

Livewell Southwest

Shared Parental Leave (Adoption) Policy

Version No 2

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Notice to staff using a paper copy of this guidance.

The policies and procedures page of LSW intranet holds the most recent version of this document and staff must ensure that they are using the most recent guidance.

Author: People and Professionalism

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Author contact details	By post: Local Care Centre, Mount Gould Hospital, 200 Mount Gould Road, Plymouth, Devon. PL4 7PY. Tel: 01752 434700. (LCC Reception) or e mail: livewell.livewellpolicies@nhs.net

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1	New Document	June 2016	HR Policy Group	Development of New Policy.
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Shared Parental Leave (Adoption) Policy

1. Equality and Diversity Statement

- 1.1 Livewell Southwest is committed to fairness and equity and values diversity in all aspects of its work as a provider of health and social care services and as an employer of people. We constantly strive to build a workforce that is representative of the community it serves.
- 1.2 Livewell Southwest is committed to eliminating all forms of discrimination on the grounds of age, disability, gender reassignment, marriage / civil partnership, pregnancy maternity, race, religion or belief, sex and sexual orientation in the provision of our services and in recruitment and employment. This enables an environment that is characterised by dignity and respect which is free from harassment, bullying and victimisation.

2. Introduction

- 2.1 Shared parental leave (SPL) is a type of leave that is available where a child is placed for adoption, or where a child is placed with foster parents under a "fostering for adoption" or "concurrent planning" scheme on or after 5 April 2015. It offers more flexibility in how to share the care of the child in the first year than simply taking adoption and paternity leave.
- 2.2 This policy applies to all employees of Livewell Southwest and, shall operate alongside policy arrangements for adoption and paternity.
- 2.3 This policy does not form part of any employee's contract of employment and Livewell Southwest may amend it at any time.

3. Purpose

- 3.1 This policy sets out the arrangements for shared parental leave and pay in relation to the adoption of a child. Employees who are pregnant or have given birth, or whose partner is pregnant or has given birth, please see the Shared Parental Leave (Birth) Policy instead.
- 3.2 The employee or their partner must qualify for statutory adoption leave and/or statutory adoption pay (SAP) and must take at least two weeks of adoption leave and/or pay.
- 3.3 If the employee's partner is taking adoption leave and/or claiming SAP, they may be entitled to two weeks' paternity leave and pay. Employees should consider using this before taking SPL. Once an employee commences SPL they will lose any untaken paternity leave entitlement. SPL entitlement is additional to paternity leave entitlement.

4. Definitions

The definitions in this paragraph apply in this policy.

- 4.1 **Qualifying Week:** the week the adoption agency notifies the individual that they have been matched with a child for adoption.
- 4.2 **Partner:** a spouse, civil partner or someone living together in an enduring family relationship at the time the child is placed for adoption, but not a sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew.
- 4.3 The following abbreviations are used within this policy arrangement:
SPL = Shared Parental Leave
ShPP = Shared Parental Pay
SAP = Statutory Adoption Pay

5. Duties and Responsibilities

The **Chief Executive** is ultimately responsible for the content of all policies, implementation and review.

- 5.1 Line Managers are responsible for:
 - Ensuring that this policy is adhered to within their specified area, and should take consideration of it when undertaking relevant processes.
 - Ensuring that employees are made aware of this policy and understand the potential implications of processes in relation to it.
- 5.2 Employees must:
 - Ensure that they participate and engage in any processes and in line with this policy.
 - Make their Manager aware if they require any additional support to participate in processes within this policy.

6. Shared Parental Leave

- 6.1 The total amount of SPL available is 52 weeks, less the weeks of adoption leave taken by either party (or the weeks in which the partner has been in receipt of SAP if they were not entitled to adoption leave).
- 6.2 Assuming both parties are both eligible, they will be able to choose how to split the available leave between them, and can decide to be off work at the same time or at different times. They may be able to take leave in more than one block.

- 6.3 Shared Parental Leave should not be confused with ordinary parental leave, which is unaffected by shared parental leave. Ordinary parental leave is the entitlement to up to 18 weeks' unpaid leave (see Parental (unpaid) Leave Policy).
- 6.4 Livewell Southwest recognises that, from time to time, employees may have questions or concerns relating to their shared parental leave rights. It is our policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the shared parental leave provisions are complex, if an employee wishes to take shared parental leave, he/she should clarify the relevant procedures with HR to ensure that they are followed correctly.

7. Entitlement to SPL

- 7.1 Employees may be entitled to SPL if an adoption agency has placed a child with them and/or their partner for adoption, or where a child is placed with them and/or their partner as foster parents under a "fostering for adoption" or "concurrent planning" scheme. The employee must intend to share the main responsibility for the care of the child with their partner.
- 7.2 The following conditions must be fulfilled:
- a) The employee must have at least 26 weeks continuous employment with Livewell Southwest, and/or another NHS/Local Government employer, by the end of the Qualifying Week, and still be employed by Livewell Southwest in the week before the leave is to be taken;
 - b) The employee's partner must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the Qualifying Week and had average weekly earnings of at least £30 during 13 of those weeks – known as the 'Employment and Earnings Test' at the rate set by the government and therefore subject to change; and
 - c) The employee and their partner must give the necessary statutory notices and declarations as summarised below, including notice to end adoption leave or SAP.

8. Notification Arrangements

- 8.1 The notices that must be given by the employee and/or their partner in order to be able to take shared parental leave are made up of three elements and all must be submitted not less than eight weeks before the date they intend SPL to start. They are:
- a) A "curtailment notice" (if they are taking adoption leave) to end the adoption leave (unless they have already returned to work from adoption leave). If their partner is eligible to take SPL from their employer they cannot start it until the employee has given the organisation their curtailment notice;
 - b) An "opt-in notice" giving an initial, non-binding indication of each period of shared parental leave that they are requesting, or a written declaration that

- the other parent has given their employer an opt-in notice and that they have given the necessary declarations in that notice; and
- c) A "period of leave notice" setting out the start and end dates of each period of shared parental leave that they are requesting.

Please refer to appendices for relevant paperwork – incomplete forms will be returned as void and the application will not be processed.

Curtailed Notice

- 8.2 A curtailment notice must state the date the employee's adoption leave will end. The employee can give the notice before or after adoption leave starts.
- 8.3 The curtailment notice is binding on the employee and cannot usually be revoked. The employee can only revoke a curtailment notice if their adoption leave has not yet ended and one of the following applies:
 - a) If the employee realises that neither them nor their partner are in fact eligible for SPL or ShPP, in which case they can revoke the curtailment notice in writing up to eight weeks after it was given;
 - b) If their partner has died.
- 8.4 Once an employee has revoked a curtailment notice they will be unable to opt back in to the SPL scheme.

Opt-in Notice

- 8.5 The opt-in notice must give the following information:
 - a) The employee's name and their partner's name;
 - b) If the employee is taking adoption leave, their adoption leave start and end dates;
 - c) If the employee is not taking adoption leave, their partner's adoption leave start and end dates, or if the partner is not entitled to adoption leave, the start and end dates of their SAP;
 - d) The total SPL available, which is 52 weeks minus the number of weeks' adoption leave or SAP taken or to be taken;
 - e) How many weeks of the available SPL will be allocated to the employee and how many to the other parent (they can change the allocation by giving Livewell Southwest a further written notice, and do not have to use the full allocation);
 - f) If the employee is claiming statutory shared parental pay (ShPP), the total ShPP available, which is 39 weeks minus the number of weeks of SAP taken or to be taken);
 - g) How many weeks of the available ShPP will be allocated to the employee and how many to their partner (the allocation can be changed by giving the organisation a further written notice, and employees do not have to use the full allocation);
 - h) An indication of the pattern of leave they 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 employees should give as much information as they can about your future intentions; and

- i) Declarations by the employee and their partner that they both meet the statutory conditions to enable them to take SPL and ShPP.

Ending A Partner's Adoption Leave or Pay

8.6 If the employee's partner is taking adoption leave or claiming SAP from their employer, the employee will only be able to take SPL once their 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).

Evidence of Entitlement

8.7 The employee must provide on request:

- a) 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 their partner's employer (or a declaration that they have no employer).

9. Booking SPL dates

Period of Leave Notice

9.1 Having opted into the SPL system, the employee will need to give a period of leave notice telling Livewell Southwest the start and end dates of leave. This can be given at the same time as the opt-in notice, or it can be given later, as long as it is given at least eight weeks before the start of leave. The employee must also state in the period of leave notice the dates on which they intend to claim ShPP, if applicable. Leave must be taken in blocks of at least one week.

9.2 The period of leave notice can either give the dates the employee wants to take SPL or, if the child has not been placed with them yet, it can state the number of days after the placement that they want the SPL to start and end. This may be particularly useful if they intend to take paternity leave starting on the date of placement and wish to take SPL straight afterwards.

9.3 The employee can give up to three period of leave notices. This may enable them to take up to three separate blocks of SPL (although if they give a notice to vary or cancel a period of leave this will in most cases count as a further period of leave notice).

9.4 Live managers are responsible for completing a change form and recording absences on their monthly absence returns, this will ensure that SPL and pay arrangements are accurately recorded and processed. Employees will be notified in writing by HR of the necessary details.

Continuous Period of SPL

- 9.5 If the employee's period of leave notice gives dates for a single continuous block of SPL they will be entitled to take the leave as set out in the notice.

Discontinuous Period of SPL

- 9.6 In general, a period of leave notice should set out a single continuous block of leave. The line manager may be willing to consider a period of leave notice where the SPL is split into shorter periods with periods of work in between. The employee should discuss this with their line manager in good time before formally submitting a period of leave notice.
- 9.7 If the employee wants to request split periods of SPL, they must set out the requested pattern of leave in their period of leave notice. The line manager will either agree to the request or start a two-week discussion period. At the end of that period, the line manager will confirm any agreed arrangements in writing. If the line manager and employee have not reached agreement, the employee will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in their notice (for example, if they requested three separate periods of four weeks each, they will be combined into one 12-week period of leave). Alternatively, they may:
- a) Choose a new start date (which must be at least eight weeks after the date they submitted the notice requesting split periods of leave), and tell their line manager within five days of the end of the two-week discussion period, which can be either continuous or discontinuous; or
 - b) Withdraw their period of leave notice within two days of the end of the two-week discussion period (in which case it will not be counted as a period of leave notice, and they may submit a new one if they choose).

Changing the Dates or Cancelling SPL

- 9.8 The employee can cancel a period of leave by notifying Livewell Southwest in writing at least eight weeks before the start date in the period of leave notice.
- 9.9 The employee can change the start date for a period of leave by notifying the organisation in writing at least eight weeks before the original start date or the new start date, whichever is earlier.
- 9.10 The employee can change the end date for a period of leave by notifying the organisation in writing at least eight weeks before the original end date or the new end date, whichever is earlier.
- 9.11 Employees can combine discontinuous periods of leave into a single continuous period of leave. Since this will involve a change to the start date or end date of a period of leave, see *Period of Leave Notice* above which sets out how much notice is required.
- 9.12 Employees can request that a continuous period of leave be split into two or more discontinuous periods of leave, with periods of work in between. Since

this will involve a change to the start date or end date, see *Period of Leave Notice* above which set out how much notice is required for the request. Livewell Southwest do not have to grant the request but will reasonably consider it.

- 9.13 A notice to change or cancel a period of leave will count as one of the three period of leave notices, unless:
- a) The variation is a result of the child being placed earlier or later than the expected placement date;
 - b) The employee is cancelling a request for discontinuous leave within two days of the end of the two-week discussion period;
 - c) It is at Livewell Southwest's request; or
 - d) Livewell Southwest agree otherwise.

10. Shared Parental Pay

- 10.1 Employees may be able to claim Statutory Shared Parental Pay (ShPP) of up to 39 weeks (less any weeks of SAP claimed by the employee or their partner) provided they have at least 26 weeks' continuous employment with Livewell Southwest and/or another NHS/Local Government employer, at the end of the Qualifying Week and their average earnings are not less than the lower earnings limit set by the government each tax year. ShPP is paid at a rate set by the government each year.
- 9.2 Employees should tell their line manager in their period of leave notice(s) (or otherwise in writing, at least eight weeks before they want ShPP to start) whether they intend to claim ShPP during their leave (and if applicable, for what period).

11. Other Terms During Shared Parental Leave

- 11.1 The contract of employment continues during SPL and employees will be entitled to receive all benefits, except remuneration, to which they are contractually entitled. Contractual holiday entitlement will be accrued in the same way.
- 11.2 If the SPL continues into the next holiday year, any holiday entitlement that cannot reasonably be taken before starting leave can be carried over and must be taken immediately before returning to work unless the line manager agrees otherwise.
- 11.3 If the employee is a member of the pension scheme, Livewell will make employer pension contributions during any period of paid SPL, based on the normal salary, in accordance with the pension scheme rules. Any employee contributions made will be based on the amount of any shared parental pay received, unless the employee informs the Human Resources Department that they wish to make up any shortfall.

12. Keeping in Touch

- 12.1 The line manager may make reasonable contact with the employee from time to time during the SPL although they will keep this to a minimum. This may include contacting the employee to discuss arrangements for their return to work. It is good practice to agree in advance with the line manager how Livewell Southwest will stay in contact during this period.
- 12.2 Employees may ask or be asked to work (including attending training) on up to 20 "keeping-in-touch" days (KIT days) during SPL. This is in addition to any KIT days that may have taken during adoption leave. KIT days are not compulsory and must be discussed and agreed. Any work carried out on a KIT day shall constitute a day's work e.g. if an employee comes into work for two hours this will count as one days allocation, but the employee will only get paid for the time worked.
- 12.3 Employees will be paid at their 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 the employee would like to end a period of SPL early, they must give their line manager eight weeks' written notice of the new return date. If they have already given their line manager three period of leave notices they will not be able to end their SPL early without the line manager's agreement.
- 13.2 If the employee would like to extend their SPL, assuming they still have unused SPL entitlement remaining, they must give the organisation a written notice at least eight weeks before the date they were due to return to work. If they have already given three period of leave notices they will not be able to extend their SPL without the line manager's agreement. Employees may instead be able to request annual leave or ordinary parental leave, subject to the needs of the business.
- 13.3 Employees are normally entitled to return to work in the position they held before starting SPL, and on the same terms of employment. However, if it is not reasonably practicable for the organisation to allow you to return into the same position, the organisation may give the employee another suitable and appropriate job on terms and conditions that are not less favourable, but only in the following circumstances:
- a) If the SPL and any adoption or paternity leave taken adds up to more than 26 weeks in total (whether or not taken consecutively); or
 - b) If the employee took SPL consecutively with more than four weeks of ordinary parental leave.
- 13.4 If the employee wants to change hours or other working arrangements on return from SPL they should make a request as early as possible and in accordance with the Flexible Working Policy arrangements.

- 13.5 If the employee decides they do not want to return to work they should give notice of resignation in accordance with their contract.

14. Training Implications

Training will be provided to Managers, as required, on their duties in relation to this Policy.

15. Monitoring Compliance

Failure to comply with the contents of this policy may result in disciplinary action. Please refer to the Disciplinary Policy for further details. The effectiveness of this policy will be monitored through the HR Policy Group.

All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.

The Lead Director approves this document and any attached appendices. For operational policies this will be the Head of Service.

The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.

APPENDIX A – Statutory Adoption Leave and Pay Curtailment Notice

Statutory Adoption Leave and Pay Curtailment Notice			
Employees should use this form to bring their statutory adoption leave to an end where they are opting into the shared parental leave scheme. If the employee is receiving statutory adoption pay they should also use this form to end their statutory adoption pay so that they and/or their partner can claim shared parental pay.			
Name			
Job Title		Assignment Number	
Locality/Department		Work Base	
Line Manager			
<i>Delete as appropriate:</i>			
I would like my statutory adoption leave to end on: (leave curtailment date)			
I would like my statutory adoption pay to end on: (pay curtailment date)			
<i>Tick one of the following:</i>			
I am submitting a shared parental leave opt-in notice with this notice:			
My partner has submitted a shared parental leave opt-in notice to his/her employer and I have completed the necessary declarations on that notice.			
Guidance notes:			
<ol style="list-style-type: none"> 1. You must give this notice at least eight weeks in advance of the curtailment date(s). 2. You cannot curtail adoption leave less than one week before the end of the leave period, and you cannot curtail statutory adoption pay less than one week before the end of the pay period. 3. Statutory adoption pay can only be curtailed after a whole number of weeks. For example, if your pay period started on a Wednesday, the curtailment date must be a Tuesday. <p>For further information please see the Shared Parental Leave (adoption) Policy, or talk to the HR Department.</p>			
Authorisation			
Name (block capitals)			
Signed			
Date			

APPENDIX B – Shared Parental Leave and Pay Opt-in Form

Shared Parental Leave and Pay Opt-in Form			
Please note that this form needs to be returned to the HR department at least 8 weeks before you want your leave to start. All sections marked with an * must be completed			
Name			
Job Title		Assignment Number	
Locality/Department		Work Base	
Line Manager			

Section A: Basic information		
A1*	Partner's name	
A2*	Date notified of having been matched with the child	
A3*	Child's expected date of placement	
A4*	Child's actual date of placement. (If your child is yet to be placed with you please give the date as soon as you can after placement and before you start SPL)	
A5*	Partner's name	

Section B: Adoption leave and statutory adoption pay		
<p>Guidance notes. If you are taking, will take, or have already taken statutory adoption leave and/or pay, please give your adoption leave and statutory adoption pay dates below. If you are not returning to work before taking SPL you must also complete an adoption leave and adoption pay curtailment notice.</p> <p>If your partner is taking adoption leave and/or pay please give their dates. Your partner must give their employer notice to curtail their statutory adoption leave and/or pay. Adoption pay can only be curtailed after a whole number of weeks. For example, if the adoption pay period started on a Wednesday, it can only be curtailed on a Tuesday.</p>		
B1*	<i>Tick One Only</i>	
	I am taking or will take adoption leave*	
	My partner is taking or will take statutory adoption leave*	
	My partner is not entitled to statutory adoption leave but is receiving or will receive statutory adoption pay*	
B2*	Adoption leave start date	
B3*	Adoption leave end date	
B4*	Total adoption leave (weeks)	
B5*	Statutory adoption pay start date	
B6*	Statutory adoption pay end date	
B7*	Total statutory adoption pay (weeks)	

Section C: Shared parental leave		
<p>Guidance notes. The total shared parental leave (SPL) available is 52 weeks minus the number of weeks' adoption leave taken. If there is no adoption leave entitlement, it is 52 weeks minus the statutory adoption pay period (see section B). SPL must be taken in whole numbers of weeks.</p> <p>Your first period of shared parental leave cannot start until at least eight weeks after you submit this opt-in notice and a period of leave notice.</p>		
C1*	Total SPL available (whole weeks).	

C2*	Number of whole weeks' SPL intended to be taken by you.	
C3*	Number of whole weeks' SPL intended to be taken by your partner.	
C4*	Indication of dates you would like to take shared parental leave.	
C5*	The dates in C4 will be treated as non-binding until you give a period of leave notice. If you want to treat this notice as a period of leave notice to take SPL on the dates given in C4 tick here.	

Section D: Statutory shared parental pay

Guidance notes. The total statutory shared parental pay (ShPP) available is 39 weeks minus the number of weeks' statutory adoption pay paid (or to be paid) to you or your partner (see section B).

D1*	Total ShPP available (whole weeks).	
D2*	Number of whole weeks' ShPP intended to be taken by you.	
D3*	Number of whole weeks' ShPP intended to be taken by your partner.	
D4*	Indication of dates you would like to take ShPP.	
D5*	The dates in D4 will be treated as a non-binding until a notice to claim ShPP is given. If you want to treat this notice as a formal notice to claim ShPP on the dates given in D4 tick here.	

Section E: Employee's declaration

Guidance notes. "Child" means the child referred to in Section A.

"Partner" means spouse, civil partner, or other person living with you in an enduring family relationship, but not a sibling, parent, child, grandparent, grandchild, aunt, uncle, niece or nephew.

A child has been placed or will be placed with me for adoption and I am entitled to statutory adoption leave. I have submitted a curtailment of adoption leave notice (or will submit it before my partner takes SPL and at least eight weeks before the first date on which I intend to take SPL).*

or

My partner is entitled to statutory adoption leave because of the placement of a child with us/him/her* for adoption.*

(*delete as applicable.)

I had at least 26 weeks' continuous employment at the end of the week in which we were notified that we had been matched with the child, and I have remained continuously employed since then.

My normal weekly earnings in the eight-week period ending with that week were not less than the lower earnings limit set by the government. (*delete if not applicable*)

I expect to share the main responsibility for the care of the child with the person who has completed the declaration in Section F.

<p>I intend to care for the child during each week that I am on shared parental leave and receiving ShPP. I will immediately inform Human Resources if I cease to care for the child, or if I no longer satisfy the conditions for entitlement to shared parental leave or ShPP.</p> <p>The information I have given in this notice is accurate.</p>	
Name (Block Capitals)	
Signed	
Date	

<p>Section F: Declaration by person taking shared parental leave with employee</p> <p>Guidance notes. "The employee" and "the child" are the employee and child referred to in Section A. "Partner" means spouse, civil partner, or other person living with you in an enduring family relationship, but not a sibling, parent, child, grandparent, grandchild, aunt, uncle, niece or nephew.</p>	
Name	
Address	
National Insurance number	
You employer's name and address (if employed) or your business address (if self-employed).	
<p>I am (or was) entitled to statutory adoption leave and/or statutory adoption pay. I have curtailed my statutory adoption leave or pay, or will have done so by the time the employee starts parental leave. (<i>Delete if not applicable.</i>)</p> <p>The employee is my partner.</p> <p>I expect to share the main responsibility for the care of the child with the employee.</p> <p>I have worked in an employed or self-employed capacity in at least 26 of the 66 weeks immediately before the week we were notified that we had been matched with a child.</p> <p>My average weekly meet the Employment and Earnings Test, taking the 13 highest-earning weeks in the 66 week immediately before.</p> <p>I consent to the employee taking shared parental leave and claiming ShPP as set out in this notice and will immediately inform them if I cease to satisfy any of the conditions in this declaration.</p> <p>I consent to the information in this declaration being used for the purposes of administering shared parental leave and pay.</p>	
Name (Block Capitals)	
Signed	
Date	