 of those weeks; and
- you and the other parent must give the necessary statutory notices and declarations as summarised below, including notice to end any maternity leave, statutory maternity pay (SMP) or maternity allowance (MA) periods.

4.3 The total amount of SPL available is 52 weeks, less the weeks the child's mother spent on maternity leave (or the weeks in which the mother has received SMP or MA if she is not entitled to maternity leave).

4.4 If you are the mother, you cannot start SPL until after the compulsory maternity leave period, which lasts until two weeks after birth.

4.5 If you are the child's father or the mother's partner, you should consider taking your two-week paternity leave before taking SPL. Once you start SPL, you will lose any untaken paternity leave entitlement. SPL entitlement is additional to your paternity leave entitlement.

## 5. OPTING INTO SHARED PARENTAL LEAVE AND PAY

5.1 Not less than eight weeks before the date you intend your SPL to start, you must give us a written opt-in notice giving:

- your name and the name of the other parent;
- if you are the child's mother, the start and end dates of your maternity leave;
- if you are the child's father or the mother's partner, the start and end dates of the mother's maternity leave, or if she is not entitled to maternity leave, the start and end dates of any SMP or MA period;
- the total SPL available, which is 52 weeks minus the number of weeks' maternity leave, SMP or MA period taken or to be taken;

- how many weeks of the available SPL will be allocated to you and how many to the other parent (you can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- if you are claiming statutory shared parental pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of the SMP or MA period taken or to be taken);
- how many weeks of available ShPP will be allocated to you, and how much to the other parent. (You can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- an indication of the leave pattern you are considering, including suggested start and end dates for each period of leave (see paragraphs 9 and 10 for information on taking leave). This indication will not be binding at this stage, but please give as much information as possible about your future intentions; and
- declarations by you and the other parent that you both meet the statutory conditions to enable you to take SPL and ShPP.

## 6. ENDING YOUR MATERNITY LEAVE

- 6.1 If you are the child's mother and want to opt into the SPL scheme, you must give us at least eight weeks' written notice to end your maternity leave (a **curtailment notice**) before taking SPL. The notice must state the date your maternity leave will end. You can give the notice before or after giving birth, but you cannot end your maternity leave until at least two weeks after birth.
- 6.2 You must also give us, at the same time as the curtailment notice, a notice to opt into the SPL scheme (see paragraph 5) or a written declaration that the other parent has given their employer an opt-in you have given the necessary declarations in that notice.
- 6.3 The other parent may be eligible to take SPL from their employer before your maternity leave ends, provided you have given the curtailment notice.
- 6.4 The curtailment notice is binding and cannot usually be revoked. You can only revoke a curtailment notice if maternity leave has not yet ended and one of the following applies:
- if you realise that neither you nor the other parent is eligible for SPL or ShPP, in which case you can revoke the curtailment notice in writing up to eight weeks after it was given;
  - if you gave the curtailment notice before giving birth, you can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or
  - if the other parent has died.

6.5 Once you have revoked a curtailment notice, you cannot opt back into the SPL scheme unless paragraph 6.4.2 applies.

## 7. ENDING YOUR PARTNER'S MATERNITY LEAVE OR PAY

7.1 If you are not the mother, but the mother is still on maternity leave or claiming SMP or MA, you will only be able to take SPL once she has either:

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

## 8. EVIDENCE OF ENTITLEMENT

8.1 You must also provide on request:

- A copy of the birth certificate (or, if you have not yet obtained a birth certificate, a signed declaration of the child's date and place of birth); and
- The name and address of the other parent's employer (or a declaration that they have no employer).

## 9. BOOKING YOUR SPL DATES

9.1 Having opted into the SPL system, you must book your leave by giving us a period of leave notice. This may be given at the same time as the opt-in notice or later, provided it is at least eight weeks before the start of SPL.

9.2 The period of leave notice can either give the dates you want to take leave or, if the child has not been born yet, state the number of days after birth you want the leave to start and end. This may be particularly useful if you intend to take paternity leave starting on the date of birth and wish to take SPL straight afterwards.

9.3 Leave must be taken in blocks of at least one week.

9.4 If your period of leave notice gives a single continuous block of SPL, you will be entitled to take the leave set out in the notice.

- 9.5 If your period of leave notice requests split periods of SPL, with periods of work in between, we will consider your request as stated in paragraph 10 below.
- 9.6 You can give up to three periods of leave notices. This may enable you to take up to three separate blocks of SPL (although if you give the notice to vary or cancel a period of leave, this will, in most cases, count as a further period of leave notice; see paragraph 11). In exceptional circumstances, we may allow you to give more than three periods of leave notices, but there is no obligation for us to do so.

## 10. PROCEDURE FOR REQUESTING SPLIT PERIODS OF SPL

- 10.1 Generally, a period of leave notice should set out a single continuous block of leave. However, we may be willing to consider a period of leave notice where the SPL is split into shorter periods with periods of work in between. It is best to discuss this with your Line Manager/SLT and the HR Department in good time before formally submitting your period of leave notice. This will give us more time to consider the request and hopefully agree on a leave pattern with you from the start.
- 10.2 If you want to request split periods of SPL, you must set out the requested leave pattern in your period of leave notice. Then, we will either agree to the request or start a two-week discussion period. We will confirm any agreed arrangements in writing at the end of that period. 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, they will be combined into 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; or
  - withdraw your period of leave notice within two days of the end of the two-week discussion period (in which case the notice will not be counted, and you may submit a new one if you choose).

## 11. CHANGING THE DATES OR CANCELLING YOUR SPL

- 11.1 You can cancel a leave period by notifying us in writing at least eight weeks before the start date in the period of leave notice.
- 11.2 You can change the start date for a period of leave by notifying us in writing at least eight weeks before the original start date or the new start date, whichever is earlier.
- 11.3 You can change the end date for a leave period by notifying us in writing at least eight weeks before the original end date or the new end date, whichever is earlier.
- 11.4 You can combine discontinuous periods of leave into a single continuous period of leave. Since this will involve a change to the start date or end date of a leave period, see paragraphs 11.2 and 11.3 above, which indicate how much notice is required.

11.5 You can request that a continuous leave period be split into two or more discontinuous periods of leave, with work periods in between. Since this will involve a change to the start date or end date, see paragraphs 11.2 and 11.3 above, which indicate how much notice is required for the request. We do not have to grant your request but will consider it as set out in paragraph 10.2.

11.6 A notice to change or cancel a period of leave will count as one of your three periods of leave notices unless:

- it is a result of your child being born earlier or later than the EWC;
- you are cancelling a request for discontinuous leave within two days of the end of the two-week discussion period under paragraph 10.2.
- it is at our request, or
- we agree otherwise.

## 12. PREMATURE BIRTH

12.1 Where the child is born early (before the beginning of the EWC), you may be able to start SPL in the eight weeks following birth even though you cannot give eight weeks' notice. The following rules apply:

- If you have given a period of leave notice to start SPL on a set date in the eight weeks following the EWC, but your child is born early, you can move the SPL start date forward by the same number of days, provided you notify us in writing of the change as soon as you can. (If your period of leave notice already contained a start date which was a set number of days after birth, rather than a set date, then no notice of the change is necessary.)
- If your child is born more than eight weeks early and you want to take SPL in the eight weeks following birth, please submit your opt-in notice and period of leave notice as soon as possible.

## 13. SHARED PARENTAL PAY

13.1 You may be able to claim Statutory Shared Parental Pay (ShPP) of up to 39 weeks (less any weeks of SMP or adoption or MA claimed by you or your partner) if you have at least 26 weeks' continuous employment with us at the end of the Qualifying Week and your average earnings are not less than the lower earnings limit set by the government each tax year.

13.2 Employers pay ShPP at a rate set by the government each year.

13.3 You should tell us in your period of leave notice(s) whether you intend to claim ShPP during your leave (and, if applicable, for what period). If it is not in your period of leave notice, you can tell us in writing at least eight weeks before you want ShPP to start.



- 13.4 You will qualify for Occupational Shared Parental Pay (OSPP) if you have been continuously employed during the 12 months ending with the Qualifying Week and have not received any Occupational Paternity Pay, Maternity Pay, Adoption Pay or Shared Parental Pay from our employment during the 12 months ending with the Qualifying Week.
- 13.5 The level and amounts of OSPP align with the Trust's paid elements of the maternity and paternity policies. Therefore, any maternity or paternity pay you have received will be treated as shared parental pay when calculating your entitlement. In addition, any period of Occupational maternity or paternity pay for the same child will count towards your company shared parental pay entitlement.
- 13.6 OSSPP is only paid if you receive ShPP for the same period and includes the ShPP due.
- 13.7 Payment of OSPP is conditional upon you confirming in writing, before starting SPL, that you intend to return to work for at least three months after the end of your SPL. If you later decide not to return to work for this minimum period, you must repay any OSPP (but not ShPP).

#### 14. OTHER TERMS DURING SHARED PARENTAL LEAVE

- 14.1 Your terms and conditions of employment remain in force during SPL, except for the terms relating to pay.
- 14.2 If you have an 'all-year-round contract, your annual leave entitlement will continue to accrue at the rate provided under your contract. However, suppose your SPL will continue into the next holiday year. In that case, any holiday entitlement that cannot reasonably be taken before starting your leave can be carried over and must be taken immediately before returning to work unless your Line Manager/SLT agrees otherwise. You should try to limit carryover to one week's holiday or less. Carrying over for more than one week is at your manager's discretion. Please discuss your holiday plans with your Line Manager/SLT in good time before starting SPL. All holiday dates are subject to approval by your manager.
- 14.3 Term Time Only Workers & Teachers – The Green Book & the School Teacher's Pay & Conditions Document make no specific reference to an entitlement to annual leave for teachers or other employees engaged on a term time only basis. There is; however, a statutory right to a minimum of 28 days leave per annum (based on an employee working 5 days a week, 52 weeks a year) under the Working Time Regulations 1996. Periods of school closure count towards this entitlement; consequently, it is unlikely that teachers or other employees working on a term-time only basis returning to their posts following a period of maternity leave will have acquired a right to additional annual leave. As a result, it is possible that teachers and/or those working term time only who resign from their post and do not return could have an outstanding balance of annual leave payable.
- 14.4 The Trust's holiday year runs from 1 September to 31 August each year.

14.5 If you are a pension scheme member, we will make employer pension contributions during any period of paid SPL, based on your normal salary, in accordance with the pension scheme rules. However, any employee contributions will be based on the amount of shared parental pay you receive unless you inform the Trust's HR Department that you wish to make up any shortfall.

## 15. KEEPING IN TOUCH

15.1 We may make reasonable contact with you from time to time during your SPL, although we will keep this to a minimum. This may include contacting you to discuss arrangements for your return to work.

15.2 You may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days (KIT days) during your SPL. This is in addition to any KIT days you may have taken during maternity leave. KIT days are not compulsory and must be discussed and agreed upon with your Line Manager.

15.3 You will be paid at your normal basic pay rate for time spent working on a KIT day, including any shared parental pay entitlement.

## 16. RETURNING TO WORK

16.1 If you want to end a period of SPL early, you must give us eight weeks' written notice of the new return date. If you have already given us three periods of leave notices, you will not be able to end your SPL early without our agreement.

16.2 If you want to extend your SPL, assuming you still have unused SPL entitlement remaining, you must give us a written period of leave notice at least eight weeks before the date you were due to return to work. If you have already given us three periods of leave notice, you will not be able to extend your SPL without our agreement. You may instead be able to request annual leave or ordinary parental leave (see our Parental Leave Policy), subject to the needs of the business.

16.3 You are normally entitled to return to work in the position you held before starting SPL and on the same terms of employment. However, if it is not reasonably practicable for us to allow you to return to the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances:

- if your SPL and any maternity or paternity leave you have taken adds up to more than 26 weeks in total (whether or not taken consecutively); or
- if you took SPL consecutively with more than four weeks of ordinary parental leave.

16.4 If you want to change your hours or other working arrangements on return from SPL, you should make a request under our Flexible Working Policy. It is helpful if such requests are made as early as possible.

16.5 If you do not want to return to work, you should give notice of resignation in accordance with your contract. This will impact your entitlement to Occupational shared parental pay (see paragraph 6).