



Shared Parental Leave (Adoption) Policy

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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
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Shared Parental Leave (Adoption) Policy

1. ABOUT THIS POLICY

- 1.1 This policy outlines the arrangements for shared parental leave and pay in relation to the adoption of a child. If you or your partner are pregnant or have given birth, please see the Shared Parental Leave (Birth) Policy instead.
- 1.2 This policy applies to employees.

2. FREQUENTLY USED TERMS

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

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

Qualifying Week: the week the adoption agency notifies you that you have been matched with a child for adoption.

3. WHAT IS SHARED PARENTAL LEAVE?

- 3.1 Shared parental leave (SPL) is a form of leave that may be available when a child is placed with you and/or your partner for adoption on or after 5 April 2015.
- 3.2 It gives you and your partner more flexibility in how to share the care of your child in the first year after your child is placed with you for adoption 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 at the same time or at different times. You may be able to take leave in more than one block.

4. ENTITLEMENT

- 4.1 You may be entitled to SPL if an adoption agency has placed a child with you and/or your partner for adoption or where a child is placed with you and/or your partner as foster parents under a "fostering for adoption" or "concurrent planning" scheme. You must intend to share the main responsibility for the child's care with your partner.
- 4.2 The following conditions must 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;
- your partner must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the Qualifying Week and had average weekly earnings of at least £30 during 13 of those weeks; and
- you and your partner must give the statutory notices and declarations summarised below, including notice to end adoption leave or statutory adoption pay (SAP).

4.3 Either you or your partner must qualify for statutory adoption leave and/or SAP and must take at least two weeks of adoption leave and/or pay.

4.4 If your partner takes adoption leave and/or claims SAP, you may be entitled to two weeks of paternity leave and pay (see our Paternity Leave Policy). You should consider using this before taking SPL. Paternity leave is additional to any SPL entitlement you may have, but you will lose any untaken paternity leave entitlement once you start a period of SPL.

4.5 The total amount of SPL available is 52 weeks, less the weeks of adoption leave taken by either you or your partner (or the weeks in which your partner has received SAP if they were not entitled to adoption leave).

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 which includes:

- your name and your partner's name;
- if you are taking adoption leave, your adoption leave to start and end dates;
- if you are not taking adoption leave, your partner's adoption leave to start and end dates, or if your partner is not entitled to adoption leave, the start and end dates of their SAP;
- the total SPL available, which is 52 weeks minus the number of weeks' adoption leave or SAP taken or to be taken by you or your partner;
- how many weeks of the available SPL will be allocated to you and how many to your partner (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 SAP taken or to be taken);

- how many weeks of the available ShPP will be allocated to you and how many to your partner (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 thinking of taking, 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 you can about your future intentions; and
- declarations by you and your partner that you both meet the statutory conditions to enable you to take SPL and ShPP.

6. ENDING YOUR ADOPTION LEAVE

- 6.1 If you are taking or intend to take adoption leave and want to opt into the SPL scheme, you must give us at least eight weeks' written notice to end your adoption leave (a curtailment notice). The notice must state the date your adoption leave will end. You can give the notice before or after adoption leave starts, but you must take at least two weeks adoption leave.
- 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 your partner has given their employer an opt-in notice and that you have given the necessary declarations in that notice.
- 6.3 If your partner is eligible to take SPL from their employer, they cannot start it until you have given us your curtailment notice.
- 6.4 The curtailment notice is binding on you and cannot usually be revoked. You can only revoke a curtailment notice if your adoption leave has not yet ended and one of the following applies:
- if you realise that neither you nor your partner is, in fact, 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 your partner has died.
- 6.5 Once you have revoked a curtailment notice, you will be unable to opt back into the SPL scheme.

7. ENDING YOUR PARTNER'S ADOPTION LEAVE OR PAY

- 7.1 If your partner is taking adoption leave or claiming SAP from their employer, you will only be able to take SPL once your partner has either:
- returned to work;
 - given their employer a curtailment notice to end adoption leave; or

- given their employer a curtailment notice to end SAP (if they are entitled to SAP but not adoption leave).

8. EVIDENCE OF ENTITLEMENT

8.1 You must provide on request:

- One or more documents from the adoption agency showing the agency's name and address and the expected placement date; and
- The name and address of your partner'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 SPL or, if the child has not been placed with you yet, state the number of days after the placement that you want the SPL to start and end. This may be particularly useful if you intend to take paternity leave starting on the placement date 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 dates for 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 HR 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 it 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.

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

- the variation is a result of the child being placed with you earlier or later than the expected placement date;
- you are cancelling a request for discontinuous leave within two days of the end of the two-week discussion period under paragraph 10.2.
- the variation is at our request, or

- we agree otherwise.

12. SHARED PARENTAL PAY

- 12.1 You may be able to claim Statutory Shared Parental Pay (ShPP) of up to 39 weeks (less any weeks of SAP claimed by you or your partner), provided 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. ShPP is paid at a rate set by the government each year.
- 12.2 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.
- 12.3 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.
- 12.4 The level and amounts of OSPP align with the Trust's paid elements of the maternity and paternity policies. Therefore, when calculating your entitlement, any Occupational Maternity or Paternity Pay you have received will be treated as OSPP. In addition, any period of Occupational maternity or paternity pay for the same child will count towards your company shared parental pay entitlement.
- 12.5 OSPP is only paid if you receive ShPP for the same period and includes the ShPP due date.
- 12.6 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). You will not be required to repay OSPP if the Trust terminates your employment unless:
 - it was entitled to and did terminate your employment summarily;
 - or it terminated your employment pursuant to your voluntary redundancy application.

13. OTHER TERMS DURING SHARED PARENTAL LEAVE

- 13.1 Your terms and conditions of employment remain in force during SPL, except for the terms relating to pay.
- 13.2 If you have an 'all-year-round contract, your annual leave entitlement will continue to accrue at the rate provided under your contract. However, if your SPL will continue into the next holiday year, 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 more than one week is at your Line

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.

- 13.3 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.
- 13.4 The Trust's holiday year runs from 1 September to 31 August each year.
- 13.5 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.

14. KEEPING IN TOUCH

- 14.1 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.
- 14.2 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 adoption leave. KIT days are not compulsory and must be discussed and agreed with your Line Manager/SLT.
- 14.3 You will be paid at your normal basic pay rate for time spent working on a KIT day, including any shared parental pay entitlement.

15. RETURNING TO WORK

- 15.1 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.
- 15.2 If you want to extend your SPL, assuming you still have unused SPL entitlement, you must give us written 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 our business.

- 15.3 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 adoption 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.
- 15.4 If you want to change your hours or other working arrangements on your 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.
- 15.5 If you do not want to return to work, you should give notice of resignation in accordance with your contract. This may have an impact on your entitlement to the Occupational shared parental pay.