

Flexible Worker Guidelines

Shared Parental Leave

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Appendix A – Shared Parental Leave – Notice of Entitlement and Intention to take Leave

1. Scope

These guidelines have been created for all NHS Professionals (NHSP) Ltd Flexible Workers.

2. Shared Parental Leave

Shared Parental Leave (SPL) is available for eligible parents of babies due to be born or placed for adoption, on or before 5 April 2015. It enables eligible parents to choose how to share the care of their child(ren) during the first year after birth or adoption.

The SPL provisions are complex and if a Flexible Worker (FW) wishes to take SPL they are recommended to contact the Flexible Worker HR Department (FWHR) to discuss further.

SPL is different and should not be confused with Parental Leave.

SPL must be taken between the baby's birth and first birthday (or within 1 year from the date of adoption).

3. Key Definitions:

This guidance uses the following key terms and abbreviations:

Mother: the woman who gives birth to a child

Adopter: is the person eligible for adoption leave and/or pay. They can be male or female).

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.

SPL: Shared Parental Leave.

ShPP: Statutory Shared Parental Pay.

Continuous leave: a period of leave that is taken in one block e.g. four weeks' leave.

Discontinuous Leave: a period of leave that is arranged around weeks where the FW will return to work e.g. an arrangement where a FW will work every other week for a period of three months.

SPLIT day: Shared Parental Leave in Touch Day.

Match: when an adopter is approved to adopt a named child or children.

4 Responsibilities

4.1 Flexible Worker Human Resources department (FWHR)

- Ensure they acknowledge and promptly deal with any requests or notifications for SPL

- Ensure FWs seeking advice on SPL are signposted to the maternity/paternity leave guidelines for further information.

4.2 Flexible Worker

- Submit their request for SPL to FWHR using the form at Appendix A
- Submit timely records /certificates and relevant documentation to FWHR.

5. Shared Parental Leave Eligibility

SPL can only be used by 2 people:

- The Mother/adopter **and**
- The Partner

Both parents must share the main responsibility for the care of the child at the time of birth/placement for adoption in order to be eligible for SPL

Additionally, a FW seeking to take SPL must satisfy each of the following five criteria:

- 1) The mother/adopter of the child must be/have been entitled to one of the following;
 - statutory maternity/adoption leave
 - statutory maternity/adoption pay or maternity allowance
 - give notice to reduce any maternity/adoption entitlements
- 2) Be an actively registered FW with NHS Professionals at the start of each period of SPL
- 3) Must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before one of the following:
 - The child's expected due date (in the case of birth)
 - The week in which the adopter was notified of having been matched with a child for adoption
- 4) The FW's Partner must meet the 'employment and earnings test' requiring them, in the 66 weeks leading up to the child's expected due/matching date, to have worked for at least 26 weeks and have, on average earned above the maternity allowance threshold in any of those 13 weeks. (The maternity allowance threshold is a fixed threshold set and subject to review by the Government. The current threshold can be found at <http://www.gov.uk/shared-parental-leave-and-pay/eligibility>)
- 5) The FW must correctly notify NHS Professionals of their entitlement to SPL and provide evidence as required.

6. Entitlement

Eligible FWs may be entitled to take a maximum of 50 weeks SPL during the year following the child's birth or adoption. The number of weeks available is calculated using the Mother or Adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' maternity leave. Should the Mother or Adopter reduce their maternity /adoption leave entitlement and they and/or their Partner opt-in to the SPL arrangement, they may take the remaining weeks as SPL.

In effect, the portion of untaken maternity/adoption leave is converted to SPL. For example, if a Mother or Adopter chooses to return to work after 40 weeks' maternity/adoption leave, 12 weeks SPL is still available to be shared between both or used by one parent.

A Mother or Adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full 52 week entitlement to maternity/adoption leave has

been taken, or they may give notice to curtail their leave at a specified future date prior to expiry of the full 52 week entitlement.

SPL can only commence once the Mother or Adopter has given [written] notice to end their entitlement to maternity/adoption leave early:

- The Mother can then take SPL after she has taken the legally required minimum of 2 weeks of maternity leave immediately following the birth of her child(ren) (4 weeks if she works in a factory).
- The Adopter can also take SPL after taking at least 2 weeks of adoption leave.
- The Partner can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the Partner cannot take paternity leave or pay once they have taken any SPL).

Where a Mother or Adopter gives notice to curtail their maternity/adoption entitlement early, then the Partner can take any available SPL while the Mother or Adopter is still using their maternity/adoption entitlements [i.e. the two sets of leave can run concurrently.]

If the FW is eligible to receive it, Statutory Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period.

SPL must end no later than one year after the birth/placement of the child. Any SPL not taken, by the first birthday or first anniversary of the placement for adoption, is lost.

7. Shared Parental Leave Pay

Up to 37 weeks ShPP may be available to be shared between parents, any additional SPL up to the maximum of 13 weeks that are available are unpaid.

7.1 Available Shared Parental Leave Pay

ShPP is only payable where the Mother or Adopter has ended or given notice to end their maternity/adoption leave earlier than 39 weeks (the number of weeks they are entitled to statutory maternity/adoption pay for). E.g. if the Mother or Adopter chooses to end their leave after 29 weeks' statutory leave, up to 10 weeks ShPP will be available.

7.2 Unpaid Shared Parental Leave

Where a Mother or Adopter chooses to end their maternity/adoption leave from week 40 or above, any period of SPL available would be unpaid.

7.3 Shared Parental Leave Pay Rate

Where a FW is eligible for ShPP it is paid at the statutory rate. The statutory rate of ShPP is the lower of the statutory prescribed rate. This is set at a fixed weekly rate by the Government for the relevant tax year, or 90% of the FW's average weekly earnings where the Flexible Worker's earnings are lower than the set Government fixed rate.

The current statutory prescribed rate can be found at www.gov.uk/shared-parental-leave-and-pay/what-youll-get.

ShPP is treated as earnings and is therefore subject to PAYE and national insurance deductions in the normal way.

7.4 Adoption, Maternity and Shared Parental Leave Pay

If a FW chooses to bring their adoption/maternity leave to an end early and either they or their Partner takes the balance of their leave as SPL, then this automatically brings an end to any adoption/maternity pay that the FW may have been entitled to for the remainder of their leave. The FW would be assessed on their eligibility for ShPP which would be paid at the statutory rate as detailed in section 7.3.

For example, if a FW chooses to end their adoption/maternity leave after 20 weeks and are entitled to either statutory adoption pay (SAP), statutory maternity pay (SMP) or occupational maternity pay (OMP) up to 39 weeks, the FW will lose their entitlement to the remaining 19 weeks of either SAP, SMP or OMP.

8. Booking Shared Parental Leave

In addition to notifying NHSP of entitlement to SPL/ShPP, a FW must also give the required notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.

The process starts with the Mother or Adopter giving notice to end their maternity/adoption leave early. The parent/parents wishing to take SPL must then give notice of their intention to take SPL to NHSP.

8.1 Notice

A FW who is entitled to and intending to take SPL must give FWHR notification of their entitlement and intention to take SPL and the dates they wish to take, at least eight weeks before the start of the first period of SPL.

SPL can only be taken in complete weeks but may begin on any day of the week. For example, if a week of SPL began on a Tuesday it would finish on a Monday. Where a FW returns to work between periods of SPL, the next period of SPL can start on any day of the week.

8.2 Notification

Part of the eligibility criteria requires the FW to provide NHSP with the correct notification and details. Notification must be in writing using the form in appendix A which ensures that FWs provide all the information required for their request.

The FW has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either a single period of weeks leave, or, two or more weeks of discontinuous leave, where the FW intends to return to work between periods of leave.

8.2.1 Continuous Leave Notifications

Continuous leave means a notification of several weeks taken in a single, unbroken period of leave (for example, 6 weeks in a row).

A FW has the right to take a continuous block of leave notified in a single notification, so long as they meet the eligibility criteria for SPL (section 4), it does not exceed the total number of weeks of SPL available to them and NHSP has been given at least eight weeks' notice.

A FW may submit up to three separate notifications for continuous periods of leave.

A request for a period of continuous leave cannot be refused so long as it meets the eligibility criteria and the correct notice of at least 8 weeks is given.

8.3 Partners Details and Confirmation

In addition, the FW's completed form (appendix A) must be signed by their Partner confirming their details and that they satisfy the criteria required to be entitled to SPL.

8.4 Documentation / Additional Details Required

NHSP may, within 14 days of the SPL entitlement notification being given, request:

- The name and business address of the Partner's employer (where the FW's partner is no longer employed or is self-employed their contact details must be given instead)
- Confirmation from the Partner's employer of their entitlement to SPL, that notice to curtail maternity/adoption leave has been given, details of how many weeks paid adoption or maternity leave has been/will be taken by the Partner
- In the case of biological parents, a copy of the child/children's birth certificate (or, where one has not been issued, a declaration as to the time and place of 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

In order to be entitled to SPL, the FW must produce this information within 14 days of NHSP's request.

9. Responding to a Shared Parental Leave Request

Once the FWHR Department has received the SPL booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th day after the leave request is received.

9.1 Continuous Leave Request

All qualifying notices for continuous leave will be confirmed in writing and there will not usually be a need for a formal meeting to discuss the request.

10. Variations to a period of SPL

Once a period of SPL has been agreed with the FW, if they wish to amend the period they must submit written notice to vary the leave to FWHR Department. This variation notice may vary the start and end dates of the period of leave, vary the amount of leave to be taken or ask for a single period of leave to become discontinuous or vice versa.

The notice must be given at least eight weeks before the date to be varied and the new date. The Flexible Worker may only give three periods of leave notices and/or requests for variations to leave in total.

11. Shared Parental Leave In Touch (SPLIT) Days

FWs on SPL may, in agreement with NHS Professionals, can do up to 20 days work without bringing their Shared Parental Leave period to an end or losing their entitlement to ShPP (if applicable). These days are known as Shared Parental Leave In Touch (SPLIT) Days.

The days of work may be separate days or a single block, as agreed between the FW and NHSP.

SPLIT days are completely voluntary, NHSP may not oblige a FW to undertake any SPLIT days during their period of SPL. Neither are FWs entitled to be offered SPLIT days or have a request for any accepted.

Any Flexible Worker undertaking a SPLIT day will be paid their basic hourly rate for time spent at the workplace on SPLIT days.

12. Fraudulent Claims

NHSP can, where there is a suspicion that fraudulent information may have been provided or where an organisation has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual NHSP investigation and disciplinary procedures.

Appendix A

Shared Parental Leave – Notice of Entitlement and Intention to take Leave

FW Name:	
Job Role	
NI Number:	

Notes

The start date of the first period of shared parental leave that you wish to take must be at least eight weeks after you have provided this notice. Shared parental leave must be taken in blocks of at least one week.

This notice is to allow NHSP to check that you are entitled to shared parental leave and to provide NHSP with an initial indication of the shared parental leave pattern that you wish to take.

NHSP will not submit a copy of this request to any FW's Partner's employer, their Partner must ensure that they follow their own employer's internal processes in respect of shared parental leave, which may differ to that of NHSP.

Section A: Information to be provided by FW

My entitlement to Shared Parental Leave is/will be following (circle or delete as appropriate):	
My/My Partner's adoption/maternity leave started/is expected to start on:	/ /
My/My Partner's adoption/maternity leave ended/is expected to end on:	/ /
Our child's expected week of placement/birth is: or Our child was placed/born on:	/ /
The total amount of shared parental leave my Partner and I have available to take is: (NB: This is 52 weeks less any adoption/maternity leave already/that will be taken. A maximum 50 weeks SPL is available)	
I intend to take the following number of weeks' shared parental leave:	(NB: the total of these 2 boxes cannot exceed the total number of weeks of SPL available in the above box)
My partner intends to take the following number of weeks' shared parental leave:	

I intend to take shared parental leave on the following dates (please include the start and end dates for each period of leave that you intend to take):	/ / / / / / / / / / / /
The total amount of shared parental pay (if applicable) my partner and I have available is: (NB: there is a maximum of 37 weeks shared parental leave pay available between both the parent/adopter and partner)	
I intend to take the following number of weeks shared parental pay (if applicable):	(NB: the total of these two boxes cannot exceed the total number of weeks SPL pay available in the above box)
My partner intends to take the following number of weeks shared parental pay (if applicable)	
I intend to take shared parental pay on the following dates (if applicable):	/ / / / / / / / / / / /
Section B: Declaration to be completed by FW	
I satisfy/will satisfy the following eligibility requirements to take shared parental leave:	
I (have/will have) by the week before any period of Shared Parental Leave that I take, I will have remained in continuous employment with NHS Professionals and have 26 weeks' continuous employment ending the 15 th week before either: <input type="checkbox"/> the expected week of childbirth (in the case of birth) <input type="checkbox"/> the week in which the adopter/I was notified of having been matched with a child for adoption	Yes / No (please circle/delete as appropriate)
At the date of the child's birth/placement, I (have/will have) the main responsibility, apart from my partner, for the care of the child	Yes / No (please circle/delete as appropriate)
(I/my partner) is entitled to statutory adoption/maternity leave in respect of the child	Yes / No (please circle/delete as appropriate)
(I/my partner) (have/will have) returned to work before the end of our statutory adoption/maternity leave period and will comply with NHSPs shared parental leave notice and evidence requirements	Yes / No (please circle/delete as appropriate)
Section C: to be completed by the FW's partner	
Partner's Name:	
I have been employed or been a self-employed earner in at least 26 of the last 66 weeks immediately preceding the expected week of childbirth/placement	Yes / No (please circle/delete as appropriate)
I have average weekly earnings of at least £30 a week in at least 13 of those 66 weeks (NB: £30 is rate as of 2015 but may be subject to change as set out by the Government)	Yes / No (please circle/delete as appropriate)

At the date of the child's birth/placement, I (have/will have) the main responsibility, apart from the mother/adopter, for the care of the child	Yes / No (please circle/delete as appropriate)
I am the father/adopter/mother of the child, or am married to, civil partner of, or the partner of the mother/adopter	Yes / No (please circle/delete as appropriate)
I consent to the amount of shared parental leave that my partner, the FW has outlined in section A as the amount they intent to take	Yes / No (please circle/delete as appropriate)
I consent to NHSP processing the information provided in this form	Yes / No (please circle/delete as appropriate)
Section D: Signatures	
NHSP FW's Signature:	
Date:	/ /
FW's Partner's Signature:	
Date:	/ /