

Family Friendly Policies

Section d – Shared parental leave policy and procedure

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Version	1		
Version date	May 2016		
Implementation/Approval date	May 2016		
Review date	May 2019		
Review body	CCG Management Team		
Policy reference no.			
Version	Author	Date	Reason for review

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1.0 Introduction

The term “family friendly” is used to describe working practices that acknowledge and aim to support the needs of staff in achieving a home and work life balance. NHS Lewisham CCG strives to make working for staff with, or starting a family, as easy as possible. To this end we have a number of policies for family situations:

- Adoption leave – section a
- Maternity leave – section b
- Parental leave – section c
- Shared parental leave – section d
- Paternity leave – section e

The policies have been reviewed in consideration of the:

- Employment Rights Act 1996, as amended by the Employment Relations Act 1999
- Employment Act 2002;
- Maternity and Parental Leave Regulations 1999;
- Work and Families Act 2006;
- Equality Act 2010;
- Additional Paternity Leave Regulations 2010;
- Children and Families Act 2014;
- Paternity and Adoption Leave (Amendment) Regulations 2014
- The Shared Parental Leave Regulations 2014

Shared parental leave is provided to enable eligible parents, where a baby is due to be born on or after 5 April 2015, or for children who place placed for adoption on or after the date, to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in caring for their child. Parents or those who have formal parental responsibility can use it to spend more time with children and strike a better balance between their work and family commitments.

Shared parental leave will enable eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption. This could mean that the mother or adopter shares some of the leave with her partner, perhaps returning to work for part of the time and then resuming leave at a later date.

Additional paternity leave and pay will no longer be available for babies due after 5 April 2015 as shared parental leave will replace it.

2.0 Scope

Shared parental leave will enable eligible mothers, fathers, partners and adopters employed by NHS Lewisham CCG to choose how to share time off work after their child is born or placed for adoption. This could mean that the mother or adopter shares some of the leave with their partner, perhaps returning to work for part of the time and then resuming leave at a later date.

Additional paternity leave and pay will no longer be available for babies due after 5 April 2015 as shared parental leave will replace it.

3.0 Who is eligible for shared parental leave?

Shared parental leave can only be used by two individuals:

The mother or adopter and;

- The father of the child (in case of birth) or the spouse, civil partner or partner of the child's mother or adopter

Both parents must share the main responsibility for the care of the child at the time of the birth or placement for adoption.

Any employee wishing to take shared parental leave must satisfy the following criteria:

- The mother or adopter of the child must have ended or given notice to reduce any maternity / adoption entitlements
- The mother or adopter of the child must be or have been entitled to statutory maternity /adoption leave; if not entitled to statutory maternity/adoption leave then the mother or adopter must be or have been entitled to statutory maternity/adoption pay or maternity allowance
- The employee must still be working for the CCG at the start of each period of shared parental leave
- The employee must meet the 'continuity test' – section 3.1
- The employee's partner must meet the 'employment and earnings test' - section 3.2
- The employee must correctly notify the CCG of their entitlement and provide evidence as required

3.1 Continuity test

The employee must have worked for the same employer for a minimum of 26 weeks at the end of the 15th week before the week in which the child is due (or at the week in which an adopter was notified of having been matched with a child for adoption) and is still employed in the first week that shared parental leave is to be taken.

3.2 Employment and earnings test

The employee's partner must meet the 'employment and earnings test' which requires them in the 66 weeks leading up to the child's expected due date/matching date to have worked for at least 26 weeks and earned an average of at least £30 a week in any 13 of those weeks.

3.3 Shared parental leave entitlement

Eligible employees may be entitled to take up to 50 weeks shared parental leave during the child's first year in their family.

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 shared parental leave system and take any remaining weeks as shared parental leave.

A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

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), they 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 shared parental leave. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

3.3.1 Shared parental leave can commence as follows:

- The mother can take shared parental leave after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
- The adopter can take shared parental leave after taking at least two weeks of adoption leave
- The father/civil partner/partner/spouse can take shared parental leave immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements. Once shared parental leave has been taken paternity leave / pay cannot be used.

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

Shared parental leave will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice.

If the employee is eligible to receive it, shared Parental Pay (ShPP) may be paid for some, or all, of the shared parental leave period.

Shared parental leave must be taken by the child's first birthday or first anniversary of place of adoption, any shared parental leave not taken by then will be lost.

4.0 Notifying the CCG of an entitlement to shared parental leave

4.1 All notifications for shared parental leave must be made on the ShPP1 form (appendix a), give eight weeks' notice, then signed by a line manager and copied to Human Resources for recording and payment purposes.

4.2 Further Eligibility Evidence - Upon receiving a shared parental leave entitlement notification, the CCG may within 14 days of receipt request the following information:

- 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)
- 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.

Following this request the employee then has a further 14 days to provide the information in order to be entitled to shared parental leave.

4.3 Booking shared parental leave

In addition to notifying the employer of entitlement to shared parental leave / shared Parental Pay, an employee must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to shared parental leave.

The employee has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either:

- a single period of weeks of leave or;

- two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

Allowing an employee to submit three notifications to book/vary leave is the statutory minimum and employers may find it preferable to specify a higher/unlimited number of notifications.

shared parental leave can only be taken in complete weeks but may begin on any day of the week e.g. if a week of shared parental leave began on a Tuesday it would finish on a Monday.

Where the employee returns to work between periods of shared parental leave, the next period of shared parental leave can start on any day of the week.

4.4 Continuous Leave Notifications

Continuous leave is where a notification of a number of weeks are taken in a single unbroken period of leave e.g. six weeks in a row.

An employee has the right to take a continuous block of leave as long as it does not exceed the total number of weeks of shared parental leave available to them (specified in the notice of entitlement) and the employer has been given at least eight weeks' notice.

An employee may submit up to three separate notifications for continuous periods of leave.

4.5 Discontinuous Leave Notifications

Discontinuous leave is where a notification contains a request for two or more period of leave. This means the employee will be 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 e.g. the employee want to take six weeks shared parental leave but work every other week for a period of three months.

Where the manager has concerns over accommodating the notification, they need to arrange a meeting with the employee to discuss the notification with a view of reaching an arrangement that meets both the needs of the employee and the CCG – see section 8 for more information.

The CCG will consider a discontinuous leave notification but has the right to refuse it. If the leave pattern is refused, the employee within 15 days of giving the notification either withdraw it or can take the leave in a single continuous block.

4.6 Discussions/Outcomes regarding shared parental leave

An employee who is considering taking shared parental leave should in the first instance discuss this with HR so they are able to find out their potential entitlement and to talk about their plans. Following this discussion the employee needs to notify their manager in writing of their wish to take shared parental leave.

Their manager upon receiving a notification and booking notice to take shared parental leave should arrange a meeting with the employee within 14 days of receiving the request to discuss the proposed leave in further detail. If the request is for discontinuous leave the manager will need to discuss how this will work and whether any modifications are required.

Requests for discontinuous leave will be considered on a case by case basis taking into account the employee and business needs of the service. Agreeing to one request of discontinuous leave will not set a precedent or create the right for another employee to be granted a similar pattern of shared parental leave.

Following the meeting the employee will be informed in writing of the decision as soon as is reasonably practicable, but no later than 14 days after the leave notification was made. The

request may be granted in full or in part e.g. the CCG may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or they may decide to take the total number of weeks in the notice in a single continuous block.

If the employee chooses to take the leave in a single continuous block, they have until the 19th day from the date the original notification was given to choose when they want the period of leave to begin.

The leave cannot start any earlier than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

4.7 Variations to arranged shared parental leave

The employee may vary or cancel an agreed and booked period of shared parental leave, provided that they advise the CCG in writing 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.

Any variation or cancellation made by the employee, including any notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. However, if the change is made as a result of either a child being born early, or the CCG requesting the leave be changed, and the employee agreeing to this, it will not count as further notification. Any variation will be confirmed in writing by the CCG.

4.8 Statutory shared Parental Pay (ShPP)

Eligible employees may be entitled to take up to 37 weeks ShPP while taking shared parental leave. 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. ShPP may be payable during some or all of shared parental leave, but this is dependent on the length and timing of the leave.

In addition to meeting the eligibility requirements for shared parental leave, 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 or matching date which 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

If an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take shared parental leave.

Any ShPP due will be paid at a rate set by the Government for the relevant tax year.

5.0 Terms and Conditions during shared parental leave

During the period of shared parental leave, the employee will continue to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a company car, laptop, mobile phone and gym membership) will continue and contractual annual leave entitlement will continue to accrue.

Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid shared parental leave. Employee contributions will be based on actual pay, while the CCG's contributions will be based on the salary that the employee would have received had they not been taking shared parental leave.

5.1 Annual Leave

Shared parental leave is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday should wherever possible be taken in the year that it is earned. Where a shared parental leave period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's holiday year.

5.2 Contact during shared parental leave

Before the employee's shared parental leave begins, the CCG will agree how they will keep in contact during their leave. The CCG reserves the right in any event to maintain reasonable contact with the employee from time to time during their shared parental leave.

5.3 Shared parental leave in touch days

The employee can agree to work for the CCG, or attend training for up to 20 days during their shared parental leave without bringing it to an end or impacting on their 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.

The CCG has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's shared parental leave. Any work undertaken is a matter for agreement between the CCG and the employee.

An employee taking a SPLIT day will receive full pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of shared parental leave.

An employee, in agreement with their line manager, may use SPLIT days to work part of a week during shared parental leave. The CCG and the employee may use SPLIT days to affect a gradual return to work by the employee towards the end of a long period of shared parental leave or to trial a possible flexible working pattern.

5.4 Returning to work after shared parental leave

The employee will have been formally advised in writing by the CCG of the end date of any period of shared parental leave. The employee is then expected to return on the next working day after this date, unless they notify the CCG otherwise.

If the employee is unable to attend work due to sickness or injury, then the CCG's normal sickness absence arrangements will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the CCG at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If

the employee has already used their three notifications to book and/or vary leave then the CCG does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

On returning to work after shared parental leave, the employee is entitled to return to the same job. If the employee's aggregate total statutory maternity/paternity/adoption leave and shared parental leave amounts to 26 weeks or less, they will return to the same job.

The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of shared parental leave, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity/adoption leave and shared parental leave amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they 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.

If the employee also takes a period of unpaid parental leave of 4 weeks or less this will have no effect on the employee's right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and shared parental leave does not exceed 26 weeks.

If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and shared parental leave does not exceed 26 weeks, the employee will be entitled to return to the same job they 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.

5.5 Special circumstances

In certain situations an employee's rights and requirements regarding shared parental leave and ShPP may change. In these circumstances the CCG will abide by any statutory obligations. The employee can also clarify any issues or queries with Human Resources.

6.0 Fraudulent claims

Where there is a suspicion that fraudulent information may have been provided by the employee or the CCG has been informed by the HMRC that a fraudulent claim was made, the matter will be investigated in accordance with the CCG's Disciplinary Policy and may result in disciplinary action and/or criminal investigation taking place.

7.0 Equality Statement

We are committed to a policy of equality in all our employment practices in accordance with the Equality Act 2010 and Human Rights Act 1998 which consolidates existing equality legislation relating to the protected characteristics and strive to eliminate unfair discrimination, harassment, bullying and victimisation. NHS Lewisham CCG will not unlawfully, unfairly or unreasonably discriminate or treat individuals less favourably on the grounds of age, disability, gender reassignment, marriage & civil partnerships, pregnancy & maternity, race, religion or belief, sex and sexual orientation.

Appendix a – Form ShPP1

Notification for shared parental leave

Full name:		Lewisham CCG start date:	
Department:		Continuous NHS service date:	
Personal no:		Expected date of placement:	
Home address*:		☞ Work:	
		☞ Home:	

*Please advise your manager of any changes.

I wish to inform you that I intend to take shared parental leave (SPL) as follows:			
Child's date of birth or date of placement for adoption:			
Expected date SPL period to commence:			
Expected return to work date:			
Dates of paid annual leave to be taken before and/or after SPL (in agreement with line manager)			
Before SPL	From		To
<i>It is the employee's responsibility to ensure that all accrued leave is taken prior to commencing. If this is not possible this must be taken immediately at the end of SPL.</i>			
After SPL	From		To
<i>If, during your SPL, your intended date to return to work changes, you must give the CCG at least 8 weeks' notice of your revised date of return.</i>			

Please confirm the following:	Tick
I am the baby's biological father/married to the mother/living with the mother in an unending family relationship, but am not an immediate relative (please delete as appropriate).	
I have the responsibility for the child's upbringing.	
The purpose of the period of my SPL leave will be to care for the child whose birth/adoption certificate is provided with this form.	
I confirm that my partner will be returning to work without using his/her full maternity/adoption leave period and has completed the consent form, which gives consent for his/her details to be processed.	
I state my intention to retain my right to return to work following my SPL leave.	
If I wish to return to work earlier than my confirmed return date, I agree to inform Health & Wellbeing Advisor and my manager at least 8 weeks before the earlier return date. If I wish to return after my confirmed return date I will give at least 8 weeks' notice in writing, prior to my confirmed date.	
I will discuss the option of a maximum of 20 "In Touch Days" with my line manager (these days are between both parties and not to be taken by one parent only).	

DECLARATION

I have read and understood the CCG’s shared parental leave policy and procedure, and agree to the following:

- a) I will respond within the required timescales to all CCG correspondence regarding my shared parental leave or I may, subject to my contract of employment, forfeit my right to return to work until relevant notice has been given.
- b) I enclose/have already provided my child’s birth certificate, or confirmation of placement for adoption from my local authority (please delete as appropriate)
- c) I confirm that all details provided in this form to receive SPL or ShPP, are correct.
- d) I also understand that whilst on SPL, apart from working on “In Touch Days” within my substantive post, I must not undertake paid or unpaid work or outside the NHS Lewisham CCG, during my contracted hours. Any breach of this clause could be classed as gross misconduct and may lead to disciplinary action and referral to the CCG’s Local Counter Fraud Specialist.

Signature:		Date:	
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To qualify for SPL you must complete and return this form to your Line Manager no later than 8 weeks prior to the date you wish your SPL to commence.

- Your partner must complete the next page of this form in full and sign the declaration.
- Please provide a copy of your child’s birth certificate/confirmation of placement from the adoption agency along with this form

This section must be completed by the partner or member of staff applying for shared parental leave.

Employee full name			
Department			
Contact no.			
Details of partner:			
Title		First name	
Surname			
Place of work			
Workplace address			
Home address			
Contact no.			
National Insurance no.			

I declare that I have now given notice to my employer that I am returning to work from my maternity/adoption leave and the relevant details are as follows:

The start date of my maternity/adoption pay period was:	
I intend to return to work from my maternity/adoption period on:	
Total amount of shared parental leave available:	
	Yes/No
I confirm that I have been in receipt of either Statutory Maternity/Adoption Pay or Maternity Allowance, following the birth of my child/ placement of my child (please delete as appropriate).	
I confirm that your employee named above is my child's father/ my spouse/ my partner or civil partner.	
I confirm that your employee named above has the main responsibility (apart from my responsibility) for the upbringing of my child.	
I confirm that your employee named above is, to my knowledge, the only person exercising the entitlement to shared parental leave, and is the sole applicant for shared parental leave pay in respect of my child.	
I consent to NHS Lewisham CCG processing the information contained in this form, and contacting my place of work if necessary.	
I declare that all details stated on this form are correct:	
Signature:	Date:

Appendix b - Equality & Equity Impact Assessment

This is a checklist to ensure relevant equality and equity aspects of proposals have been addressed either in the main body of the document or in a separate equality & equity impact assessment (EEIA)/ equality analysis. It is not a substitute for an EEIA which is required unless it can be shown that a proposal has no capacity to influence equality. The checklist is to enable the policy lead and the relevant committee to see whether an EEIA is required and to give assurance that the proposals will be legal, fair and equitable.

The word proposal is a generic term for any policy, procedure or strategy that requires assessment.

	Challenge questions	Yes/No	What positive or negative impact do you assess there may be?
1.	Does the proposal affect one group more or less favourably than another on the basis of:		
	<ul style="list-style-type: none"> • Race 		
	<ul style="list-style-type: none"> • Pregnancy and Maternity 		
	<ul style="list-style-type: none"> • Sex 		
	<ul style="list-style-type: none"> • Gender and Gender Re-Assignment 		
	<ul style="list-style-type: none"> • Marriage or Civil Partnership 		
	<ul style="list-style-type: none"> • Religion or belief 		
	<ul style="list-style-type: none"> • Sexual orientation (including lesbian, gay bisexual and transgender people) 		
	<ul style="list-style-type: none"> • Age 		
	<ul style="list-style-type: none"> • Disability (including learning disabilities, physical disability, sensory impairment and mental health problems) 		
2.	Will the proposal have an impact on lifestyle? (e.g. diet and nutrition, exercise, physical activity, substance use, risk taking behaviour, education and learning)		
3.	Will the proposal have an impact on social environment? (e.g. social status, employment (whether paid or not), social/family support, stress, income)		
4.	Will the proposal have an impact on physical environment? (e.g. living conditions, working conditions, pollution or climate change, accidental injury, public safety, transmission of infectious disease)		

5.	Will the proposal affect access to or experience of services? (e.g. Health Care, Transport, Social Services, Housing Services, Education)		
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By using evidence and insight to assess and grade our equality performance, NHS Lewisham CCG can generate much of the information we will require to demonstrate compliance with the PSED. The checklist is to enable the policy lead and the relevant committee to see if a particular policy or project will provide the relevant evidence to assist NHS Lewisham CCG meet the set out EDS goals to achieve better outcomes for patients and staff. Please assess your policy, project or service against the following: