



Workforce

Shared Maternity and Shared Adoption Policy

Aim

The Shared Maternity and Shared Adoption Policy aims to:

- outline the procedure that eligible employees must use to request shared maternity and shared adoption leave
- provide details about employees' statutory and contractual rights
- confirm pay arrangements

Scope

This policy applies to all employees who meet the eligibility criteria.

This policy complies with current legislation and meets the aims of the [Public Sector Equality Duty](#) of the [Equality Act 2010](#).

Definitions

A **birth parent** is the individual who has given birth to the child.

Employing board is the employer of an individual.

Expected week of childbirth (EWC) is the week, starting on a Sunday, in which the doctor or midwife expects the individual to give birth.

The **intended parent** or **intended parents** are employees who intend to have a child via adoption or surrogacy.

A **partner** is a person living in an enduring family relationship with the primary parent and the child. A partner cannot be an immediate relative of the primary parent. A partner can be the second parent.

Placement board is the organisation providing a training placement to an individual who is not their employee.

A **primary parent** is one of 2 people who will share responsibility for the child's upbringing. They may be the child's mother or father.

Qualifying week is the 15th week before the EWC and determines shared parental pay entitlements.

A **second parent** is the second of 2 people who will share responsibility for the child's upbringing. They may be the child's mother, father, or partner of the primary parent.

Shared parental leave in touch (SPLIT) days help employees on shared leave keep up to date with any changes at work or maintain their professional registration where appropriate. They also support employees in returning to the workplace after leave.

Shared Parental Leave (SPL) is the statutory right to choose to end maternity or adoption leave. The employee can then convert it into leave they can share with a second parent, subject to meeting eligibility rules.

Shared Parental Pay (ShPP) is the statutory right to convert statutory maternity pay into a payment that can be shared with a second parent. The payment is subject to meeting eligibility rules.

NHSScotland Workforce Policies are based on statutory entitlement. Any reference to shared parental leave or pay in this policy means statutory.

Roles and responsibilities

There is a range of standard expectations which underpin all policies. [Read more about standard roles and responsibilities](#). In addition, the following specific responsibilities apply to this policy.

Manager

The manager should:

- provide a prompt response to any requests for shared leave
- plan for effective team working, including SPLIT days
- make sure the employee receives regular communications, including departmental, organisational, and career opportunities
- action return to work requirements, for example, breastfeeding

Managers must take responsibility for the employee's health and safety at work as recorded in their maternity risk assessment when they are:

- returning from a period that included maternity leave
- breastfeeding

Employee

The employee should:

- notify their manager, adhere to timescales and provide all required information
- talk to their manager about their intentions for shared leave, return to work, and SPLIT days or if their circumstances change
- maintain their professional registration

Employees must take responsibility for their health and safety at work as recorded in their maternity risk assessment when they are:

- returning from a period that included maternity leave
- breastfeeding

Partners of NHS employees must demonstrate eligibility criteria and seek advice from their employer.

Procedure

SPL is available to working parents who want to share their leave following the birth or adoption of a child. The second parent does not have to be an employee of an NHS organisation. Parents may be able to take SPL at the same time or at different times. It can be taken in up to 3 blocks for each eligible parent.

Whilst similar to maternity and adoption leave, SPL is different. With appropriate notice, employees can choose to stop and start SPL and return to work between periods of leave. Examples include:

- during busy periods
- completing a project

Eligible employees have the right to take up to 52 weeks of maternity or adoption leave. They can convert it to SPL for up to 50 of these weeks. Employees can choose to end their maternity or adoption leave to access SPL.

Eligible employees can take SPL and ShPP at any time within one year from the birth or placement for adoption. However, they must take 2

weeks' compulsory maternity leave - 4 weeks for factory workers - or adoption leave first.

In the NHS, examples of a factory worker include:

- laundry services
- sterile services
- mechanical maintenance

Both parents need to meet additional eligibility criteria depending on whether:

- both parents want to share SPL
- the primary parent wants to take SPL
- the second parent wants to take SPL

Entitlement to SPL for shared maternity leave

The birth parent has the right to take up to 52 weeks of maternity leave. They must take the first 2 weeks after the child's birth.

If the birth parent chooses, the remaining leave can be converted to SPL for up to 50 of these weeks. Employees can choose to end their maternity leave to access SPL.

Any maternity leave that employees take over the compulsory 2 week period is deducted from their SPL entitlement.

Other than the first 2 weeks after birth, employees can take SPL and ShPP at any time within one year from the birth.

Employees may be entitled to SPL if they are:

- the primary parent who intends sharing responsibility with the second parent
- the second parent who will be sharing responsibility with the primary parent

There may be occasions when the benefits of SPL mean that either the primary, second, or both parents want to take SPL.

Eligibility criteria

If both parents want to share SPL

If both parents want to share SPL, they must both have at least 26 weeks of continuous service with their employer by the end of the qualifying week. They must also stay with their employer until they start their SPL.

If the primary parent wants to take SPL

For the primary parent to take SPL, both parents must meet the eligibility criteria. The primary parent must have at least 26 weeks of continuous service with their employer by the end of the qualifying week. The primary parent must also stay employed by the same employer until they start SPL.

The second parent must have worked a minimum of 26 out of the 66 weeks before the EWC. These 26 weeks do not need to be in a row. In 13 of the 66 weeks, the second parent must also have earned at least the [statutory minimum earnings](#). The second parent can add up their highest-paying weeks to calculate their earnings. These weeks do not need to be consecutive. At the date of the child's birth, the second parent must share the main responsibility for their care.

If the second parent wants to take SPL

For the second parent to take SPL, the primary parent and the second parent must meet the following eligibility criteria.

The primary parent must have worked a minimum of 26 weeks out of the 66 weeks before the EWC. These 26 weeks do not need to be in a row. In 13 of the 66 weeks, the primary parent must also have earned at least the [statutory minimum earnings](#). The primary parent can add up their highest-paying weeks to calculate their earnings. These weeks do not need to be consecutive. They must also be entitled to statutory maternity leave, statutory maternity pay, or maternity allowance in relation to the child. At the date of the child's birth, the primary parent must have the main responsibility for their care.

The second parent must have at least 26 weeks of continuous service with their employer by the end of the qualifying week. They must also stay with the same employer until they start their SPL.

At the date of the child's birth, the second parent must share the main responsibility for their care. The second parent is not eligible for shared parental leave if they assume parental responsibility after the child's date of birth.

Before taking SPL, second parents should consider using their [new parent support leave](#). Once SPL starts, the second parent will lose any untaken new parent support leave entitlement. SPL is additional to new parent support leave entitlement.

Shared Parental Pay (ShPP)

ShPP for birth parents

Birth parents may also be entitled to:

- Statutory ShPP
- Occupational ShPP

Statutory ShPP

An employee may be entitled to receive Statutory ShPP while on SPL.

In addition to meeting the SPL eligibility criteria, an employee must have average earnings above the [Lower Earnings Limit \(LEL\)](#). LEL is set by the UK Government each tax year.

ShPP is paid at the Statutory Maternity Pay (SMP) rate or 90% of the normal weekly earnings of the employee claiming ShPP, whichever is lower.

Employees can share up to 37 weeks of Statutory ShPP.

Occupational ShPP

Occupational ShPP gives enhanced benefits to NHS employees who intend to return to work for at least 3 months after the end of their SPL.

An employee may also qualify for Occupational ShPP if they:

- have a minimum of 12 months of continuous NHS service at the beginning of the 11th week before their EWC
- satisfy the notification requirements in paragraph 15.17 of the [NHS Terms and Conditions of Service Handbook](#)
- intend to return to work for at least 3 months after the end of their SPL

The employee will receive full pay for the first 6 weeks of SPL, inclusive of any ShPP. They will then receive half pay for the next 18 weeks, plus any Statutory ShPP entitlement. The combined total will not exceed an employee's full pay.

For the next 13 weeks, the employee will receive any ShPP entitlement. They will receive no pay for the final 13 weeks of SPL.

Applying for SPL and pay for birth parents

Employees must apply for SPL and ShPP to their manager using the [Shared parental leave forms](#).

Employees should submit their completed forms to their manager no later than 8 weeks before they wish SPL to start.

Entitlement to SPL for shared adoption parents

The total SPL available to adoptive parents is 50 weeks. Employees can take SPL following new parent support leave after the adoption or placement of a child. Adoption leave already taken following the new parent support leave period is deducted from the 50-week SPL entitlement.

To be eligible for SPL, both adoptive parents must share responsibility for the child. Shared parental responsibility starts from the date the child is placed with the parents if they're adopting or placement before formal adoption.

Eligibility criteria

If both parents want to share SPL

If both intended parents want to share SPL, the employees must both meet all the following eligibility criteria. The employees must have at least 26 weeks of continuous service with their employer by the end of the week they are matched with a child for adoption. They must also stay employed by the same employer until they start SPL.

If the primary parent wants to take SPL

For the intended primary parent to take SPL, both the intended parents must meet the relevant eligibility criteria. The primary parent must be entitled to statutory adoption leave. The intended primary parent must have at least 26 weeks of continuous service with their employer by the end of the week they are matched with a child for adoption. They must also stay employed by the same employer until they start SPL. At the date the child is placed with them for adoption, the primary parent must have the main responsibility for their care.

The second parent must have worked a minimum of 26 out of the 66 weeks before the week the child is placed. These 26 weeks do not need to be consecutive. In 13 of the 66 weeks, they must also have earned at least the [statutory minimum earnings](#).

The second parent can add up their highest-paying weeks to calculate their earnings. These weeks do not need to be consecutive. At the date the child is placed with them for adoption, the second parent must have the main responsibility for their care.

If the second parent wants to take SPL

For the intended second parent to take SPL, both the intended parents must meet the relevant eligibility criteria. The intended second parent must have at least 26 weeks of continuous service with their employer by the end of the week they are matched with a child for adoption. They must also stay employed by the same employer until they start SPL. At the date the child is placed with them for adoption, the second parent must have the main responsibility for their care.

The primary parent must have worked a minimum of 26 out of the 66 weeks before the week the child is placed. These 26 weeks do not need to be consecutive. In 13 of the 66 weeks, they must also have earned at least the [statutory minimum earnings](#).

The primary parent can add up their highest-paying weeks to calculate their earnings. These weeks do not need to be consecutive. They must be entitled to statutory adoption leave or statutory adoption pay in respect of the relevant child. At the date the child is placed with them for adoption, the primary parent must have the main responsibility for their care.

Second parents should consider using their new parent support leave before taking SPL. Once SPL commences, the second parent will lose any untaken new parent support leave entitlement. SPL is additional to new parent support leave entitlement.

ShPP for adoptive parents

Intended parents may also be entitled to:

- Statutory ShPP
- Occupational ShPP

Statutory ShPP for adoptive parents

An employee may be entitled to receive Statutory ShPP while on SPL.

In addition to meeting the SPL eligibility criteria, an employee must have average earnings above the [Lower Earnings Limit \(LEL\)](#). LEL is set by the UK Government each tax year.

ShPP is paid at the Statutory Maternity Pay (SMP) rate or 90% of the normal weekly earnings of the employee claiming ShPP, whichever is lower.

Employees can share up to 37 weeks of Statutory ShPP.

Occupational ShPP for adoptive parents

An employee may also qualify for Occupational ShPP if they:

- have 12 months of continuous service with one or more NHS employers at the beginning of the week they are notified of being matched with a child for adoption
- intend to return to work for at least 3 months after the end of their SPL

The employee will receive full pay for the first 6 weeks of SPL, inclusive of any ShPP. They will then receive half pay for the next 18 weeks, plus any Statutory ShPP entitlement. The combined total will not exceed an employee's full pay.

For the next 13 weeks, the employee will receive any ShPP entitlement. They will receive no pay for the final 13 weeks of SPL.

Entitlement to SPL for surrogate parents

The total SPL available to parents using a surrogate is 50 weeks. Employees can take SPL following new parent support leave. Any adoption leave already taken following the new parent support leave period is deducted from the 50-week SPL entitlement.

To be eligible for SPL, both parents using a surrogate must share responsibility for the child from the child's due date or date of birth. [Find out more about eligibility for adopters or parents using a surrogate.](#)

Eligibility criteria

If both parents want to share SPL

If both intended parents want to share SPL, the employees must both meet all the following eligibility criteria. The employees must have at least 26 weeks of continuous service with their employer by the end of the surrogate's qualifying week. Each intended parent must also remain employed by the same employer until they start SPL.

If the primary parent wants to take SPL

For the intended primary parent to take SPL, both the intended parents must meet the relevant eligibility criteria. The intended primary parent must have at least 26 weeks of continuous service with their employer by the end of the surrogate's qualifying week. The intended parent must also stay employed by the same employer until they start SPL. At the date of the child's birth, the primary parent must have the main responsibility for the care of the child.

The second parent must have worked a minimum of 26 out of the 66 weeks before the due date. These 26 weeks do not need to be consecutive. In 13 of the 66 weeks, they must also have earned at least the [statutory minimum earnings](#).

The second parent can add up their highest-paying weeks to calculate their earnings. These weeks do not need to be consecutive. At the date of the child's birth, the second parent must have the main responsibility for the care of the child.

If the second parent wants to take SPL

For the intended second parent to take SPL, both intended parents must meet the relevant eligibility criteria. The intended second parent must have at least 26 weeks of continuous service with their employer by the end of the surrogate's qualifying week. They must also stay employed by the same employer until they start SPL. At the date of the child's birth, they must have the main responsibility for the care of the child.

The primary parent must have worked a minimum of 26 out of the 66 weeks before the due date. These 26 weeks do not need to be consecutive. In 13 of the 66 weeks, they must also have earned at least the [statutory minimum earnings](#). At the date of the child's birth, the primary parent must have the main responsibility for the care of the child.

The primary parent can add up their highest-paying weeks to calculate their earnings. These weeks do not need to be consecutive.

Second parents should consider using their new parent support leave before taking SPL. Once SPL commences, the second parent will lose any untaken new parent support leave entitlement. SPL is additional to new parent support leave entitlement.

ShPP for surrogate parents

Intended parents may also be entitled to:

- Statutory ShPP
- Occupational ShPP

Statutory ShPP for surrogate parents

An employee may be entitled to receive Statutory ShPP while on SPL.

In addition to meeting the SPL eligibility criteria, an employee must have average earnings above the [Lower Earnings Limit \(LEL\)](#). LEL is set by the UK Government each tax year.

ShPP is paid at the Statutory Maternity Pay (SMP) rate or 90% of the normal weekly earnings of the employee claiming ShPP, whichever is lower.

Employees can share up to 37 weeks of Statutory ShPP.

Occupational ShPP for surrogate parents

An employee may also qualify for Occupational ShPP if they:

- have 12 months' continuous service with one or more NHS employers at the beginning of the 15th week before the baby's due date
- intend to return to work for at least 3 months after the end of their SPL

The employee will receive full pay for the first 6 weeks of SPL, inclusive of any ShPP. They will then receive half pay for the next 18 weeks, plus any Statutory ShPP entitlement. The combined total will not exceed an employee's full pay.

For the next 13 weeks, the employee will receive any ShPP entitlement. They will receive no pay for the final 13 weeks of SPL.

Applying for shared parental leave and pay for adoptive and surrogate parents

Employees must submit their intention for SPL and ShPP to their manager using the [Shared parental leave forms](#).

Employees should submit their completed forms to their manager no later than 8 weeks before they wish SPL to start.

SPLIT days

SPLIT days help employees on shared maternity and shared adoption leave:

- keep up to date with any changes at work
- maintain their professional registration, where appropriate
- support employees when returning to the workplace after maternity and adoption leave

Each parent can work up to 20 SPLIT days without bringing their shared parental leave to an end. Up to 10 KIT days are also available to those on maternity or adoption leave.

SPLIT days are optional. The employee and their employer must agree to them.

Before going on SPL, the employee and their manager must agree on voluntary arrangements for keeping in touch.

Any SPLIT days taken will not extend the SPL period.

SPLIT days don't need to be consecutive. They can include training or other activities which enable the employee to keep in touch with the workplace. Working for part of any day will count as one SPLIT day from the 20-day allowance.

SPLIT days are paid as if the employee is at work and include any Occupational ShPP or Statutory ShPP if the employee is not eligible for Occupational ShPP. The combination of Occupational ShPP and Statutory ShPP cannot exceed normal average weekly pay.

If a SPLIT day is worked in the full pay period, the employee will receive a day of paid leave in lieu once they have returned to work. If a SPLIT day is worked on a day of leave in the half pay period, the employee will receive a half day of paid leave in lieu once they have returned to work.

Extending SPL

Employees who have unused SPL and wish to extend their SPL period must inform their manager 8 weeks before the start of the extension.

Employees who have used all their SPL but wish to extend their SPL period may be able to request annual leave or [parental leave](#).

Approval for the request is subject to service needs. The employee may wish to consider other options, such as a [career break](#).

Multiple births or adoption placement

Only one period of ShPP and SPL is available where there are multiple births.

Returning to work

Employees who wish to end their SPL early and return to work must give their manager 28 days' notice.

Employees returning from SPL have the right to return to their job under their original contract. Their terms and conditions must be no less favourable than before.

Risk assessment

Before their return to work, a risk assessment must be completed for employees covered by the following policies:

- [Maternity Policy](#)
- [Breastfeeding Policy](#)

Not returning to work

Employees who decide not to return to work for 3 months do not need to repay the Statutory ShPP received. However, they must repay any Occupational ShPP. In cases where this would cause undue hardship or

distress, employers will have the discretion to waive the rights to recovery.

If an employee does not return to NHS employment for a minimum of 3 months after their shared parental leave has ended, they must repay their Occupational ShPP. Employers have the discretion to waive the rights to recovery where repayment of Occupational ShPP would cause undue hardship or distress to the employee.

Bank and agency staff

Bank staff have no entitlement to Occupational ShPP or shared maternity or shared adoption leave. However, they may be entitled to statutory ShPP, depending on their level of earnings. The employer may review entitlement to Occupational ShPP in exceptional cases, such as if the worker can demonstrate regular work patterns over an extended period.

Agency staff may be entitled to shared maternity or shared adoption leave and statutory ShPP if they are considered an employee of the agency. This should be checked with the relevant agency.

Employees on a fixed-term or training contract

For employees who are on a fixed-term or training contract which expires:

- after the 11th week before their EWC
- after the date of matching for adoption
- after the 15th week before the baby's due date if applying via surrogacy arrangement

If so, their contract will be extended by such period to allow them to receive 50 weeks of shared parental leave and Occupational ShPP or ShPP.

Rotational training contracts

Employees such as doctors and dentists on the Scottish Medical Training Programme are employed on regional training contracts. They

must notify their manager within the placement board about their intention to take shared parental leave. The placement board will arrange a Maternity risk assessment.

The placement board will also notify the employing board of the employee's intention to take shared parental leave. The employing board will confirm the employee's shared parental pay entitlement.

Resolution of disagreements

Should a disagreement arise, the employee has the right to raise matters under the [Grievance Policy](#). It may be appropriate for either party to seek advice on resolving the matter from HR colleagues or a trade union representative. They should seek early resolution wherever possible.

Related policies

The following policies are related to the Shared Maternity and Shared Adoption Policy:

- [Maternity Policy](#)
- [New Parent Support Policy](#)
- [Parental Leave Policy](#)
- [Adoption, Fostering and Kinship Policy](#)
- [Breastfeeding Policy](#)
- [Flexible Work Location Policy](#)
- [Flexible Work Pattern Policy](#)