



**SHARED PARENTAL LEAVE POLICY & PROCEDURE 2021**

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**Federation/FSU**

**Shared Parental Leave Policy and Procedure**

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### **1. Introduction**

The Federation/FSU is committed to supporting best practice in relation to shared parental leave. The Work and Families (Northern Ireland) Act 2015 and associated regulations provide an opportunity for parents to take advantage of additional flexibility in the way they choose to care for a new arrival to the family. This policy is written to help eligible parents decide whether the benefits of Shared Parental Leave will work for them and how it could be used alongside, or instead of traditional Maternity or Adoption leave.

This policy and procedure applies to all staff who are eligible for Maternity or Adoption leave who have a contract of employment with the Federation/FSU.

### **2. Purpose and Key Aims.**

The policy aims to promote a consistent and supportive approach to Shared Parental Leave (SPL) across Federations/FSU and to increase awareness about the provisions available for staff and to ensure compliance with legislative requirements.

It sets out the contractual and statutory shared parental leave rights to which staff are entitled, after the birth of a child. There may also be an entitlement to some Shared Parental Pay (ShPP)

Queries regarding the application of this policy and procedure should be directed to Leads/line managers and Human Resources (HR).

### **3. Roles and Responsibilities**

**Line Managers/Leads**

It is the responsibility of Leads/Line Managers to:

* Acknowledge notifications of intention to take Shared Parental Leave
* Discuss and agree how annual leave will be used both before and after shared parental leave.
* Discuss and agree terms of ‘Shared Parental Leave in Touch Days’ with the employee.
* Ensure that employees are kept informed during shared parental leave about changes at work that will directly affect the individual.

**Employees**

It is the responsibility of the employee to:

* Notify the line manager/HR of their intention to avail of shared parental leave.
* Complete the Shared Parental Leave Request Form and forward to HR.
* Discuss and agree with their Lead/line manager on how annual leave will be used both before and after shared parental leave.
* Agree terms of ‘Shared Parental Leave in Touch Days’ with their Lead/line manager.
* Provide notification (8 weeks) of early return to work, where required.

**Human Resources (HR)**

It is the responsibility of HR to:

* Conduct meetings where appropriate/needed once an application for shared parental leave is received
* Ensure appropriate documentation is sent to the employee including confirmation of shared parental pay entitlement and leave dates and liaise with payroll on this.
* Provide advice or guidance to staff and managers as requested on any aspect of shared parental leave.

### **4. Who is eligible for Shared Parental Leave?**

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.

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

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 organisation at the start of each period of SPL;
* the employee must pass the ‘continuity test’ requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child’s expected due date/matching date;
* the employee’s partner must meet the ‘employment and earnings test’ requiring them 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 a week in any 13 of those weeks;
* the employee must correctly notify the organisation of their entitlement and provide evidence as required.

### **5. The Shared Parental Leave entitlement**

Eligible employees may be entitled to take up to 50 weeks SPL 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 SPL system and take any remaining weeks as SPL.

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 SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

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 paternity leave or pay once they have taken any SPL or ShPP.

Where a mother/adopter 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.

SPL 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 SPL period (see "Shared Parental Pay" below). 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.

### **6. Notifying the Federation/FSU of an entitlement to Shared Parental Leave**

An employee entitled and intending to take SPL must give their line manager/lead and FSU HR notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL. Part of the eligibility criteria requires the employee to provide the Federation/FSU with correct notification.

Notification must be in writing and requires each of the following:

the name of the employee;

the name of the other parent;

the start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available;

the date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption;

the amount of SPL the employee and their partner each intend to take

a non-binding indication of when the employee expects to take the leave. The employee must provide the Federation/FSU with a signed declaration stating: that they meet, or will meet, the eligibility conditions and are entitled to take SPL;

that the information they have given is accurate;

if they are not the mother/adopter they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter;

that should they cease to be eligible they will immediately inform the Federation/FSU. The employee must provide the Federation/FSU with a signed declaration from their partner confirming:

their name, address and national insurance number

that they are the mother/adopter of the child or they are the father of the child or are the spouse, civil partner or partner of the mother/adopter;

that they satisfy the ‘employment and earnings test’ (see “Who is eligible for Shared Parental Leave?” above), and had at the date of the child’s birth or placement for adoption the main responsibility for the child, along with the employee;

that they consent to the amount of SPL that the employee intends to take;

that they consent to the Federation/FSU processing the information contained in the declaration form; and

(in the case whether the partner is the mother/adopter), that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

**Requesting further evidence of eligibility**

The Federation/FSU may, within 14 days of the SPL entitlement notification being given, 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 was 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.

**Fraudulent claims**

The Federation/FSU can, where there is a suspicion that fraudulent information may have been provided or where the Federation/FSU has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual Federation/FSU investigation and disciplinary procedures, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in equality legislation in Northern Ireland. The protected characteristics in Northern Ireland include age, disability, gender, race, religion, political opinion and sexual orientation.

### **7. Contractual and other benefits during Shared Parental Leave**

Apart from pay, the employee will continue to receive any contractual benefits which they would normally receive if they were at work, throughout the shared parental leave period.

**Continuity of service**

Where an employee returns to work following shared parental leave (paid or unpaid) the period of absence due to maternity leave will not affect her recognised continuous service for employment rights and service-related benefits. Where relevant, the employee will be entitled to receive an increment on their salary in accordance with their normal incremental date.

**Pension**

If an employee is a member of the HSC Pension scheme, the Federation/FSU will continue to make its usual contribution for the whole of the time they are receiving Shared Parental Leave Pay. During any unpaid shared parental leave their active pension scheme membership will be "suspended". This means that the period will not count as pensionable service, but that benefits will be paid in the event of their death or ill-health retirement during shared parental leave, on the basis of the service and salary which counted at the end of their paid shared parental leave.

Further information about pension arrangements whilst on maternity leave is available from the Payroll and the HSC Pensions website, please see [Membership, Contributions and Pay – HSC Pension Service (hscni.net)](http://www.hscpensions.hscni.net/membership-contributions-and-pay/)

**Annual leave**

An employee will continue to accrue annual leave during their shared parental leave. Prior to starting shared parental leave, the employee must discuss arrangements for using annual leave with their Line Manager/Lead. Staff on shared parental leave who, as a result, are unable to take all their annual leave entitlement in a particular year may be allowed to carry forward any untaken annual leave to the following leave year.

Staff who are on shared parental leave on a Public/Statutory or Customary holiday can take the day(s) of holiday at a mutually convenient time on their return to work (i.e., agreed with their line manager).

Annual leave cannot be taken during a period of shared parental leave. It must be taken either prior to or following shared parental leave. Any annual leave taken following the birth of the baby will be deemed to be a 'return to work' for the purposes of shared parental leave regulations.

**Shared Parental Leave in Touch days**

An employee can agree to work for the Federation/FSU (or attend training) for up to 20 days during SPL without bringing their period of SPL 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.

If SPLIT days are used the manager will need to inform Payroll by email confirming the date of the SPLIT day and the number of hours worked, so that, where necessary, a payment can be made. A 'day', in SPLIT terms, is defined as anything from attending a 1-hour meeting to a full 7.5-hour day. The employee is paid for their Shared Parental Leave in Touch days, they must not be used to accrue time off in lieu.

Payment for a SPLIT day will be inclusive of ShPP payment for the week. Where payment for the day's work is in excess of the weekly ShPP payment, the difference will be paid. Where payment for a day's work is less than the weekly ShPP payment then the employee will receive the ShPP payment only.

The type of work undertaken during SPLIT days must be agreed between the employee and the manager and might typically include attending a conference, training course, or a meeting. It is not intended that an employee use these days to continue their work during shared parental leave or to work from home.

The employer is not obliged to offer SPLIT days; similarly, the employee is not obliged to work any that are offered.

### **8. Contact during Shared Parental Leave**

Before an employee's SPL begins, the Federation/FSU will discuss the arrangements for them to keep in touch during their leave. The Federation/FSU reserves the right in any event to maintain reasonable contact with the employee from time to time during their SPL. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

### **9. Sickness absence**

An employee who is unable to return to work at the end of their shared parental leave, due to sickness, will be treated as being on sick leave in accordance with the Federation/FSU’s Sickness Absence Procedure.

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### **10. Shared Parental Leave and Pay**

Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The number 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 SPL, depending on the length and timing of the leave. 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 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.

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. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.

In addition to what must be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for ShPP must include:

* the start and end dates of any maternity/adoption pay or maternity allowance;
* the total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
* a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the Federation/FSU should they cease to be eligible.

It must be accompanied by a signed declaration from the employee’s partner confirming:

their agreement to the employee claiming ShPP and for the Federation/FSU to process any ShPP payments to the employee;

* (in the case whether the partner is the mother/ adopter) that they have reduced their maternity/adoption pay or maternity allowance;
* (in the case whether the partner is the mother/ adopter) that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

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

### **11. Applying for Shared Parental Leave**

An employee considering/taking SPL is encouraged to contact FSU HR to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the Federation to support the individual.

The HR Officer/Advisor may upon receiving a notification of entitlement to take SPL seek to arrange an informal discussion with the employee to talk about their intentions and how they currently expect to use their SPL entitlement. Upon receiving a leave booking notice the [HR department/name of individual] 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 in the terms stated in the employee's notice booking leave, a meeting may not be necessary. Where a meeting is arranged it should take place in private and be arranged in advance. If the initial date is problematic, then another date will be arranged if possible. If an alternative date cannot be arranged, then the meeting may be held over the telephone.

At the meeting the employee may, if they wish, be accompanied by a workplace colleague or a trade union representative.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the Federation/FSU, and what the outcome may be if no agreement is reached.

**Booking Shared Parental Leave**

In addition to notifying the Federation/FSU of entitlement to SPL/ShPP, 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 SPL. The employee has the right to submit ***three*** notifications specifying leave periods they are intending to take.

Each notification may contain either

(a) a single period of weeks of leave; or

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

SPL can only be taken in complete weeks but 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.

The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

**Continuous leave notifications**

A notification can be for a period of continuous leave, which means 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) and the Federation/FSU has been given at least eight weeks’ notice.

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

**Discontinuous leave notifications**

A single notification may also contain 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).

Where there is concern over accommodating the notification, the Federation/FSU or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the Federation/FSU.

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

**Responding to a Shared Parental Leave notification**

Once the FSU HR receives the leave booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th day after the leave request was made.

All notices for continuous leave will be confirmed in writing.

All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the employee and to the Federation/FSU against any adverse impact to the business.

Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

The employee will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th day after the leave notification was made. The request may be granted in full or in part: for example, the Federation/FSU 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 may 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, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner 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.

**Variations to arranged Shared Parental Leave**

The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the Federation/FSU 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 notification made by the employee, including 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, a change as a result of a child being born early, or as a result of the Federation/FSU requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the Federation/FSU.

### **12. Returning to work after Shared Parental Leave**

The employee will have been formally advised in writing by the Federation/FSU of the end date of any period of SPL. The employee is expected to return on the next working day after this date, unless they notify the Federation/FSU otherwise. If they are unable to attend work due to sickness or injury, the Federation/FSU’s normal arrangements for sickness absence 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 Federation/FSU at least eight weeks’ notice of their date of early return. This will count as one of the employee’s notifications. If they have already used their three notifications to book and/or vary leave then the Federation/FSU 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 SPL, the employee is entitled to return to the same job if the employee’s aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, he or she 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 SPL, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity/adoption leave and SPL 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 entitledto return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do 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 SPL do 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.

**Reducing hours and flexible working**

At the end of shared parental leave, the employee may apply to return to work on different hours either on a permanent or temporary basis. An employee considering or wishing to reduce their hours is encouraged to discuss their situation with her manager as soon as possible.

If it is agreed that the employee will return to work on a flexible basis for an agreed temporary period, this will not affect their right to return to their job under the original contract at the end of the agreed period.

If an employee is seeking a permanent change to hours or their working pattern, further information can be found in the Federation/FSU’s Flexible Working Policy and procedure. For permanent change requests, the employee must complete a flexible working request in line with the Flexible Working Policy at least 14 weeks prior to when they wish the new working arrangement to begin.

**Resigning after Shared Parental Leave**

An employee who decides not to return to work after shared parental leave must give written notice to her manager of their resignation. It is helpful to receive as much notice as possible, but this should not be less than the notice period in the employee's contract of employment.

### **13. Data Protection / GDPR**

In applying this policy, the organisation will have due regard for the Data Protection Act 2018 and the General Data Protection Regulation (GDPR). Personal Confidential Data of data subjects will be processed fairly and lawfully and in accordance with the six data protection principles.

Data Subject’s Rights and freedoms will be respected, and measures will be in place to enable employees (data subjects) to exercise those rights. Appropriate technical and organisational measures will be designed and implemented to ensure an appropriate level of security is applied to the processing of personal confidential data.