



Workforce

**Shared Maternity and Shared
Adoption Policy: guide for
managers**

This guide will help managers to understand the Shared Maternity and Shared Adoption Policy. The policy supports employees who want to share their leave following the birth or adoption of a child.

The following guide forms part of the standard for workforce policies. These policies apply to all eligible staff within NHSScotland, regardless of the Board they are employed by.

NHSScotland wants to create an inclusive workplace where employees can thrive and feel confident about their ability to balance their personal and professional responsibilities.

It is recognised that policies to support this are particularly important in NHSScotland given the predominantly female workforce who largely take on primary caring roles within the family. The guide covers:

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What is the purpose of the Shared Maternity and Shared Adoption Policy?

The Shared Maternity and Shared Adoption Policy supports employees who want to share their leave following the birth or adoption of a child. It allows eligible parents to take time to bond with their new baby or child before returning to work. This time off can be taken at the same or a different time as the other parent. It also sets out the statutory and contractual rights employees are entitled to.

The procedure for supporting employees who are participating in a surrogacy arrangement mirror adoption unless otherwise stated.

Eligibility

The eligibility for maternity or adoption leave is described in the following policies:

- [Maternity Policy](#)
- [Adoption, Fostering and Kinship Policy](#)

Eligible employees can convert up to 50 weeks of their maternity or adoption leave into Shared Parental Leave (SPL). They can take SPL and Shared Parental Pay (ShPP) at any time within one year of the birth or when the child is placed for adoption. The employee must take at least 2 weeks compulsory adoption leave or maternity leave immediately after giving birth or 4 weeks if they are a factory worker. In the NHS, examples of a factory worker include:

- laundry services
- sterile services
- mechanical maintenance

Specific eligibility criteria, depending on the employee's circumstances, can be found in the [Shared Maternity and Shared Adoption Policy](#).

You should advise the employee to check that they and their partner meet the eligibility criteria for both SPL and both statutory and occupational ShPP.

Employees currently under UK immigration control should contact the human resources department to discuss how their SPL may impact their visa conditions.

Applying for shared parental leave and pay

You should advise the employee to apply for SPL and ShPP using the [shared parental leave forms](#). The completed form should be returned to you no later than 8 weeks before they wish SPL to start.

Shared parental leave in touch (SPLIT) days

An employee can ask to return to work for a maximum of 20 days during their shared parental leave. A further 10 keeping in touch (KIT) days are also available to those on maternity or adoption leave. SPLIT and KIT days can be consecutive or not. If the employee and their partner work any days over their entitlement, the SPL will come to an end.

If the employee is on an unpaid period of leave, they should be paid the relevant enhancements for the shift worked. If the SPLIT day falls within the full pay period, they will receive one day in lieu once they have returned to work. If the SPLIT day falls within the half pay period, they will receive a half day in lieu once they have returned to work.

Working for part of any day will count as one SPLIT day from the 20-day allowance or one KIT day from the 10-day allowance.

Any SPLIT or KIT days should be agreed between you and the employee. You are encouraged to support these requests wherever possible.

The employee does not have to work their SPLIT or KIT days, and you cannot force the employee to take them. An employee cannot take KIT days within the first 2 weeks following childbirth or 4 weeks if the employee works in a factory setting.

Any SPLIT days taken will not extend the SPL period.

If the employee is breastfeeding, you must review the pregnant workers and new mothers risk assessment. You must also provide breastfeeding facilities, as outlined in the [Breastfeeding Policy](#).

Extending SPL

If the employee has any unused SPL and wishes to extend their SPL period, they must inform you 8 weeks before the start of the extension.

In the situation where the employee has used all their SPL and wishes to extend their SPL period, you can advise them to request annual leave or [parental leave](#).

When considering the request, you should take into account the needs of the service. The employee may wish to consider other options, and you should signpost them to the relevant policies, such as a [career break](#).

Returning to work

You should plan with the employee for their return to work. The plan should include their return date, use of annual leave, equipment, and systems access. The agreed return date should be entered on eESS, or payroll advised in line with local procedures, to ensure salary is correct on return.

Employees may want to change their hours or other working arrangements on return from SPL. If so, they should request the change under our flexible working policies:

- [Flexible Work Pattern Policy](#)
- [Flexible Work Location Policy](#)

When discussing the employee's return to work, you should confirm if they intend to continue breastfeeding. In this circumstance, you should review the pregnant workers and new mothers risk assessment.

The employee has the right to return to their job under their original contract of employment. If this is not possible, because the post no longer exists, you should follow your employing board's organisational change policy.

If the employee wishes to return to work earlier than previously agreed, they must provide you with at least 28 days' notice of their intention to return.

In the case of pregnancy loss, you should take a person-centred approach to allow the employee to return to work earlier if they wish to.

Employees entitled to Occupational ShPP must return to NHS paid employment for a minimum of 3 months. Their employment does not have to be with the same employing board. It can be any NHS employer in the UK. You should ask the employee to provide a copy of the letter of their appointment. You should send this to the payroll department. Bank and agency work does not count as a return to employment.

If the employee has more than one post, entitlement to Occupational ShPP is not affected, providing they are returning to one of their substantive posts.

Employees not returning to NHS employment

If the employee decides to resign, they must provide you with written notice as specified in their employment contract. The employee can resign and leave at any point during their SPL.

If an employee does not return to NHS paid employment for a minimum of 3 months after their SPL has ended, they must repay their Occupational ShPP. You can discuss the option to use accrued annual leave to count as paid employment with the employee.

In cases where the repayment of Occupational ShPP would cause undue hardship or distress, employers have the discretion to waive the right to recovery.

Annual leave and public holidays during SPL

Annual leave and public holidays will accrue as normal during SPL. Your employee may use accrued annual leave following SPL to delay their return date. Annual leave must be taken and will not be paid in lieu. The employee should discuss this with you and request leave in line with your Board's annual leave policy. You may wish to use the [annual leave calculator](#).

Bank and agency staff

Bank staff have no entitlement to Occupational ShPP or shared maternity or shared adoption leave. They may be entitled to statutory ShPP, depending on their level of earnings. The employer may review

entitlement to Occupational ShPP in exceptional cases, such as if the worker can demonstrate regular work patterns over an extended period.

If you have a bank worker who can demonstrate a regular work pattern over an extended period, contact your local staff bank service for advice.

Agency staff may be entitled to shared maternity or shared adoption leave and statutory ShPP if they are considered an employee of the agency. The agency staff member should check with their agency.

Employees on a fixed-term or training contract

Employees who are on a fixed-term or training contract will have it extended to allow them to receive 50 weeks of shared parental leave and Occupational ShPP or ShPP if their contract is due to expire:

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

Employees will continue to accrue annual leave entitlements during any extension period.

The provisions for employees on a fixed term or training contract are described in the following policies:

- [Maternity Policy](#)
- [Adoption, Fostering and Kinship Policy](#)

Rotational training contracts

If you are a manager of an employee on a rotational training contract, you are responsible for making sure the employing Board is aware of the employee's intention to take shared parental leave.

Where there is a planned rotation of appointments with one or more NHS employers as part of an agreed programme of training, the employee has the right to return to work after SPL in the same post or the next planned post. You must make the employee aware of this.

Adoption disruption

If you become aware of the employee's adoption placement breakdown, you should support your employee during the difficult time. Further information can be found in the [Adoption, Fostering and Kinship Policy: guide for employees](#).

Loss of a child

If you become aware of the employee losing a child, you should support your employee during the difficult time. Further information can be found in the following guides:

- [Maternity Policy: guide for managers](#)
- [Special Leave Policy : guide for managers](#)

Pension contributions

SPPA pension contributions will continue during ShPP and Occupational ShPP. Normally, the employee will pay any outstanding contributions for their unpaid period of SPL leave on their return to work. If they do not repay these contributions, they will not be credited with pensionable service for this period.

For private or other pensions, the employee will need to check with their pension provider.

Professional registration

The employee is required to maintain their professional registration during SPL as they continue to be employed by the organisation. It is the employee's responsibility to consider how they will maintain their professional competence. However, you should support them in this through access to KIT days.

Salary sacrifice arrangements during the Occupational ShPP or ShPP period of SPL

The employee is entitled to the benefit of the terms and conditions of employment, which would have applied had they not been absent.

Examples include:

- Cycle to Work scheme
- credit union arrangement

The employee should seek advice from the payroll department.

Links to other policies

You may need to cross reference with other policies including:

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