

Workforce Directorate Policy

W19 - Leave Policy

Chapter 6: Shared Parental Leave Procedure

Amendment to this policy: April 2024.

The Maternity Leave, Adoption Leave, and Shared Parental Leave (Amendment) Regulations 2024 introduce changes to the existing regulations. The amendments extend to England, Wales, and Scotland. The changes came into force from 6 April 2024.

This Amendment Regulations make provision to extend an existing statutory protection from redundancy that currently applies to those employees who are on maternity, adoption or shared parental leave (“relevant leave”).

The extension will mean this protection also applies to pregnant women and new parents who have recently returned from any period of maternity or adoption leave, or from a period of 6 or more weeks of shared parental leave.

These amendments enhance the rights and protections for employees during family-related leave, ensuring fair treatment and stability in the workplace.

For further detail please see Appendix 3.

Includes Flowcharts, FAQ and Relevant Forms/Paperwork

The Trust supports staff in applying for Shared Parental leave, (SPL) to enable eligible parents to choose how to share the care of their child during the first year of birth or adoption. This guidance outlines the options available to staff, requirements for eligibility and provides guidance for managing this period of the employment relationship. The Trust applies the arrangements set out within NHS Terms and Conditions of Service Handbook to support staff.

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Introduction

1. What is Shared Parental Leave?

SPL allows eligible parents to choose how to share the care of their child during the first year of birth or adoption.

2. What are the types of leave?

Eligible staff can apply for

Continuous Leave Notification – a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).

An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement – SPL2) and the employer has been given at least eight weeks' notice. For example, an employee could submit three separate requests each for two week single blocks returning to work for two weeks in between and this would need to be accommodated.

Discontinuous leave notifications - a request for two or more periods of discontinuous leave, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

3. How can I get further support or advice relating to SPL?

If following review of this procedure you have any questions please contact the HR Advisory Team.

Eligibility for Shared Parental Leave

4. Who can use SPL?

SPL can only be used by two people:

- The mother/adopter **and**
- One of the following:
 - the father of the child (in the case of birth)or
 - the spouse, civil partner or partner of the child's mother/ adopter.

5. Are there any other eligibility criteria?

Both people must share the main responsibility for the care of the child at the time of the birth/placement for adoption. Sometimes only one parent in a couple will be eligible to get Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP). This means that they cannot share the leave.

Additionally an employee seeking to take SPL must satisfy each of the following criteria:

- the mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
- the employee must still be working for the Trust at the start of each period of SPL;
- the employee must pass the 'continuity test' requiring them to have a minimum of 12 months continuous (see paragraphs 15.106 to 15.109) service at the end of the 11th week before the child's expected due date/matching date, or by the 15th week before the baby's due date if applying via a surrogacy arrangement
- the employee's partner must meet the statutory 'employment and earnings test' by being an employed or self-employed earner in the UK for a total of 26 weeks (not necessarily continuously)in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned an average of at least £30 gross(this is correct as of 2015 but may change annually) a week in any 13 of those weeks;

- the employee must correctly notify the Trust of their entitlement and provide evidence as required, using Form SPL2.

Amount of Shared Parental Leave (SPL)

6. How much SPL may I be entitled to?

Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. 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 placement for adoption is lost.

The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.

7. How does the mother/adopter reduce their entitlement to maternity/adoption leave?

This is done by returning to work before the full entitlement of 52 weeks has been taken, or by giving notice to curtail their leave at a specified future date.

8. What happens if the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA)?

The mother/adopter must reduce their entitlement to less than the 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL. The amount of leave available is calculated by deducting from 52 weeks the number of weeks of SMP, SAP or MA taken by the mother/adopter.

9. When can SPL commence?

SPL can commence as follows:

- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
- The adopter can take SPL after taking at least two weeks of adoption leave
- The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take New Parent Support leave or pay once they have taken any SPL or ShPP).

SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see below "**Giving Notice to take Shared Parental Leave**" and "**Variations to arranged Shared Parental Leave**").

10. If the mother/adopter gives notice to curtail their maternity/adoption entitlement can the mother/adopter's partner take leave while the mother/adopter is still using their maternity/adoption entitlements?

Yes, where notice to curtail has been given the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements provided the mother has taken a minimum of 2 weeks' maternity leave following the birth (4 if she works in a factory).

Statutory Shared Parental Pay (ShPP)

11. How many weeks ShPP may I be entitled to?

Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

Section 15.60 states Eligible employees will be entitled to claim up to 37 weeks of statutory shared parental leave pay (ShPP), less any weeks of statutory maternity pay, maternity

allowance or statutory adoption pay that has already been claimed by either partner. ShPP can be claimed following the birth or placement of the child, but not at the same time as the compulsory two weeks of leave following the birth or placement of the child. ShPP is paid at a rate set by the government each year.

12. Will I be paid during the whole of my SPL?

ShPP may be payable during some or all of SPL, depending on the length and timing of the leave. All shared parental pay must be taken within 1 year of the birth of the child or the date the child was placed with the family in the case of adoption.

By prior agreement with the employer, occupational maternity pay may be paid in a different way, for example a combination of full pay and half pay, or a fixed amount spread equally over the maternity leave period. Where occupational maternity pay has been paid in a different way, and the employee subsequently chooses to access shared parental leave and pay, the employer may need to recalculate payments to ensure that there has not been any over or underpayment of entitlements.

13. How do I know if I am eligible for ShPP?

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

- the mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
- the employee must intend to care for the child during the week in which ShPP is payable;
- the employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child's expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;
- the employee must remain in continuous employment until the first week of ShPP has begun;
- the employee must give proper notification in accordance with the rules set out below.
- Shared Parental Leave Pay (ShPP) is paid at a statutory flat rate sum or 90% of an employee's average weekly earnings, whichever is the lower.

14. How much notice do I need to give my manager before taking ShPP?

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP, using **Form SPL2**.

15. How much will I be paid?

Any ShPP due will be paid at a rate set by the Government for the relevant tax year or 90% of an employee's average weekly earnings, whichever is lower. Where such pay (excluding pay during the compulsory two-week maternity/adoption leave period) has been received by either parent, the maximum joint entitlement set out below will reduce proportionate to the amount of maternity or adoption pay which has either been taken and paid to either parent, or notified as intending to be taken by either parent.

- for the first six weeks of absence the employee will receive full pay. Full pay is inclusive of any ShPP. The total receivable cannot exceed full pay
- for the next 18 weeks of absence the employee will receive half of full pay plus any ShPP. The total receivable cannot exceed full pay
- for the next 13 weeks, the employee will receive any ShPP that they are entitled to under the statutory scheme
- for the final 13 weeks, the employee will receive no pay.

Notification of Entitlement to SPL

16. When should I discuss my intention/consideration of taking SPL with my manager?

If you are considering/taking SPL you are encouraged to contact your line manager to arrange an informal discussion as early as possible to talk about your plans and to enable your manager, where possible, to support you.

17. When do I need to notify my manager that I am entitled to SPL and wish to access SPL?

If you are entitled to and intending to take SPL you must notify your manager at least 8 weeks prior to period requested as SPL using **Form SPL2**.

18. What information may my manager request?

Within 14 days of receiving the **Form SPL2**, your manager may request:

- the name and business address of the partner's employer (where the employee's partner is no longer employed or is self-employed their contact details must be given instead)
- in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the 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 employee must produce this information within 14 days of the employer's request.

Discussions regarding Entitlement for Shared Parental Leave

19. What action will my manager take on receipt of my Form SPL2?

Your manager will arrange an informal discussion with you to talk about your intentions and how you currently expect to use your SPL entitlement. They will discuss with you;

- the date you wish to access your leave
- your intention to return to work with the same or another NHS Employer for a minimum of 3 months after the SPL has ended
- that the mother or primary adopter has returned to work or has provided a binding notice confirming that they intend to bring their maternity or adoption leave to an early end

Section 15.59 states, *following discussion with the employee, the employer should confirm in writing:*

- *the employee's paid and unpaid shared parental leave entitlements under this agreement (or statutory entitlements if the employee does not qualify under the agreement)*
- *the confirmed leave pattern, including start and end dates, for each block of shared parental leave the employee and employer have agreed will be taken;*
- *confirmation of the notification process and the required notice periods for instances where agreed blocks of leave need to be amended*
- *the length of any period of accrued annual leave which it has been agreed may be taken following the end of shared parental leave (see paragraphs 15.93 and 15.94)*

20. What action will my manager take on receipt of my Period of Leave Form SPL4?

Your manager will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave or where a request for discontinuous leave can without further discussion be approved a meeting may not be necessary.

21. If a meeting is required, when will the meeting take place?

You will be given reasonable notice of the meeting which should be held as soon as is reasonably possible. This meeting can be rearranged if necessary or held over the telephone.

22. Can I bring a representative to the meeting?

If you wish you may be accompanied by an accredited representative of a Trade Union / Professional Organisation or colleague employed by the Trust.

23. What is the purpose of the meeting?

To discuss the leave proposed and what will happen whilst you are away from work. Where you request discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to you and your manager, and what the outcome may be if no agreement is reached.

24. What if I (or the mother/adopter) change(s) my(their) mind and wish(es) to stay on maternity leave?

The mother or adopter may be able to change their decision to end maternity or adoption leave early if both:

- the planned end date hasn't passed.
- they haven't already returned to work.

One of the following must also apply:

- it's discovered during the 8-week notice period that neither partner is eligible for either SPL or ShPP
- the employee's partner has died
- it's less than 6 weeks after the birth (and the mother gave notice before the birth)

25. What would I need to do if we change our mind?

You need to complete **Form SPL5** and return it to your line manager.

Giving Notice to take Shared Parental Leave

26. How do I book my SPL?

In addition to notifying your manager of your entitlement to SPL/ShPP using **Form SPL2**, you must also give notice to take the leave using **Form SPL4**. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL; however the SPL2 form may not be binding.

27. How much notice do I need to give before a block of leave begins?

You must give at least 8 weeks' notice before a block of leave begins. If the child is born more than 8 weeks early, this notice period can be shorter.

28. How quickly will my manager respond to my booking notice?

Your manager will respond to your booking notice, it will be dealt with as soon as possible and no later than the 14th day after the leave request was made. In this response they will confirm the date that you are expected to return to work. All notices for continuous leave will be confirmed in writing. The request may be granted in full or in part: for example, the manager may propose a modified version of the request.

29. How many notifications to book leave can I submit?

You have the right to submit three notifications specifying leave periods you are intending to take. This includes notices to vary a previously agreed pattern of leave. Each notification may contain either (a) a single period of weeks of continuous leave; or (b) two or more weeks of discontinuous leave where you intend to return to work between periods of leave.

30. What is the minimum duration of an SPL period?

SPL can only be taken in complete weeks but it 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 an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

Blocks of SPL

31. How many blocks of leave can I have?

Eligible employees have a statutory right to a maximum of 3 separate blocks of leave.

An employee taking Shared Parental Leave (SPL) can split their leave into up to 3 separate blocks instead of taking it all in one go, even if they aren't sharing the leave with their partner.

If both parents are taking SPL then they can take their leave at the same time as each other or at different times.

32. Can I split the blocks of leave?

Yes, if your manager can agree you can split a block of leave into shorter periods of at least a week. For example you could work every other week during a 12-week block, using a total of 6 weeks of their SPL.

33. Can my manager turn down a request for a block of leave?

No, your manager can not turn down a request for a block of leave if you are eligible and you have given the right notice.

However in accordance with Section 15.54 states:

In instances where discontinuous periods of leave are requested, employers are not bound to agree the requested pattern. A two-week discussion period between the employee and employer will commence on the date the employee submits the booking notice. The review will look at the requested pattern of leave and discuss possible alternatives. In the limited circumstances where the employer refuses the requested pattern, they will explain the reason for the refusal.

Section 15.55 states that:

In instances where a discontinuous period of leave has been refused and an alternative period has not been agreed during the discussion period, the total combined weeks' leave requested on that notice may be taken as a single continuous block. This should commence on a date specified by the employee but be no less than eight weeks from the date the original notice was provided to the employer. The employee has five days from the end of the two-week discussion period in which to confirm the date their leave will commence. In instances where the employee specifies no date, leave will commence on the start date of the first period of discontinuous leave that was originally applied for.

Withdrawal of requests

34. Can I withdraw my request for leave?

Discontinuous Leave

You may withdraw the request (in writing) without detriment on or before the 15th day after the notification was given; or you may take the total number of weeks in the notice in a single continuous block. If you withdraw the request you still have three requests. Section 15.57 states that:

An employee may withdraw their notice to book discontinuous blocks of leave within 15 days of submitting their notice providing an agreement has not been reached with their employer about when they will be absent from work. Once the 15th day has passed any changes to a period of leave must be made by using a variation notice and a minimum of eight weeks' notice must be provided.

If you choose to take the leave in a single continuous block, you have until the 19th day from the date the original notification was given to choose when you want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If you do not choose a start date then the leave will begin on the first leave date requested in the original notification.

Your manager should confirm what has been agreed in respect of the request and how many requests are now available to you.

Withdrawal of single continuous block request

Section 15.56 states:

An employee is not entitled to withdraw a notice for a single continuous block of leave but may do so with the employer's express permission.

Refusing SPL or ShPP

35. Can my manager refuse SPL or ShPP?

Yes, if you do not qualify for SPL or ShPP your manager will refuse your request.

Your manager must tell you the reason for refusing ShPP and SPL. Section 15.54 states that:

The employee cannot be prevented from taking the amount of leave they have requested within that notice, but the employer has authority over how and when it is taken

Template letters are available on the Managers Resources area.

Variations to arranged Shared Parental Leave

36. Can I vary or cancel an agreed and booked period of SPL?

Not in the instance of a single block of leave without the Trust's permission. In the case of discontinuous leave you can, provided you advise the Trust in writing using **Form SPL3** at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

37. Will the variation or cancellation notification, including notice to return to work early, count as one of my three requests available?

Normally it will, however, a change as a result of a child being born early, or as a result of the Trust requesting it be changed, and the employee being agreeable to the change, will not count as further notification.

38. Will my manager confirm any variation in writing?

Yes, any variations will be confirmed in writing.

Commencing Shared Parental Leave

39. What must happen for SPL to commence?

For Shared Parental Leave (SPL) to start, the mother or adopter must do one of the following:

- end their maternity or adoption leave by returning to work
- give a 'binding notice' (a decision that cannot normally be changed) of the date when they will end their maternity or adoption leave, using **Form SPL4**
- end maternity pay or Maternity Allowance (if they are not entitled to maternity leave)

40. How soon can the mother return to work?

A mother cannot return to work before the end of the compulsory 2 weeks of maternity leave following the birth (4 if she works in a factory).

41. How much notice must the mother/adopter give to end her maternity pay?

A mother/adopter must give her manager at least 8 weeks' notice to end her maternity pay, or at least 8 weeks' notice to the Jobcentre Plus to end her Maternity Allowance.

42. How should notice to the Trust be given?

Mothers/adopters should give notice of ending maternity pay using **Form SPL2**

43. Can SPL commence for the partner while the mother or adopter is still on maternity or adoption leave?

Yes if she has given binding notice to end her leave (or pay if she's not entitled to leave). The remaining leave will be available as SPL. The remaining pay may be available as ShPP.

Parents can choose how much of the SPL each of them will take.

Examples of application are in appendix 2

Keeping in Touch during leave and Shared Parental Leave in Touch (SPLIT) days

44. Are there arrangements to enable my manager and I to keep in touch during my SPL?

Before your leave begins your manager and you will discuss the arrangements for them to keep in touch during their leave. Your manager may contact you from time to time during their SPL where it is reasonable, particularly in relation to your plans to return to work, update you on work related matters or to discuss changes at work

45. Can I come into work during my SPL?

Yes, you can agree to work for the Trust (or attend training) for up to 20 days during SPL without bringing your period of SPL to an end or impacting on your right to claim ShPP for that week. These are known as "Shared Parental Leave In Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

46. Do I have to do SPLIT days?

No, SPLIT days are voluntary.

47. If I want to do SPLIT days, can my manager say no?

There is no obligation to offer the employee any work, during the employee's SPL but requests will not be unreasonably refused.

48. What pay will I receive for working as SPLIT day?

You will receive full pay for any day worked. If a SPLIT day occurs during a week when you are receiving ShPP, this will be effectively 'topped up' so that you receive full pay for the day in question.

49. Does my SPL period extend by the number of SPLIT days worked?

No, any SPLIT days worked do not extend the period of SPL.

50. Can I work part of a week using SPLIT days?

Yes, with the agreement of your manager.

Further if you agree this with your manager, you can use SPLIT days to effect a gradual return to work towards the end of a long period of SPL or to trial a possible flexible working pattern.

51. Can I still take my KIT days during maternity leave if I use SPLIT days?

Yes, SPLIT days are in addition to the 10 'keeping in touch' (or KIT) days already available to those on maternity or adoption leave.

Record keeping

52. What records should be kept?

Records must be retained on your personal file to comply with HM Revenue and Customs (HMRC) requirements, these must include:

- the evidence provided by you to show that you are eligible for ShPP
- the date ShPP began
- your ShPP payments (including dates)
- the ShPP you have reclaimed
- any weeks you receive pay and why

This will be the forms you have completed and copies of letters your manager has sent to you to confirm arrangements and pay.

53. How long do records need to be kept?

Records must be kept for at least 5 years after the 31st January submission deadline to the relevant tax year.

Pensions

54. What happens with my pension during Shared Parental leave?

Pension rights or contributions will be dealt with in accordance with the provision of the NHS Pension Scheme Regulations. This means that, because both paid and unpaid SPL are counted as continuous service, contributions to the NHS Pension Scheme must be maintained for the full period.

55. How are pension payments arranged during and after my Shared Parental Leave?

Whilst an employee is receiving ShPP, contributions will be deducted from their salary based on payments received. As no contributions can be made whilst they are on unpaid SPL, these must be reimbursed to the scheme on their return to work. Therefore, on their return additional contributions will be deducted from the employee's salary until the shortfall has been paid. Employees are advised to contact the Pensions Officer for further information.

Increments

56. Does my SPL count as service for the purposes of my incremental progression?

Yes, all absence on SPL, whether paid or unpaid, will count towards the normal annual increment and will not defer the normal incremental date.

Accrual of Annual leave

57. What annual leave do I accrue during SPL?

Employees accrue their contractual entitlement to annual leave during paid and unpaid SPL.

58. Do I continue to accrue General Public Holidays during on SPL?

General Public Holiday entitlement will accrue based on the number of general public holidays that fall within the period of leave (pro rata for part time staff).

59. Can I carry over outstanding annual leave to the following leave year?

It is important that arrangements for taking annual leave are discussed well in advance of the commencement of Shared Parental Leave please refer to the accrual of Annual Leave section within the Maternity Policy for clarity.

60. Does my leave count as service for the purposes of calculating my annual leave entitlement?

Yes. Leave will count as service for entitlement to additional annual leave based on service.

61. Should I keep in touch with my manager during leave?

Yes, see provisions within the Maternity Leave policy for more information.

If an employee's rights and requirements regarding SPL and ShPP change they are requested to notify their line manager as soon as reasonably possible in writing. In these circumstances the Trust will abide by any statutory obligations and an employee should clarify any issues or queries with their line manager who may seek further advice from the HR Advisory Team.

62. What action will the Trust take for potentially fraudulent claims?

The Trust can, where there is a suspicion that fraudulent information may have been provided or where the Trust has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the Trust Disciplinary Policy (HR36) and involve counter fraud.

Returning to work after Shared Parental Leave

63. When will I return to work after SPL?

You will have been advised in writing by your manager of the end date of any period of SPL. You are expected to return on the next working day after this date, unless your manager notifies otherwise.

64. What if I am sick on the day I am due to return to work?

If you are unable to attend work due to sickness or injury, the Trust's policy for Managing Attendance and Employee Wellbeing (HR31a) will apply.

65. What happens if I fail to return to work on the next working day after the end of my SPL?

If you do not return to work without prior notification to your manager, your absence will be treated as unauthorised absence and dealt with under the Trust's Disciplinary Policy (HR36).

66. Can I return to work earlier?

Yes, but you must provide a written notice to vary your leave (using **Form SPL5**) and you must give at least 28 days' notice of your date of early return.

67. Does this count as one of my notifications?

Yes, if you have already used your three notifications to book and/or vary leave then your manager does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

68. What job will I return to?

Where your aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less you are entitled to return to the same job that you occupied immediately before commencing maternity/paternity/adoption leave on the same terms and conditions of employment.

Where your maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, you are entitled to return to the same job you held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

69. What happens if I have taken an additional period of unpaid parental leave of 4 weeks or less?

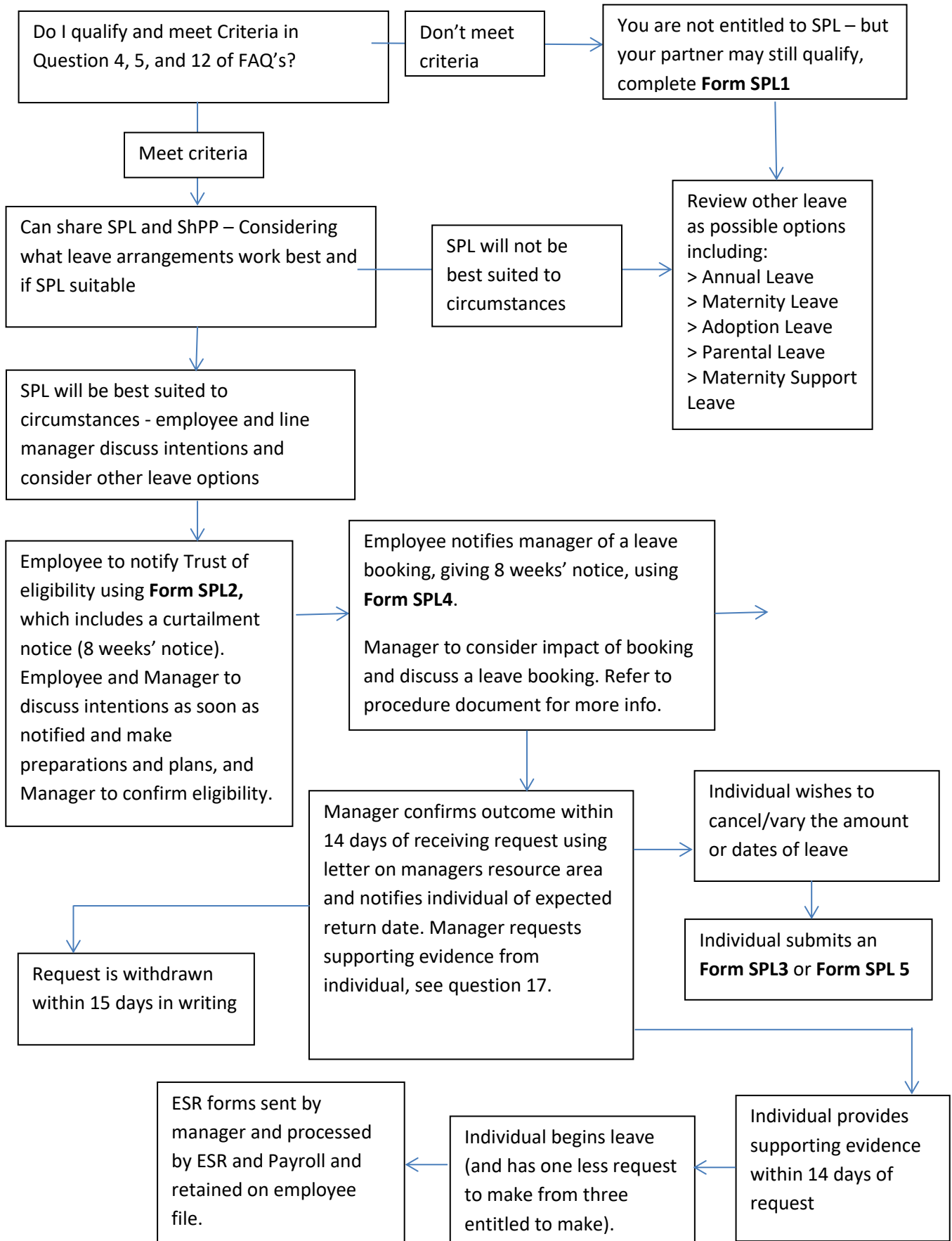
This will have no effect on your right to return and you will still be entitled to return to the same job as you occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.

70. What happens if I have taken an additional period of unpaid parental leave of 5 weeks or more?

As long as the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, you will be entitled to return to the same job you held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

Appendix 1

Shared Parental Leave Process Flowchart



Appendix 2

Example 1 - The Mother is not does not satisfy the criteria for Maternity/Adoption Leave and Pay (or Maternity Allowance).

The partner may still be eligible for SPL the Mother needs to complete **Form SPL1**.

Example 2 - A mother could end her maternity leave after 12 weeks, this would result in 40 weeks leave (of the total 52 week leave entitlement) available for SPL. If both the mother and her partner are eligible, they can share the 40 weeks leave. They can take the leave at the same time or separately. Since the mother has given binding notice, her partner can start SPL as soon as the baby has been born (as long as they've given at least 8 weeks' notice).

If the mother was eligible and they end maternity or adoption pay (or Maternity Allowance), there would also be 27 weeks ShPP to share, (39 weeks entitlement less the 12 weeks SMP the mother has taken)

Example 3 – Both parents meet the eligibility criteria. The mother chooses to take her full entitlement to 52 weeks leave and 39 weeks statutory Maternity Pay (plus any Occupational Maternity Pay entitled to).

Unless the Mother curtails her Maternity/Adoption leave, the partner is not eligible to SPL but if meets the criteria, could take two weeks Maternity Support Leave.

Appendix 3: The Maternity Leave, Adoption Leave, and Shared Parental Leave (Amendment) Regulations 2024

1. Introduction

- The Maternity Leave, Adoption Leave, and Shared Parental Leave (Amendment) Regulations 2024 introduce changes to the existing regulations. The amendments extend to England, Wales, and Scotland.
- The changes are likely to come into force from 6 April 2024.
- This new Amendment Regulations make provision to extend an existing statutory protection from redundancy that currently applies to those employees who are on maternity, adoption or shared parental leave (“relevant leave”).
- The extension will mean this protection also applies to pregnant women and new parents who have recently returned from any period of maternity or adoption leave, or from a period of 6 or more weeks of shared parental leave.
- In summary, these amendments enhance the rights and protections for employees during family-related leave, ensuring fair treatment and stability in the workplace. The policy background and national research that led to these regulations and published in 2016, found that approximately one in nine mothers (11%) reported that they were either dismissed, made compulsorily redundant (when others in the workplace were not), or treated so poorly they had to leave their job.

2. Key points of the Amendment Regulations:

- Extension of existing redundancy protections while on maternity, adoption or shared parental leave which now cover pregnancy and a period after return to work.
- Workers taking this kind of leave should be offered any suitable alternative employment in a redundancy situation.
- The protection is for 18 months from either the expected week of childbirth or the placement for adoption.
- The same applies to Shared Parental Leave provided that the parent has taken a period of at least 6 consecutive weeks leave.
- These new protections will apply to pregnancies disclosed to the employer on or after 6 April 2024, and any maternity, adoption and shared parental leave ending on or after 6 April 2024.
- Currently, where a redundancy situation arises when an employee is on leave, the employer is required to offer the employee a suitable alternative vacancy where one is available.

3. Extending redundancy protection

- The Maternity, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024 extend the redundancy protection so that it also applies:

- **During pregnancy:**
- The redundancy protection during pregnancy will start when an employee tells their employer about the pregnancy. If the employee is entitled to statutory maternity leave, then the protected period of pregnancy ends on the day the statutory maternity leave starts, and the redundancy protection will continue during statutory maternity leave as currently.
- If the pregnancy ends and the employee is not entitled to statutory maternity leave, the protected period ends two weeks after the end of the pregnancy. In these circumstances, the employer needs to be informed of the pregnancy before the protected period of pregnancy would have ended.
- **To new parents for a period after a qualifying period of relevant leave has ended (“the additional protected period”):**
- for those taking maternity leave the additional protected period ends 18 months from the expected week of childbirth unless the employee has informed the employer of the date of birth of the child. In that case the additional protected period ends 18 months after the date of birth of the child.
- for those taking adoption leave the additional protected period ends 18 months after the placement of the child.
- For those taking 6 or more consecutive weeks of shared parental leave but who have not taken maternity or adoption leave, the additional protected period ends 18 months after the date of birth of the child.
- For those taking less than six consecutive weeks, the current position will continue to apply, which means that the redundancy protection will apply where the redundancy situation arises during any period the employee is on shared parental leave.
- The additional protected period applies when the employee is not on qualifying “relevant leave” and runs for whatever remains of the 18 month period.

Form SPL1 - Maternity/Adoption Leave curtailment notice

Please note that if you are eligible to take shared parental leave you should complete *SPL2 form* 'Notice of entitlement and intention to take shared parental leave form' instead.

Please complete and return this form to your manager.

Use this form if you do not qualify for shared parental leave, but are on maternity/adoption leave and/or in receipt of statutory maternity/adoption pay. This notice is to inform the Trust that you wish your maternity/adoption leave and pay (or just your maternity/adoption pay if you are no longer in employment) to end in order that the person who shares main responsibility to care for the child can take shared parental leave. Your partner/the other parent is not entitled to take shared parental leave until you have submitted this notice of curtailment.

You must give at least eight weeks' notice of your curtailment date. If you are entitled to maternity leave the curtailment date must be at least two weeks after the birth of your child (four weeks if you work in a factory).

If you are in receipt of maternity allowance you must also submit a curtailment notice to Jobcentre Plus.

Name:		Employee No:	
Department:		I wish my maternity/adoption leave/pay to end on: (insert date).	_____/_____/_____
Signature:		Date:	

Form SPL2 - Notice of entitlement and intention to take shared parental leave

Employees with a child due to be born or placed for adoption on or after 5 April 2015 who wish to take shared parental leave (SPL) to share the main caring responsibilities with the other parent/partner must submit this form to their manager **at least eight weeks** before the start date of the first period of SPL.

To be entitled to SPL you must:

- be the mother, father, or main adopter of the child, or the partner of the mother or main adopter (referred to in this form as a parent)
- have (or share with the other parent) the main responsibility for the care of the child
- have at least 12 months' continuous service at the 11th week before the expected week of birth or at the week in which the main adopter was notified of having been matched for adoption with the child (known as the 'relevant week')
- still be in continuous employment until the week before any SPL is taken.

The other parent must have at least 26 weeks' employment (employed or self-employed) out of the 66 weeks prior to the relevant week and have average weekly earnings of at least £30 during at least 13 of those weeks.

If you are not entitled to SPL, you may need to submit an **SPL1 form** to enable your partner to take SPL. Please refer to the Trust's Shared Parental Leave procedure for further information before completing this form.

Section 1 – Basic Details

Employee name:	
Employee No:	
Department:	
Child's expected date of birth/date of placement for adoption (insert date).	____/____/____
Child's actual date of birth/date of placement for adoption (if known)	____/____/____
Start date of mother/main adopter's maternity/adoption leave (or pay period*)	____/____/____
End date of mother/main adopter's maternity/adoption leave (or pay period*)	____/____/____

* The start and end dates of the statutory maternity/adoption pay or maternity allowance period if the mother/main adopter is not entitled to statutory leave.

Section 2 - Shared Parental Leave Details

**The total amount available is 52 weeks minus the number of weeks' leave/pay already taken by the mother/main adopter according to the dates given in the previous section.

Total number of weeks' SPL available** (see above):	
Number of weeks' SPL you intend to take:	
Number of weeks' SPL the other parent intends to take:	
Indication of start and end dates of SPL that you intend to take: <i>This indication is non-binding. You must submit a formal period of leave notice (form SPL4) for each period of SPL you wish to request for it to be binding. Complete the section below if you wish your request for any/all of these periods of leave to be treated as a period of leave notice.</i>	
Do you wish the dates indicated for the period(s) of leave to constitute a formal (binding) period of leave notice? (delete as appropriate)	YES / NO / YES, for the following dates only:

Section 3 - Shared Parental Pay Details

***The total amount of shared parental pay (ShPP) which may be available is 39 weeks minus the number of weeks' pay already taken by the mother/main adopter according to the dates given in Section 1. If this information changes you will need to complete an **SPL3 form**.

Total number of weeks' ShPP available*** (see above)	
Number of weeks' ShPP you intend to claim	
Number of weeks' ShPP the other parent intends to claim	
Indication of start and end dates of your ShPP periods (N.B. Not all of your SPL may be entitled to ShPP)	

Section 4 – Employee notice of curtailment of maternity/adoption leave

Complete this section if you are the employee named in this notice and you are the mother or main adopter. You must give at least eight weeks' notice of your curtailment date. If you are entitled to maternity leave the curtailment date must be at least two weeks after the birth of your child (four weeks if you work in a factory).

I wish my maternity/adoption leave to end on ____/____/____ (insert date).

Section 5 – Employee declaration

I confirm that I meet the following conditions:

- I am the mother, father, or main adopter of the child, or the partner of the mother or main adopter
- I have (or share with the other parent) the main responsibility for the care of the child and I am taking SPL in order to care for the child
- I have at least 12 months continuous service at the 11th week before the expected week of birth or at the week in which the main adopter was notified of having been matched for adoption with the child (known as the ‘relevant week’)
- I intend to be in continuous employment until the week before any SPL is taken
- (If I am claiming shared parental pay) I have average weekly earnings equal to or above the Lower Earnings Limit over the eight week period ending with the relevant week
- I agree to inform the Trust immediately if I cease to meet the conditions for entitlement to SPL or ShPP.

If you are the mother/main adopter:

- I have submitted a curtailment of maternity/adoption leave notice by completing Section 4 above.

Print Name:	
Signature:	
Date:	

Section 6 – Declaration of other parent

Name	
Address	
National Insurance Number	

I confirm that I meet the following conditions:

- I have least 26 weeks’ employment (employed or self-employed) out of the 66 weeks prior to the 15th week before the expected week of birth or at the week in which the main adopter was notified of having been matched for adoption with the child (known as the ‘relevant week’)
- I have average weekly earnings of at least £30 during at least 13 of the 66 weeks prior to the relevant week
- I agree to inform your employee immediately if I cease to meet the two conditions above
- I consent to your employee taking SPL and ShPP as set out in Sections 2 and 3 above and for the organisation to process any ShPP payments to the employee;.

If you are the mother/main adopter:

- I have curtailed my maternity leave and pay/adoption leave and pay/maternity allowance or will have done so by the time your employee starts shared parental leave

I consent to you processing the information contained in this declaration.

Print Name:	
Signature:	
Date:	

Action Required: Manager to confirm eligibility in writing using Letter 'Confirmation of Entitlement to SPL' available on Managers Resources Folder

Form SPL3 - Notice of variation of intention to take shared parental leave

Please complete and return this form to your Line Manager.

Use this form to vary the information you have previously provided in a **SPL2 form** regarding the amount of shared parental leave/pay you and the other parent each intend to take.

You must have previously submitted the **SPL2** notice of entitlement and intention to take leave form, and had your entitlement to shared parental leave confirmed.

If you (or the other parent) have already submitted a **SPL4 form** - binding period of leave notice for any of the periods detailed below, please confirm this where indicated.

Both parents must sign the declaration to indicate their agreement to any variation.

Name of Employee:	
Employee No:	
Department:	
Name of other parent:	

Shared Parental Leave Details

Number of weeks' SPL you intend to take	
Number of weeks' SPL the other parent intends to take	
Indication of start and end dates of SPL that you intend to take <i>This indication is non-binding. You must submit a formal period of leave notice SPL4 for each period of SPL you wish it to be binding.</i>	
List any dates of SPL which you have already submitted to the company on a binding period of leave notice (SPL4)	
List any dates of SPL which the other parent has already submitted on a binding period of leave notice to his/her employer.	

Shared Parental Pay (ShPP) Details

Number of weeks' ShPP you have claimed/intend to claim	
Number of weeks' ShPP the other parent has claimed/intends to claim	
Indication of start and end dates of your ShPP periods	

Declarations

We confirm that we agree to the variation(s) detailed above.

Employee Print Name:	
Signature of employee:	
Date:	

Other Parent Print Name:	
Other Parent Signature:	
Date:	

Form SPL4 - Period of leave notice

Please complete and return this form to your line manager.

Use this form to give notice to take a period of shared parental leave (and pay if applicable), giving **at least eight weeks'** notice of the start date of the leave. You may submit up to three period of leave notices.

You must have previously submitted the **SPL2 form** - notice of entitlement and intention to take leave form, and had your eligibility for shared parental leave confirmed.

If a continuous period of leave is requested in a period of leave notice, you will be entitled to take that period of leave and this will be confirmed in writing. If you request discontinuous periods of leave in this notice and it is not practicable to accommodate your requested pattern of leave your manager will discuss alternative options with you.

Please refer to the Trust's shared parental leave policy and procedure for further details regarding the notification and variation of periods of shared parental leave.

Employee name:	
Employee No:	
Department:	

Shared parental leave dates

Start date	End date	Number of weeks

Shared parental pay dates (if applicable)

Start date	End date	Number of weeks

I confirm I continue to meet the criteria set out in the Trust Shared Parental Leave Procedure as signed in my original declaration on my SPL2 form.

Print Name:	
Signature:	
Date:	

Line Manager Action:

- retain a copy of the signed documentation, evidence and ESR Change of Circumstances form on the individual's personal file and
- send the SPL4 form Period of Leave Notification to Pay Services with an ESR Change of Circumstances form.

Please note if the commencement of leave date changes an SPL5 Notice to Cancel or Vary a Period of SPL must be completed and a further copy and change of circumstance form sent to Pay Services indicating that the dates are revised.

For Completion by SaTH ESR

Name of SaTH Processor	
Date Processed	

For Completion by SaTH Pay Services

Date Contacted Employer		Name of Contact	
Start date of SMP (or equivalent i.e. Adoption Pay)		Return to work date	
Number of Weeks SMP Remaining			
Name of SaTH Processor			
Date Processed			

Form SPL5 - Notice to cancel or vary a period of shared parental leave

Please complete and return this form to your line manager.

Use this form to cancel or vary a period of shared parental leave (and pay if applicable) as follows:

- Vary the start or end date of a period of leave/pay, giving at least eight weeks' notice before both the new date and the original date
- Vary or cancel the amount of leave requested, giving at least eight weeks' notice before the leave is due to start
- Request that a single period of leave become discontinuous periods, or vice versa.

A variation will count as one of your three periods of leave notices unless:

- it is made as a result of the child being born earlier or later than the expected week of childbirth
- the Trust has requested the variation
- the Trust has agreed to accept more than three period of leave notices.

If you are requesting a variation in shared parental pay entitlement the other parent must also sign this form to signify consent to the variation.

Name of Employee:	
Employee No:	
Department:	
Name of other parent:	
Name of employee	
Name of other parent	

Original shared parental leave dates to be varied or cancelled

Start date	End date	Number of weeks

New shared parental leave dates

Start date	End date	Number of weeks

New shared parental pay (ShPP) details (if applicable)

Number of weeks' ShPP you have claimed/intend to claim	
Number of weeks' ShPP the other parent has claimed/intends to claim	
Indication of start and end dates of your ShPP periods	

Declaration/s

I/We confirm that we agree to the variation(s) detailed above.

Employee Print Name:	
Signature of employee:	
Date:	

(If the number of weeks' shared parental pay is changing)

I confirm that I agree to the variation(s) detailed above.

Other Parent Print Name:	
Other Parent Signature:	
Date:	