

Dear Colleague

SUPPORTING THE WORK-LIFE BALANCE SHARED PARENTAL LEAVE POLICY

Summary

1. This Director's letter advises NHSScotland Employers of the issue on 2 April 2015, of the following Model Policy addition to the existing Supporting Work-Life Balance (SWLB) Partnership Information Network (PIN) policy:

- *Shared Parental leave*

Background

2. PIN policies were first developed in 2001, and are designed to achieve a consistent approach in the way NHSScotland deals with its employees.
3. PIN policies define a minimum standard of best employment practice. While local adaptations may be agreed in partnership to suit Boards' own local needs, any such adaptations must still meet or exceed the minimum standards set out within the PIN policies. The existing SWLB PIN has included a consultation as part of a robust national partnership process. We would therefore anticipate that local policies will largely follow the content of the PIN.
4. It should be highlighted that the entire SWLB has undergone a review and it is the intention to issue the entire PIN in the usual way in due course. However due to a forthcoming legislative change, the Shared Parental Leave Scheme will become operational on 5 April 2015 and therefore it is necessary to issue this Model Policy (Annex 1) in order to comply with this legislative change. A consolidated version of the SWLB will be issued to the service once its full content is agreed and published in the normal way.
5. Compliance with the Staff Governance Standard includes implementation of PIN policies. Boards will be expected to provide evidence of adherence to the PIN policies – Including the Shared Parental Leave Policy - as part of the annual Staff

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2 April 2015

Addresses

For action

Chief Executives of all NHS Boards,

Directors of Human Resources

For information

Chairs of all Boards

Employee Directors

Scottish Partnership Forum members

SWAG members

Enquiries to:

Malcolm Summers
Head of Staff Governance
Directorate for Performance and Delivery: Health Workforce,
St Andrew's House,
Regent Road,
Edinburgh, EH1 3DG

Tel: 0131-244 3204

Malcolm.Summers@scotland.gsi.gov.uk

<http://www.scotland.gov.uk>

Governance National Annual Monitoring Return and annual review processes. Part 1: Principles and Partnership of the Agenda for Change Terms and Conditions Handbook incorporates PIN policies within the terms and conditions of employment of all NHSScotland staff.

6. Board Partnership Forums have a key role in ensuring that locally developed policies meet or exceed the minimum standards set out in the PIN policies; and in raising non-compliance in a positive and constructive manner.
7. The Scottish Government Directorate for Health Workforce & Performance has completed an Equality Impact Assessment (EQIA) for the entire SWLB PIN policy. A summary EQIA will be published alongside the revised PIN. Boards should note that where local adaptations of these PIN policies are made, any resulting policies will require to be Equality Impact Assessed at a local level as a result.

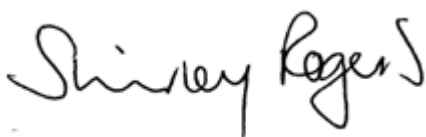
Action

8. Given that the implementation of the PIN policies is an explicit requirement of the Staff Governance Standard, Chief Executives of all NHSScotland Boards and Special Health Boards must ensure that their implementation is given priority within their organisation. The remuneration of Shared Parental Leave for NHSScotland has been agreed in full partnership through the Scottish Terms and Conditions Committee and the Scottish Workforce and Staff Governance Committee and should be applied consistently across NHSScotland.

Copies of the PIN Policy

9. The entire SWLB PIN policy will be available on the Scottish Government website in due course.

and on the Staff Governance website
(<http://www.staffgovernance.scot.nhs.uk>).



Shirley Rogers
Director of NHS Workforce

Model Shared Parental Leave Policy

1. Policy Statement

This policy outlines the arrangements for shared parental leave and pay in relation to the birth or adoption of a child.

The definitions applicable in this policy in relation to the birth of a child are:

Expected week of childbirth (EWC): the week, beginning on a Sunday, in which the doctor or midwife expects your child to be born.

Parent: One of two people who will share the main responsibility for the child's upbringing (and who may be either the mother, the father, or the mother's partner if not the father).

Partner: spouse, civil partner or someone living with another person in an enduring family relationship, but not a sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.

Qualifying Week: the fifteenth week before the expected week of childbirth.

The definitions applicable in this policy in relation to the adoption of a child are:

Partner: your spouse, civil partner or someone living with you in an enduring family relationship at the time the child is placed for adoption, but not your sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.

Qualifying Week: the week the adoption agency notifies you that you have been matched with a child for adoption.

2. Shared Parental Leave

2.1 Shared parental leave (SPL) is a form of leave available to working parents following the birth or adoption of a child. It applies in respect of children who are expected to be born on or after 5 April 2015. It is also available where an adoption agency places a child with you and/or your partner on or after 5 April 2015.

2.2 In the case of adoption, it provides a more flexible alternative to the default system whereby one partner may qualify for up to 52 weeks' adoption leave and the other partner may qualify for up to two weeks' ordinary paternity leave.

2.3 In birth cases, SPL allows parents to take up to 52 weeks leave in total (2 of which has to be Maternity Leave) on the birth of a child. They may be able to take this leave at the same time, or at different times.

- 2.4 In the case of adoption, under the SPL system, up to 50 weeks of the adoption leave entitlement may be designated as SPL. Assuming you are both eligible, you and your partner can choose how you split that leave between you. You may be able to take this leave at the same time or at different times. You may also be able to take it in more than one block.

3. Entitlement to Shared Parental Leave

- 3.1 You are entitled to SPL in relation to the birth of a child if:
- a) you are the child's mother, and share the main responsibility for the care of the child with the child's father (or your partner, if the father is not your partner);
 - b) you are the child's father and share the main responsibility for the care of the child with the child's mother; or
 - c) you are the mother's partner and share the main responsibility for the care of the child with the mother (where the child's father does not share the main responsibility with the mother).
- 3.2 You may also be entitled to SPL in relation to the adoption of a child if an adoption agency has placed a child with you and/or your partner for adoption, and you intend to share the main responsibility for the care of the child with your partner.
- 3.3 In both birth and adoption cases, the following conditions must also be fulfilled:
- a) you must have at least 26 weeks continuous employment with us by the end of the Qualifying Week, and must still be employed by us in the week before the leave is to be taken;
 - b) the other parent (or in adoption cases, your partner) must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the EWC or Qualifying Week and had average weekly earnings of at least £30 during 13 of those weeks; and
 - c) In birth cases, you and the other parent must give the necessary statutory notices and declarations as summarised below, including notice to end any maternity leave, statutory maternity pay (SMP) or maternity allowance (MA) periods.
 - d) In adoption cases, you and your partner must give the necessary statutory notices and declarations as summarised below, including notice to end adoption leave or statutory adoption pay (SAP).

- e) In adoption cases, either you or your partner must also qualify for statutory adoption leave and/or SAP, and must take at least two weeks of adoption leave and/or pay.
- 3.5 If your partner is taking adoption leave and/or claiming SAP, you may be entitled to two weeks' paternity leave and pay (see our Paternity Leave Policy). You should consider using this before taking SPL. Paternity leave is additional to any SPL entitlement you may have, but you will lose any untaken paternity leave entitlement once you start a period of SPL.
- 3.6 In birth cases, the total amount of SPL available is 52 weeks, less the weeks spent by the child's mother on maternity leave (or the weeks in which the mother has been in receipt of SMP or MA if she is not entitled to maternity leave). In the case of adoption, the total amount of SPL available is also 52 weeks, less the weeks of adoption leave taken by either you or partner (or the weeks in which your partner has been in receipt of SAP if they were not entitled to adoption leave).
- 3.7 In birth cases, if you are the mother, you cannot start SPL until after the compulsory maternity leave period, which lasts until two weeks after birth.
- 3.8 In birth cases, if you are the child's father or the mother's partner, you should consider using your two weeks' paternity leave before taking SPL. Once you start SPL you will lose any untaken paternity leave entitlement. SPL entitlement is additional to your paternity leave entitlement.

4. Opting in to Shared Parental Leave and Pay

- 4.1 Not less than eight weeks before the date you intend your SPL to start, you must give us a written opt-in notice giving:
- a) your name and the name of the other parent (or in adoption cases, the name of your partner);
 - b) In birth cases, if you are the child's mother, the start and end dates of your maternity leave;
 - c) In birth cases, if you are the child's father or the mother's partner, the start and end dates of the mother's maternity leave, or if she is not entitled to maternity leave, the start and end dates of any SMP or MA period.
 - d) In the case of adoption, if you are taking adoption leave, your adoption leave start and end dates;

- e) In the case of adoption, if you are not taking adoption leave, your partner's adoption leave start and end dates, or if your partner is not entitled to adoption leave, the start and end dates of their SAP;
- f) the total SPL available, which is 52 weeks minus the number of weeks' maternity leave, adoption leave, SMP, MA or SAP period (as appropriate) taken or to be taken by you or your partner;
- g) how many weeks of the available SPL will be allocated to you and how much to the other parent / your partner. (You can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- h) if you are claiming statutory shared parental pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of the SMP, SAP or MA period taken or to be taken);
- i) how much of that available ShPP will be allocated to you and how much to the other parent / your partner. (You can change the allocation by giving us a further written notice, and you do not have to use your full allocation);
- j) an indication of the pattern of leave you are thinking of taking, including suggested start and end dates for each period of leave. This indication will not be binding at this stage, but please give as much information as you can about your future intentions; and
- k) declarations by you and the other parent / your partner that you meet the statutory conditions for entitlement to SPL and ShPP.

5. Ending Maternity/Adoption leave

- 5.1 In birth cases, if you are the child's mother and are still on maternity leave, you must give us at least eight weeks' written notice to end your maternity leave (a curtailment notice) before you can take SPL. In adoption cases, this is also the case if you are taking or intend to take adoption leave and want to opt into the SPL scheme. The notice must state the date on which your maternity/adoption leave will end. You can give the notice before or after you give birth, or after adoption leave starts, but you cannot end your maternity / adoption leave until at least two weeks after birth, or in the case of adoption you must take at least two weeks' adoption leave.

N.B. Once the child's mother ends Maternity leave she cannot go back onto maternity leave once she or her partner has taken Shared Parental Leave.

- 5.2 You must also give us, at the same time as the curtailment notice, a notice to opt into the SPL scheme (see above), or a written declaration that the child's father or your partner has given his or her employer an

opt-in notice and that you have given the necessary declarations in that notice.

- 5.3 The other parent or your partner may be eligible to take SPL from their employer before your maternity or adoption leave ends, but they cannot start it until you have given us your curtailment notice.
- 5.4 The curtailment notice is usually binding and cannot be revoked. You can only revoke a curtailment notice if maternity or adoption leave has not yet ended and one of the following applies:
- a) if you realise that neither you nor the other parent / your partner are in fact eligible for SPL or ShPP, you can revoke the curtailment notice in writing up to eight weeks after it was given;
 - b) if you gave the curtailment notice before giving birth, you can revoke it in writing up to eight weeks after it was given, or up to six weeks after birth, whichever is later; or
 - c) if the other parent / your partner has died.
- 5.5 In birth cases, once you revoke a curtailment notice you cannot submit a second curtailment notice, unless the revocation was given in the circumstances in paragraph 1.1b). In adoption cases, once you have revoked a curtailment notice you will be unable to opt back in to the SPL scheme.
- 5.6 In birth cases, if you are the child's father or the mother's partner, you will only be able to take SPL once the mother has either:
- (a) returned to work;
 - (b) given her employer a curtailment notice to end her maternity leave;
 - (c) given her employer a curtailment notice to end her SMP (if she is entitled to SMP but not maternity leave); or
 - (d) given a curtailment notice to the benefits office to end her MA (if she is not entitled to maternity leave or SMP).
- 5.7 In adoption cases, if your partner is taking adoption leave or claiming SAP from their employer, you will only be able to take SPL once your partner has either:
- (a) returned to work;
 - (b) given their employer a curtailment notice to end adoption leave; or
 - (c) given their employer a curtailment notice to end SAP (if they are entitled to SAP but not adoption leave).

6. Evidence of Entitlement

You must also provide on request:

- a. In birth cases, a copy of the birth certificate (or if you have not yet obtained a birth certificate, a signed declaration of the child's date and place of birth); or in the case of adoption, one or more documents from the adoption agency showing the agency's name and address and the expected placement date;
and
- b. The name and address of the other parent's employer (or a declaration that they have no employer or that they are self-employed).

7. Notifying us of your SPL dates

- 7.1 Having opted into the SPL system, you will need to give a period of leave notice telling us the start and end dates of your leave. This can be given at the same time as your opt-in notice, or it can be given later, as long as it is given at least eight weeks before the start of your leave. You must also state in your period of leave notice the dates on which you intend to claim shared parental pay, if applicable.
- 7.2 If your period of leave notice gives dates for a single continuous block of SPL you will be entitled to take the leave set out in the notice.
- 7.3 You can give up to three period of leave notices. This may enable you to take up to three separate blocks of shared parental leave. In exceptional circumstances we may agree to accept more than three period of leave notices but there is no obligation for us to do so.

8. Procedure for requesting split periods of SPL

- 8.1 In general, a period of leave notice should set out a single continuous block of leave. We may, in some cases, be willing to consider a period of leave notice where the SPL is split into shorter periods (of at least a week) with periods of work in between. It is best to discuss this with your manager and HR in advance of submitting any formal period of leave notices. This will give us more time to consider the request and hopefully agree a pattern of leave with you from the start.
- 8.2 You must submit a period of leave notice setting out the requested pattern of leave at least eight weeks before the requested start date. If we are unable to agree to your request straight away, there will be a two-week discussion period. At the end of that period, we will confirm any agreed arrangements in writing. If we have not reached an agreement, you will be entitled to take the full amount of requested SPL

as one continuous block, starting on the start date given in your notice (for example, if you requested three separate periods of four weeks each, you will be entitled to one 12-week period of leave).

Alternatively, you may:

- a) choose a new start date (which must be at least eight weeks after your original period of leave notice was given), and notify us of this new date within five days of the end of the two-week discussion period; or
- b) withdraw your period of leave notice within two days of the end of the two-week discussion period (in which case it will not be counted and you may submit a new one if you choose).

9. Changing the dates or cancelling your SPL

- 9.1 You can cancel a period of leave by notifying us in writing at least eight weeks before the start date which you have given in the period of leave notice.
- 9.2 You can change the start date for a period of leave, or the length of the period of leave, by notifying us in writing at least eight weeks' notice before the original start date and the new start date.
- 9.3 You can change the end date for a period of leave by notifying us in writing at least eight weeks before the original end date and the new end date.
- 9.4 You can change split periods of leave into a single continuous period of leave by notifying us in writing at least eight weeks before the start date.
- 9.5 You can request that a continuous period of leave be split into two or more discontinuous periods with periods of work in between. We will consider any such request in the way set out in paragraph 8.1 – 8.2.
- 9.6 In birth cases, you do not need to give eight weeks' notice if you are changing the dates of your SPL because your child has been born earlier than the EWC, and where you wanted to start your SPL a certain length of time (but not more than eight weeks) after birth. In such cases please notify us in writing of the change as soon as you can.
- 9.7 A notice to cancel or change a period of leave will count as one of your three period of leave notices, unless:

- a) in the case of a birth, the variation is a result of your child being born earlier or later than the EWC;
- b) in the case of adoption, the variation is a result of the child being placed with you earlier or later than the expected placement date;
- c) the variation is at our request; or
- d) we agree otherwise.

10. Shared Parental Pay

- 10.1 Statutory Shared Parental Pay of up to 39 weeks (less any weeks of statutory maternity pay or statutory adoption pay claimed by you or the other parent or your partner) may be available, provided you have at least 26 weeks' continuous employment with us at the end of the Qualifying Week and your average earnings are not less than the lower earnings limit set by the government each tax year. Statutory Shared Parental Pay is paid at a rate set by the government each year.
- 10.2 You may also qualify for contractual Shared Parental Pay if you have been continuously employed with one or more NHS employers during the 12 month period ending with the Qualifying Week.
- 10.3 Your entitlement to contractual Shared Parental Pay, as described in the following paragraphs, will be subject to deduction of any contractual maternity or paternity or adoption pay which you receive.
- 10.4 For the first eight weeks of your SPL, contractual Shared Parental Pay is full pay, and includes any statutory Shared Parental Pay that may be due for that period.
- 10.5 For the next eighteen weeks of SPL, contractual Shared Parental Pay is half pay, plus any statutory Shared Parental Pay that may be due for that period. However the combined total will not exceed full pay. If required, the amount of contractual Shared Parental Pay will be reduced in order to achieve this limit.
- 10.6 Payment of contractual Shared Parental Pay is conditional upon you confirming in writing, before starting SPL, that you intend to return to work for at least [six] months after the end your SPL. If you later decide not to return to work for this minimum period, you must repay any contractual Shared Parental Pay (but not statutory Shared Parental Pay) which you have received. In cases where we consider that to enforce this provision would cause undue hardship or distress, we will have the discretion to waive our rights to recovery.

11. Other terms during shared parental leave

- 11.1 Your terms and conditions of employment remain in force during SPL, except for the terms relating to pay.

- 11.2 Annual leave and public holidays will continue to accrue during Shared Parental Leave, whether paid or unpaid, provided for by this agreement. Where the amount of accrued annual leave and public holidays would exceed normal carry over provisions, it may be mutually beneficial to both the employer and employee for the employee to take annual leave before and/or after the formal (paid and unpaid) maternity leave period. The amount of annual leave to be taken in this way, or carried over, should be discussed and agreed between the employee and employer. Payment in lieu may be considered as an option where accrual of annual leave exceeds normal carry over provisions.
- 11.3 If you are a member of the pension scheme, we will make employer pension contributions during any period of paid SPL, based on your normal salary, in accordance with the pension scheme rules. Your employee contributions will be based on the amount of any shared parental pay you are receiving, unless you inform [the Human Resources Department **OR** the Pensions Administrator] that you wish to make up any shortfall.

12. Keeping in touch

- 12.1 We may make reasonable contact with you from time to time during your SPL although we will keep this to a minimum. This may include contacting you to discuss arrangements for your return to work.
- 12.2 You may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days (KIT days) during your SPL. This is in addition to any KIT days that you may have taken during maternity or adoption leave. KIT days are not compulsory and must be discussed and agreed with your line manager.
- 12.3 You will be paid at your normal basic rate of pay for time spent working on a KIT day and this will be inclusive of any shared parental pay entitlement.

13. Returning to work

- 13.1 If you want to end a period of SPL early, you must give us eight weeks' prior notice of the return date. It is helpful if you give this notice in writing.
- 13.2 If you want to extend your SPL, assuming you still have unused SPL entitlement remaining, you must submit a new period of leave notice at least eight weeks before the date you were due to return to work, assuming you still have SPL entitlement remaining and have not already submitted three period of leave notices. If you are unable to

request more SPL, you may be able to request annual leave or ordinary parental leave. The decision on whether to grant this request will be subject to service need.

- 13.3 You are normally entitled to return to work in the position you held before starting SPL, and on the same terms of employment. However, if it is not reasonably practicable for us to allow you to return into the same position, we may give you another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances:
- a) if your SPL and any adoption, maternity or paternity leave you have taken adds up to more than 26 weeks in total (whether or not taken consecutively); or
 - b) if you took SPL consecutively with more than four weeks of ordinary parental leave (under our Parental Leave Policy).
- 13.4 If you want to change your hours or other working arrangements on return from SPL, you should make a request under our Flexible Working Policy. It is helpful if such requests are made as early as possible.
- 13.5 If you decide you do not want to return to work you should give notice of resignation in accordance with your contract.

GLOSSARY

The definitions applicable in this policy in relation to the birth of a child are:

Expected week of childbirth (EWC): the week, beginning on a Sunday, in which the doctor or midwife expects your child to be born.

Parent: One of two people who will share the main responsibility for the child's upbringing (and who may be either the mother, the father, or the mother's partner if not the father).

Partner: spouse, civil partner or someone living with another person in an enduring family relationship, but not a sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.

Qualifying Week: the fifteenth week before the expected week of childbirth.

The definitions applicable in this policy in relation to the adoption of a child are:

Partner: your spouse, civil partner or someone living with you in an enduring family relationship at the time the child is placed for adoption, but not your sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.

Qualifying Week: the week the adoption agency notifies you that you have been matched with a child for adoption.

Other frequently used Terms included in this Policy are:

SPL	Shared Parental Leave
SMP	Statutory Maternity Pay
MA	Maternity Allowance (The level of allowance provided to those who do not qualify for Statutory Maternity Pay)
SAP	Statutory Adoption Pay
ShPP	Statutory Shared Parental Pay
KIT Days	Keeping in Touch Days