



## Shared Parental Leave (Birth) Policy

<b>Review Due:</b>	<b>December 2023</b> Please note that to support a realignment of policies review across the Trust, the Board of Trustees have approved an amendment to the review of this policy to take place in July 2023
<b>Last Review</b>	December 2020
<b>Applicable to:</b>	All Trust Schools
<b>Reviewed By:</b>	SP
<b>Approved By:</b>	

### Comments:

This policy has been drafted to set out the rights and entitlements Trust employees have to Shared Parental Leave. It includes guidance for employees regarding eligibility and procedures and complies with all relevant government guidance.

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## **Introduction to shared parental leave**

This policy sets out the rights of employees within The Partnership Trust ('The Trust') to shared parental leave and pay. Shared parental leave enables mothers to commit to ending their maternity leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from maternity leave and opt in to shared parental leave and pay at a later date. (The Trust provides a separate policy on shared parental leave for employees who are adopting children.)

Shared parental leave should not be confused with ordinary parental leave, which is unaffected by shared parental leave. Ordinary parental leave is the entitlement to up to 18 weeks' unpaid leave. (The Trust provides a separate policy on ordinary parental leave entitled HR – Parental Leave Policy.)

The Trust recognises that, from time to time, employees may have questions or concerns relating to their shared parental leave rights. It is the Trust's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the shared parental leave provisions are complex, if an employee wishes to take shared parental leave, they should clarify the relevant procedures with the HR department to ensure that they are followed correctly.

## **Data protection**

When managing an employee's shared parental leave and pay, the Trust processes personal data collected in accordance with its GDPR and data protection policy. Data collected from the point at which an employee informs the Trust that they plan to take shared parental leave is held securely and accessed by, and disclosed to, individuals only for the purposes of managing their shared parental leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Trust's GDPR and data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the Trust's disciplinary procedure.

## **Definitions under this shared parental leave policy**

The following definitions are used in this policy:

"Mother" means the mother or expectant mother of the child.

"Partner" means the father of the child, or the person who, at the date of the child's birth, is married to, the civil partner of, or the partner of the mother. This includes someone, of whatever sex, who lives with the mother and the child in an enduring family relationship but who is not the mother's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew.

"Expected week of childbirth" means the week, starting on a Sunday, during which the mother's doctor or midwife expects them to give birth.

## **Scope of this shared parental leave policy**

This policy applies in relation to employees of the Trust, whether they are the mother or the partner. If it is the mother who is employed by the Trust, their partner must (where relevant) submit any notifications to take shared parental leave set out in this policy to their own employer, which may

have its own shared parental leave policy in place, if they want to take a period of shared parental leave.

Similarly, if it is the partner who is employed by the Trust, the mother must (where relevant) submit any notifications to take shared parental leave to their own employer.

The mother and the partner should ensure that they are each liaising with their own employer to ensure that requests for shared parental leave are handled as smoothly as possible.

### **Amount of shared parental leave available**

The amount of shared parental leave to which an individual is entitled will depend on when the mother brings their maternity leave period to an end and the amount of leave that the other parent takes in respect of the child. Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the Trust is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of discontinuous blocks of leave (in which case the employee needs the Trust's agreement). A maximum of three requests for leave per pregnancy can normally be made by each parent.

The first two weeks [or four weeks for factory workers] following birth are the compulsory maternity leave period and are reserved for the mother. This means that the mother cannot curtail their maternity leave to take shared parental leave until two weeks [or four weeks for factory workers] after the birth and the maximum period that the parents could take as shared parental leave is 50 weeks between them [48 weeks if the mother is a factory worker] (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).

However, the mother's partner can begin a period of shared parental leave at any time from the date of the child's birth (but the partner should bear in mind that they are entitled to take up to two weeks' paternity leave following the birth of their child, which they will lose if shared parental leave is taken first). The mother and partner must take any shared parental leave within 52 weeks of birth.

### **Eligibility for shared parental leave**

For employees to be eligible to take shared parental leave, both parents must meet certain eligibility requirements.

#### *Mother's eligibility for shared parental leave*

The mother is eligible for shared parental leave if they:

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remain in continuous employment with the Trust until the week before any period of shared parental leave that they take;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- are entitled to statutory maternity leave in respect of the child; and
- comply with the relevant maternity leave curtailment requirements (or have returned to work before the end of statutory maternity leave), and shared parental leave notice and evidence requirements.

In addition, for the mother to be eligible for shared parental leave, the partner must:

- have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks; and
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child.

#### *Partner's eligibility for shared parental leave*

The partner is eligible for shared parental leave if they:

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remain in continuous employment with the Trust until the week before any period of shared parental leave that they take;
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- comply with the relevant shared parental leave notice and evidence requirements.

In addition, for the partner to be eligible for shared parental leave, the mother must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and
- comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave).

#### **Notice requirements for shared parental leave**

The notices that the parents must give to the relevant employer to be able to take shared parental leave are made up of three elements. They are:

- a "maternity leave curtailment notice" from the mother setting out when they propose to end their maternity leave (unless the mother has already returned to work from maternity leave);
- a "notice of entitlement and intention" from the employee giving an initial, non-binding indication of each period of shared parental leave that they are requesting; and
- a "period of leave notice" from the employee setting out the start and end dates of each period of shared parental leave that they are requesting.

Forms to apply for Shared Parental Leave and Pay and provide notice of your leave dates can be downloaded [here](#).

The notice periods set out below (see Mother's notice curtailing maternity leave, Employee's notice of entitlement and intention and Employee's period of leave notice) are the minimum required by

law. However, the earlier the employee informs the Trust of their intentions, the more likely it is that the Trust will be able to accommodate the employee's wishes, particularly if they want to take periods of discontinuous leave.

Employees are advised that, if they have already decided the pattern of shared parental leave that they would like to take, they can provide more than one type of notice at the same time. For example, the mother could provide a maternity leave curtailment notice, notice of entitlement and intention and period of leave notice at the same time. Similarly, the partner could provide their notice of entitlement and intention and period of leave notice at the same time.

#### *Mother's notice curtailing maternity leave*

Before the mother or partner can take shared parental leave, the mother must either return to work before the end of their maternity leave (by giving the required eight weeks' notice of their planned return) or provide their employer with a maternity leave curtailment notice. The maternity leave curtailment notice must be in writing and state the date on which maternity leave is to end. That date must be:

- after the compulsory maternity leave period, which is the two weeks [or four weeks for factory workers] after birth;
- at least eight weeks after the date on which the mother gave the maternity leave curtailment notice to their employer; and
- at least one week before what would be the end of the additional maternity leave period.

The mother must provide their maternity leave curtailment notice at the same time they provide either their notice of entitlement and intention or a declaration of consent and entitlement signed by the mother confirming that their partner has given their employer a notice of entitlement and intention (see Employee's notice of entitlement and intention below).

#### *Revocation of maternity leave curtailment notice*

The mother can withdraw their notice curtailing their maternity leave in limited circumstances. The withdrawal of a maternity leave curtailment notice must be in writing and can be given only if the mother has not returned to work. The mother can withdraw their maternity leave curtailment notice if:

- it is discovered that neither the mother nor the partner are entitled to shared parental leave or statutory shared parental pay and the mother withdraws their maternity leave curtailment notice within eight weeks of the date on which the notice was given;
- the maternity leave curtailment notice was given before the birth of the child and the mother withdraws their maternity leave curtailment notice within six weeks of the child's birth; or
- the partner has died.

#### *Employee's notice of entitlement and intention*

The employee, whether the mother or the partner, must provide the Trust with a non-binding notice of entitlement and intention. The employee's notice of entitlement and intention, which must be in writing and provided at least eight weeks before the start date of the first period of shared parental leave to be taken by the employee, must set out the following information.

If the employee is the mother, the notice of entitlement and intention must set out:

- the mother's name;
- the partner's name;
- the start and end dates of any statutory maternity leave taken or to be taken by the mother;
- the total amount of shared parental leave available;
- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the mother);
- how much shared parental leave the mother and partner each intend to take; and
- a non-binding indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave).

The mother's notice of entitlement and intention must include a declaration signed by them that:

- they satisfy, or will satisfy, the eligibility requirements to take shared parental leave;
- the information they give in the notice of entitlement and intention is accurate; and
- they will immediately inform the Trust if they cease to care for the child.

In addition, the mother's notice of entitlement and intention must include a declaration signed by their partner:

- specifying the partner's name, address, and national insurance number (or declaring that the partner does not have a national insurance number);
- declaring that the partner satisfies, or will satisfy, the conditions set out above (see Mother's eligibility for shared parental leave);
- declaring that the partner is the father of the child, or is married to, the civil partner of, or the partner of, the mother;
- declaring that the partner consents to the amount of leave that the mother intends to take; and
- declaring that the partner consents to the mother's employer processing the information in the partner's declaration.

If the employee is the partner, the partner's notice of entitlement and intention must set out:

- the partner's name;
- the mother's name;
- the start and end dates of any periods of statutory maternity leave, statutory maternity pay or maternity allowance taken or to be taken by the mother;
- the total amount of shared parental leave available;
- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the partner);
- how much shared parental leave the partner and mother each intend to take; and
- a non-binding indication as to when the partner intends to take shared parental leave (including the start and end dates for each period of leave).

The partner's notice of entitlement and intention must include a declaration signed by the partner that:

- they satisfy, or will satisfy, the eligibility requirements to take shared parental leave;

- the information given by the partner in the notice of entitlement and intention is accurate; and
- they will immediately inform the Trust if they cease to care for the child or if the mother informs them that they no longer meets the requirement to have curtailed their maternity leave or pay period.

In addition, the partner's notice of entitlement and intention must include a declaration signed by the mother:

- specifying the mother's name, address, and national insurance number (or declaring that the mother does not have a national insurance number);
- declaring that the mother satisfies, or will satisfy, the conditions set out above (see Partner's eligibility for shared parental leave) and they will notify the partner if they no longer qualifies for maternity leave, statutory maternity pay or maternity allowance;
- declaring that the mother consents to the amount of leave that the partner intends to take;
- declaring that they will immediately inform the employee if they no longer meets the requirement to have curtailed their maternity leave or pay period; and
- declaring that the mother consents to the partner's employer processing the information in the mother's declaration.

Within 14 days of receiving a notice of entitlement and intention from the employee, whether the mother or partner, the Trust can request from the employee:

- a copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth - if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice); and
- the name and address of the other parent's employer (or a declaration that the other parent has no employer).

The employee has 14 days from the date of the request to send the Trust the required information.

#### *Variation or cancellation of notice of entitlement and intention*

The employee can vary or cancel their proposed shared parental leave dates following the submission of a notice of entitlement and intention, provided that they provide the Trust with a written notice. The written notice must contain:

- an indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave);
- details of any periods of shared parental leave that have been notified through a period of leave notice;
- details of any periods of statutory shared parental pay that have been notified in relation to periods where shared parental leave was not to be taken; and
- a declaration signed by the mother and the partner that they agree to the variation.

Any indication of leave intended to be taken that the employee provides in a variation of notice of entitlement and intention is non-binding until they provide a period of leave notice in relation to that period of leave. There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

#### *Employee's period of leave notice*



To take a period of shared parental leave, the employee must provide the Trust with a written notice setting out the start and end dates of each period of shared parental leave requested in that notice.

A period of leave notice must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave.

#### *Variation or cancellation of period of leave notice*

The employee can vary or cancel their proposed shared parental leave dates following the submission of a period of leave notice, provided that they provide their employer with a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The written notice can:

- vary the start date or the end date of any period of shared parental leave or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

#### *Limit on number of requests for leave*

The employee can provide a combined total of up to three period of leave notices or variations of period of leave notices per pregnancy, although the Trust may waive this limit in some circumstances.

#### **Continuous period of shared parental leave**

If the employee submits a period of leave notice requesting one continuous period of leave, they will be entitled to take that period of leave.

#### **Discontinuous periods of shared parental leave**

The employee may submit a period of leave notice requesting discontinuous periods of leave. For example, the mother and partner could request a pattern of leave from their respective employers that allows them to alternate childcare responsibilities.

If the employee submits a period of leave notice requesting discontinuous periods of leave, the Trust, in the two weeks beginning with the date the period of leave notice was given, can:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested.

If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, the employee is entitled to take the leave as one continuous period of leave. In that event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the period of leave notice was originally given. The employee must notify the Trust of that date within five days of the end of the

two-week discussion period. If the employee does not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date of the first period of leave requested in the period of leave notice.

Alternatively, if the Trust has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw a period of leave notice requesting discontinuous periods of leave. The employee can withdraw a period of leave notice at any time on or before the 15th day after the period of leave notice was given. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make.

### **Amount of shared parental pay available**

Statutory shared parental pay is available for eligible parents to share between them while on shared parental leave. The number of weeks' statutory shared parental pay available to the parents will depend on how much statutory maternity pay or maternity allowance the mother has been paid when their maternity leave or pay period ends.

A total of 39 weeks' statutory maternity pay or maternity allowance is available to the mother. As there is a compulsory maternity leave period of two weeks [or four weeks for factory workers], this means that a mother who ends their maternity leave at the earliest opportunity could share up to 37 weeks' statutory shared parental pay with their partner [35 weeks' statutory shared parental pay can be shared if the mother is a factory worker] (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).

Any statutory shared parental pay due during shared parental leave will be paid at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

It is up to the parents as to who is paid the statutory shared parental pay and how it is apportioned between them.

### **Eligibility for statutory shared parental pay**

For employees to be eligible for statutory shared parental pay, both parents must meet certain eligibility requirements.

#### *Mother's eligibility for statutory shared parental pay*

The mother is eligible for statutory shared parental pay if they:

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remain in continuous employment with their employer until the week before any period of shared parental pay that they get;
- have normal weekly earnings for a period of eight weeks ending with the 15th week before the expected week of childbirth of at least the lower earnings limit for national insurance contribution purposes;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- are absent from work and intend to care for the child during each week in which they receive statutory shared parental pay; and

- are entitled to statutory maternity pay in respect of the child, but the maternity pay period has been reduced.

In addition, for the mother to be eligible for statutory shared parental pay, the partner must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks.

#### *Partner's eligibility for statutory shared parental pay*

The partner is eligible for statutory shared parental pay if they:

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remain in continuous employment with their employer until the week before any period of shared parental pay that they get;
- have normal weekly earnings for eight weeks ending with the 15th week before the expected week of childbirth of at least the lower earnings limit for national insurance contribution purposes;
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- are absent from work and intend to care for the child during each week in which they receive statutory shared parental pay.

In addition, for the partner to be eligible, the mother must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold [currently £30] for any 13 of those 66 weeks;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child; and
- be entitled to statutory maternity pay or maternity allowance in respect of the child, but the maternity pay period or maternity allowance period has been reduced.

#### **Rights during shared parental leave**

During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory shared parental pay if the employee is eligible for it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place. For example, holiday entitlement will continue to accrue. Pension contributions will continue to be paid.

### **Contact during shared parental leave**

The Trust reserves the right to maintain reasonable contact with employees during shared parental leave. This may be to discuss employees' plans for their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

An employee can agree to work for the Trust (or to attend training) for up to 20 days during shared parental leave without that work bringing the period of their shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days.

The Trust has no right to require employees to carry out any work and employees have no right to undertake any work during their shared parental leave. Any work undertaken, and the amount of salary paid for any work done on SPLIT days, is entirely a matter for agreement between employees and the Trust.

If you are entitled to receive statutory shared parental pay for any week during which you attend work for SPLIT days, you will still receive this in the usual way. In addition, we will also pay you for each hour that you work during a SPLIT day.

### **Returning to work following shared parental leave**

The employee has the right to resume working in the same job when returning to work from shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory maternity leave or statutory paternity leave taken by the employee in relation to the same child, is 26 weeks or less.

If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory maternity or paternity leave taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional maternity leave, the employee has the right to return to the same job unless this is not reasonably practicable. In these circumstances, if it is not reasonably practicable for the Trust to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for them.