

# Adoption, Maternity, Paternity & Shared Parental Leave Policy

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## **1. Purpose**

The aim of this policy is to detail the entitlements and responsibilities that apply to employees with new children.

If this policy and the law conflict, the law shall take precedence. If employees are in any doubt as to their rights should discuss matters with their Line Manager. Should this policy change because of amendments in the law, the changes will be notified to the employee via their Line Manager.

## **2. Roles and responsibilities**

Line Managers are responsible for:

- Ensuring applications for family leave and pay are managed in accordance with this policy which includes sending out appropriate letters at each stage of the process
- Ensuring risk assessments are undertaken and other relevant health and safety requirements are met
- Maintaining appropriate contact with the employee during their absence.

Employees are responsible for ensuring applications for family leave and pay are made in accordance with this policy.

Human Resources are responsible for providing advice under this policy, and ensuring that the policy is up-to-date and reflects changes in employment law and best practice.

HR/Payroll is responsible for receiving and processing applications for family pay and leave.

When managing an employee's Adoption/ Maternity/ Paternity/ Shared Parental leave and pay, 100Fold processes personal data collected in accordance with its data protection policy / policy on processing special categories of personal data. Data collected from the point at which an employee informs 100Fold that:

- They are pregnant
- Planning on adopting
- They are wishing to take paternity leave
- They are looking at taking shared parental leave

Data will be held securely and accessed by, and disclosed to, individuals only for the purposes of managing their leave and pay. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with our data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under 100Fold's disciplinary procedure.

## **3. Definitions**

**Additional Adoption Leave (AAL)** – This is the right to an additional period of leave of a further 26 weeks where ordinary adoption leave has been taken.

**Additional Maternity Leave (AML)** – this is the right to an additional period of maternity leave following the end of Ordinary Maternity Leave for a period of a further 26 weeks. There is no qualifying period of employment for AML. Part of AML is unpaid.

**Adopter** – Means a person who has been matched with the child for adoption. In the case of two people who have been matched jointly, this shall mean whichever of them elected to be the child's adopter and take adoption leave for the child.

**Child** – Means a person who is, or was when placed with an adopter for adoption, under the age of 18.

Compulsory Maternity Leave – this is a period of leave imposed by law on all female employees who are prevented from returning to work for a period of 2 weeks from the date of childbirth

Continuous Leave – a period of leave that is taken in one block e.g. 4 weeks' leave.

Curtail – where an eligible mother brings their maternity/adoption leave and, if appropriate, pay or allowance entitlement to an end early to create an entitlement to shared parental leave and/or pay. This is sometime referred to as reducing the maternity/adoption leave period.

Discontinuous Leave – a period of leave that is arranged around weeks where the employee will return to work e.g. an arrangement where an employee will work every other week for a period of three months.

Expected Week of Childbirth (EWC) – The week in which the childbirth is expected to occur. "Week" means the week beginning with midnight between Saturday and Sunday in which it is expected that the child will be born.

KIT day (Keeping in touch day) – the ability to undertake work or training during a period of adoption/maternity leave.

Match – when an adopter is approved to adopt a named child or children.

Maternity Allowance (MA) – Payments to be made by the DWP to female employees taking maternity leave who do not qualify for statutory maternity pay.

Ordinary Adoption Leave (OAL) – This is the right of male or female employees to take a period of 26 weeks leave provided they have worked for the employer for a continuous period of 26 weeks by the week in which an approved match is made, and they meet certain notification and other criteria.

Ordinary Maternity Leave (OML) - this is the right of all female employees to a period of 26 weeks maternity leave regardless of length of service but provided they comply with certain notification requirements. The allowances payable is Statutory Maternity Leave (SMP) or Maternity Allowance (MA) and the paid period extends into part of the additional maternity leave period

Ordinary Paternity Leave (OPL) – The entitlement to a single period of up to two weeks leave where employees have at least 26 weeks continual service with the employer, provided they satisfy certain criteria. The entitlement to leave is based on a relationship with the child's mother, so paternity and adoption leave also apply to partnerships of the same sex.

Partner – the child's biological father or the partner of the mother/adopter. This can be a spouse, civil partner; or a partner who is living in an enduring relationship with the mother and the child.

Relative – means the mother/adopter's father, mother, grandfather, grandmother, sister, brother, aunt or uncle.

Remuneration – Wages or salary.

Shared Parental Leave (SPL) – the right for eligible parents to share leave for the care of their child during the first year after birth or adoption. Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. If the mother or adopter reduces 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.

Statutory Adoption Pay (SAP) – Compulsory pay payable to all employees who have had a child placed with them for adoption, provided they satisfy certain criteria.

Statutory Maternity Pay (SMP) – Compulsory pay payable to all female employees taking maternity leave who have at least 26 weeks continual service with the employer, provided they satisfy certain criteria.

Statutory Shared Parental Pay (ShPP) – Employees who meet the eligibility criteria may be entitled to take up to 37 weeks ShPP (within the 39 weeks after the birth/placement of a child 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.

SPLIT day (Shared Parental Leave in Touch Day) – the ability to undertake work or training during a period of shared parental leave.

Surrogacy - The process of giving birth as a surrogate mother or of arranging such a birth. If you are a surrogate mother please see the maternity policy; if someone is having a surrogate baby for you please see adoption or paternity policy.

Unpaid Parental Leave: separate to SPL, entitles employees to take up to 18 weeks off work unpaid to look after a child's welfare (see the Special Leave Policy for further details).

#### **4. Adoption**

##### Entitlement to Adoption Leave

Statutory Adoption Leave (SAL) may be taken by an employee when a child is placed with them for adoption, if they meet the eligibility criteria set out below. SAL is made up of a 26-week ordinary adoption leave period (OAL) followed by a 26-week period of additional adoption leave (AAL), giving a total of up to 52 weeks.

It is up to the employee to determine how much of the 52-week adoption leave period they wish to take, and the employee has the right to return to work before the end of the 52-week period. The employee can elect to bring adoption leave to an end early and opt-in to a period of shared parental leave and pay instead.

To qualify for adoption, leave an employee must:

- Be newly matched with a child (up to the age of 18)
- Be approved for adoption by an approved adoption agency
- Have notified the agency that they agree to the child being placed with them
- Have notified their Line Manager of when they want to take their SAL within seven days of the date, they are notified that they've been matched with a child (for overseas adoption the notification should be within 28 days from receipt of official notification)
- Be able to provide documentary evidence of the placement in the form of a matching certificate, obtained from the adoption agency for UK adoptions, or appropriate official notification for overseas adoptions, including evidence of the date of the child's entry to the UK.

If the employee is part of a couple proposing to adopt a child jointly, only one of them may take statutory adoption leave, but the other may be entitled to take paternity leave and/or shared parental leave.

Intended parents in surrogacy and 'foster to adopt' arrangements will also qualify for adoption leave and pay. However, parents adopting stepchildren of a partner do not qualify for adoption leave, although they may qualify for unpaid parental leave,

If more than one child is being placed as part of the same arrangement, the employee is still only entitled to

one period of Statutory Adoption Leave.

The employee may choose to begin the adoption leave on the date on which the child starts living with them/enters the UK or a predetermined date which is no more than 14 days before the child starts living with them or in the case of overseas adoption no more than 28 days after the date on which the child enters the UK.

If, for some reason, the placement is not successful and ends after the adoption leave has begun, the employee will be allowed to continue the adoption leave for a maximum of eight weeks after the end of the week the placement ends, or until the end of the maximum leave period, whichever is the sooner.

If the employee starts the adoption leave before the child is placed, they need to be sure that the placement is going ahead. If it is delayed once the leave has started, the leave cannot be stopped and started again at a later date.

Prior to the date of the child's placement for adoption, the main adopter is entitled to take paid time off for up to five introductory adoption appointments (a maximum of 6.5 hours per appointment is allowed). The secondary adopter will be entitled to take unpaid time off for up to two appointments. There is no additional time off where more than one child is being adopted as part of the same arrangement. Any other time off, should be taken as annual leave (where applicable), time off in lieu or unpaid leave where agreed with the employee's Line Manager.

#### Adoption Pay

Where the employee meets the eligibility criteria Statutory Adoption Pay (SAP) is paid for the first 39 weeks. Qualifying employees will receive 90% of average earnings for the first six weeks followed by the statutory lower adoption rate for a further 33 weeks, or 90% of average earnings, whichever is the lower amount. To be entitled to SAP, an employee must have earned more than the lower earnings limit in the eight weeks prior to the notification of the placement and must have worked for 100Fold for at least 26 weeks by the week they are matched with the child, they must also provide the correct notice and provide proof of the adoption.

Statutory adoption pay shall be paid in the same manner and at the same time as the employee's wages or salary would normally be paid and is subject to tax and national insurance deductions.

For Salaried GPs to qualify for enhanced Adoption pay they must meet all the Statutory Adoption criteria and have 12 months service with 100Fold by the week they are matched with the child. They will need to return to work for a minimum of 3 months at the end of the Adoption Leave, if not, they will need to pay back any enhanced pay. Enhanced pay for Salaried GP's is:

- for the first 8 weeks of SAL the employee will receive full pay, inclusive of any SAP.
- for the next 14 weeks of SAL the employee will receive half of full pay plus any SAP
- for the next 17 weeks, the employee will receive any SAP entitlement to under the statutory scheme.
- for the final 13 weeks, the employee will receive no pay.

#### Notification Requirements

The employee must notify their Line Manager of the intention to take adoption leave within seven days of being notified of a match by an adoption agency. For overseas adoptions, the employee must notify their Line Manager within 28 days of receiving official notification. Where this is not practically possible, then notice should be given as soon as possible. All employees should provide 28 days' notice of the intention to start adoption leave and complete an Adoption Leave Application form.

The employee must provide the employer with the following details:

- That the employee intends to take adoption leave
- When the child is expected to be placed with them or the date on which the child enters the UK for overseas adoptions
- When the employee would like to begin their statutory adoption leave
- A declaration that they would like to receive Statutory Adoption Pay
- The matching certificate

Within 28 days of the receipt of the employee's notice, the employer will notify the employee of the date on which the additional adoption leave is due to end.

If an employee wishes to vary the date, they have chosen for taking adoption leave, they must give notice in writing to the employer of the variation, giving 28 days' notice unless this is not reasonably practical.

The employee must give the employer a further notice in writing of the date in which the child was placed and this should be done as soon as is reasonably practicable after the child's placement.

#### Contractual rights during Adoption Leave

All of the adoption leave will count as a period of continuous employment for length of service and all contractual benefits except remuneration will continue to apply as if the employee had not been absent.

Annual leave will continue to accrue during all of the adoption absence. On the employee's return from adoption leave, therefore these employees should discuss and plan with their Line Manager for taking their annual leave before and after their adoption leave period.

Employees who contribute to a pension scheme will continue to have contributions deducted from statutory pay at the usual rate. This period will count in full for pension purposes.

#### Contact during adoption leave

The Line Manager should make reasonable contact with the employee during their adoption leave. This contact can be by telephone, email or letter, or could involve the employee visiting the workplace.

The employee must be advised of any recruitment opportunities available. The Line Manager should ensure that the employee is made aware of any other information relating to the employee's job that they would normally be made aware of if they were at work.

Similarly the employee is entitled to make reasonable contact with their Line Manager during adoption leave.

An employee may, with the agreement of their Line Manager, undertake up to 10 days work during the adoption leave without bringing their adoption leave to an end or losing their entitlement to pay, these working days are known as 'Keeping in Touch Days'. Such days are different to the reasonable contact outlined above, as during Keeping in Touch Days the employee undertakes work, for which they are paid. The work the employee does on these days is a matter for agreement with the Line Manager.

Work undertaken during the adoption leave period may only take place by agreement between the employee and the Line Manager. The employee cannot be required to work during the adoption leave, nor is there a right to work, if the Line Manager does not agree.

The employee is entitled to be paid for the work and the rate of pay will be as per the contract of employment on Keeping in Touch days. If the employee only works part of the day, they will receive

payment appropriate to the time actually worked. If they are receiving SAP during a week in which the work is done, this will count towards the contractual pay they would receive for the work undertaken. For example, if the normal rate of pay for a working day is £60, and the SAP for that day is £30, should the employee work the whole day as a 'Keeping in Touch Day', they will receive an additional payment of £30. The Line Manager should notify payroll through a KIT day form.

### Returning to Work

If the employee is taking their full adoption leave entitlement or is not changing the date which was recorded on the Adoption Leave Application form, there is no need to formally notify the Line Manager of the return-to-work date.

If the employee intends to return to work earlier than the last day of entitlement, they must provide eight weeks' notice in writing of the intended date of return. This also applies if the adoption placement is disrupted, and the employee is returning to work earlier than expected.

If the appropriate notice to return is not provided, the Line Manager may delay the return for up to 8 weeks, provided this does not extend beyond the end of the maximum leave entitlement.

Employees may be able to extend their adoption leave by combining it with a period of parental leave, where the qualifying criteria are met.

The employee may also be eligible to request to work flexibly on return from adoption leave by applying in accordance with the Flexible Working policy.

The employee has the right to return to the same job after the period of ordinary adoption leave. Following additional adoption leave, the employee is also entitled to return to the same job unless there is a good reason why they cannot do so, in which case they must be offered a similar job on terms and conditions no less favourable than their original job.

If the employee decides not to return to work after adoption leave, they must provide their resignation in writing to their Line Manager.

### Redundancy during Adoption Leave

An employee whose job becomes redundant while they are on adoption leave (whether it is ordinary adoption leave or additional adoption leave) is entitled to be offered, before the end of the existing contract, a suitable alternative vacancy where one exists. The new contract of employment must take effect immediately on the ending of the employee's employment under the previous contract.

It is unlawful for employees to be selected for redundancy on grounds relating to adoption leave. It is also important to ensure that any employee who is on adoption leave is fully consulted about any redundancy proposals in the same way as for other staff who are working normally. If a redundancy situation is anticipated, it is important that advice is taken from the HR at an early stage.

### Dismissal during Adoption Leave

Where an employee is dismissed after an ordinary or additional adoption leave period has begun, but before the time when that period would end, the period ends at the time of dismissal, however, their entitlement to statutory adoption pay continues until the end of the 39-week period or until they start working for another employer, whichever is earlier.

Employees on adoption leave, or contemplating taking adoption leave, are protected by law against dismissal for reasons relating to adoption leave.

## **5. Maternity**

### Entitlement to Maternity Leave and Maternity Pay

All pregnant employees who have a live or still birth if the still birth is after 24 weeks of pregnancy are entitled to 52 weeks Maternity Leave (26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave). This right applies to all female employees regardless of length of service or the number of hours worked per week.

It is up to the employee to determine how much of the 52-week maternity leave period they wish to take, and the employee has the right to return to work before the end of the 52 week period. The employee can elect to bring maternity leave to an end early and opt-in to a period of shared parental leave and pay instead (see section 7 for further details).

By law, the employee must take a minimum of two weeks maternity leave immediately following the birth, known as compulsory maternity leave.

All pregnant employees should notify their Line Manager as soon as reasonably practical of their pregnancy.

To qualify for maternity leave, the employee must advise their Line Manager in writing that they are pregnant and the date they would like to start their maternity leave, by the 15<sup>th</sup> week before the expected week of childbirth (EWC). If there are reasons why this is not possible, notice should be provided as soon as is reasonably practical. This notice should then be provided to Payroll.

Employees should complete the Maternity Leave Application Form and provide this with their MAT B1 form. This is normally available from a doctor or midwife from the 20<sup>th</sup> week before the expected week of childbirth. No statutory maternity pay will be payable without this certificate.

The employee can choose when to commence maternity leave, but no earlier than 11 weeks before the EWC. The employee may continue working up to the date of childbirth provided they are fit to do so. If the employee wishes to work up to two weeks passed their EWC date, a note from their doctor is required confirming that they are fit to work.

If the employee gives birth prior to the commencement of their maternity leave, the maternity leave and maternity pay period will commence on the day following the baby's birth. The employee should notify the employer that they have given birth and of the date on which the birth occurred as soon as is reasonably practical after the birth. The employee will need to provide 100Fold with a MATB1 with Part b completed or a full birth certificate to confirm the date of birth. Where the baby is born alive prematurely the employee will be entitled to the same entitlement as if the baby was born at full term. If the baby is born before the 11<sup>th</sup> week before the EWC and the baby is in hospital then the employee can split their maternity leave entitlement, taking a minimum period of 2 weeks leave immediately after childbirth and the rest of their leave following their baby's discharge from hospital.

The employer will notify the employee of the end date for maternity leave within 28 days of receiving the written notification of the start date (i.e. receipt of the completed Maternity Leave Application Form). The employee can amend the date on which the maternity leave will start by providing written notification to their Line Manager and HR/Payroll at least 28 days prior to the revised date of commencement.

### Maternity Pay

#### 100Fold Enhanced Maternity Pay

Pregnant employees will be eligible for 100Fold Enhanced Maternity Pay if they have 1 years service, 26 weeks before the EWC.



Enhanced Maternity Pay is paid for 39 weeks. Qualifying employees will receive:

- 100% of average earnings for the first six weeks.
- followed by 12 weeks at 50% of average earnings plus SMP,
- followed by lower rate SMP for a further 21 weeks, or 90% of average earnings, whichever is the lower.

The remaining 13 weeks of Maternity Leave are unpaid. For details of lower earnings limit, statutory maternity pay, and maternity allowance please see Gov.uk – Statutory Leave and Time Off

#### Statutory Maternity Pay

Pregnant employees will be eligible for Statutory Maternity Pay (SMP) if they have at least 26 weeks continuous service by the end of the 15 week before the EWC and they have average weekly earnings in the eight weeks up to and including the qualifying week of at least the lower earnings limit for Class 1 National Insurance (Please refer to HMRC for details).

Statutory Maternity Pay is paid for 39 weeks. Qualifying employees will receive:

- 90% of average earnings for the first six weeks.
- followed by 33 weeks at the lower rate SMP, or 90% of average earnings, whichever is the lower.

The remaining 13 weeks of Maternity Leave are unpaid. For details of lower earnings limit, statutory maternity pay, and maternity allowance please see Gov.uk – Statutory Leave and Time Off

SMP is paid by the same method and at the same time as the employee's wages would normally be paid. SMP is also subject to Tax, National Insurance deductions and where appropriate pension contributions.

Employees not eligible for Statutory Maternity Pay (SMP) may be eligible for Maternity Allowance (MA). If this is the case the employee will receive a SMP1 form to confirm that they are not eligible to SMP for them to put in a claim for MA. This is based on their recent employment and earnings record and is a state benefit paid for 39 weeks.

#### Enhanced Maternity pay for Salaried GPs

Salaried GP enhanced maternity pay is subject to a 12 month qualifying period. So, if they have 12 months service 11 weeks before the EWC date, they will qualify for enhanced pay.

The enhanced maternity pay scale is:

- 100% of average earnings for the first eight weeks. Full pay is inclusive of any SMP.
- Followed by 14 weeks at 50% of full pay plus any SMP.
- followed by lower rate SMP for a further 17 weeks, or 90% of average earnings, whichever is the lower amount.

The remaining 13 weeks of Maternity Leave are unpaid

If the Salaried GP's baby is born before the 11th week before EWC and they were not off with pregnancy related illness, then the maternity leave will start the day after birth, if they were off with pregnancy related illness then the maternity leave will start the beginning of that week; in either case the mother can take 2 weeks statutory leave and then if the baby(s) are still in hospital she can pause her maternity leave until after the baby(s) have been discharged.

If the Salary GP does not return to work for 3 months following the maternity leave, they will need to pay back the enhanced maternity pay, they can indicate that they are unlikely to RTW and therefore only SMP will be paid to them.

#### Time off for Ante Natal Care

Pregnant employees are entitled to a reasonable amount of paid time off for antenatal care, irrespective of length of service.

Pregnant employees should provide as much notice of appointments as possible and should be prepared to

show the Line Manager an appointment card on request.

Pregnant Employees will be paid their normal hourly rate of pay during the time of antenatal care as long as these occur during the employee's normal working hours.

### Sickness Absence

If an employee is absent from work due to an illness unrelated to their pregnancy, they must take sick leave and receive sick pay until their maternity leave period begins or the date of the baby's birth, whichever is earlier.

If the illness is pregnancy related and extends beyond the beginning of the 4 weeks before the EWC, maternity leave will automatically start on the first day of absence for the week beginning the 4 week before EWC, regardless of the length of the absence.

A pregnant female employee is disqualified from receiving statutory sick pay throughout the whole of the employee's 26-week period of entitlement of statutory maternity pay or maternity allowance.

### Risk Assessments

The Line Manager should undertake a risk assessment of the pregnant employee's workplace, workstation and workload. Where, through the risk assessment, an unacceptable risk is identified, the Line Manager should make amendments to the work/ working conditions to reduce the risk. Regular re-assessments should be undertaken to assess whether the adjustment should continue.

If the Line Manager is not able to find suitable alternative work, the employee should be suspended on full pay until the risks to the employee or the employee's baby have passed, or suitable work becomes available. These provisions do not apply where a doctor has signed the employee off sick, but only where the employee is able to come to work but unable to carry out the particular job duties.

Where an employee is suspended, they will retain their right to statutory maternity pay (if eligible) and the right to return to work after maternity leave.

### Miscarriage and Still Birth

The maternity provisions do not apply to an employee who suffers a miscarriage before the 24<sup>th</sup> week of pregnancy. The employee will be entitled to take sick leave in accordance with the sickness absence scheme.

Employees who have a still birth after the 24<sup>th</sup> week of pregnancy will be entitled to the maternity scheme in full.

### Contractual Rights during Maternity Leave

All maternity leave counts as a period of continuous employment for length of service and all contractual benefits. Employees are therefore entitled to all the benefits due to an employee, apart from remuneration.

Annual leave will continue to accrue during all of the maternity absence. On the employee's return from maternity leave, employees should discuss and plan with their Line Manager taking their annual leave before and after their maternity leave period.

Employees who contribute to a pension scheme will continue to have contributions deducted from statutory and occupational maternity pay at the usual rate based on actual earnings during maternity leave. This period will count in full for pension purposes.

### Contact during Maternity leave

The Line Manager should make reasonable contact with the employee during their maternity leave. This contact can be by telephone, email or letter, or could involve the employee visiting the workplace.

The employee must be advised of any recruitment opportunities available. The Line Manager should ensure that the employee is made aware of any other information relating to their job that they would normally be made aware of if they were at work.

Similarly, the employee is entitled to make reasonable contact with their Line Manager during maternity leave.

An employee may, with the agreement of their Line Manager, undertake up to 10 days work during the maternity leave. These working days, known as 'Keeping in Touch Days', are intended to facilitate a smooth return to work for women returning from maternity leave. Such days are different to the reasonable contact outlined above, as during Keeping in Touch Days the employee undertakes work, for which they are paid.

The work the employee does on these days is a matter for agreement with the Line Manager.

Work undertaken during the maternity leave period may only take place by agreement between the employee and the Line Manager. The employee cannot be required to work during the maternity leave, nor does the employee have a right to work, if the Line Manager does not agree.

The employee can undertake the ten 'Keeping in Touch Days' at any point during the 52-week maternity leave period, except during the first two weeks after the baby is born. The employee is entitled to be paid for the work and the rate of pay will be as per the contract of employment. If the employee only works part of the day, the employee will receive payment appropriate to the time actually worked. If the employee is receiving SMP during a week in which the work is done, this will count towards the contractual pay they would receive for the work undertaken. For example, if the normal rate of pay for a working day is £60, and the SMP for that day is £30, should the employee work the whole day as a 'Keeping in Touch Day', they will receive an additional payment of £30. The Line Manager should notify HR/Payroll through a Keeping in Touch Day Form.

### Returning to Work

If the employee intends to return to work on the first working day after the end of their full maternity leave entitlement (i.e. at the end of the Additional Maternity Leave period; unless a different date is stated on the Maternity Leave Application Form) they do not need to provide any notice to their Line Manager. If the employee decides to return to work before the end of the full maternity leave entitlement (or a different date to what is recorded on the Maternity Leave Application form), they must notify their Line Manager in writing, giving at least 21 days' notice of the date the employee intends to return. If this notice is not given, the Line Manager has the right to postpone the return until the end of the 21-day period, as long as this postponement does not extend beyond the end of the full maternity entitlement.

If the employee decides not to return to work, they should provide notice of their resignation in writing. The final day is normally the date stated in their letter and they would not be expected to return to work in order to work the usual period of notice.

If the employee is returning to work, they will be entitled to return to the same job after the period of ordinary maternity leave. Following additional maternity leave, the employee is also entitled to return to the same job unless there is a good reason why they cannot do so (such as a redundancy situation), in which case they must be offered a similar job on terms and conditions no less favourable than their original job.

An employee who wishes to apply for flexible working arrangements following their return from maternity leave should apply in accordance with the Flexible Working policy.

### Unfair Dismissal and Redundancy

Pregnant women are protected by law against dismissal for reasons relating to their pregnancy. It is also unlawful for women to be selected for redundancy on grounds relating to pregnancy, childbirth or taking maternity leave.

Where it is not practicable by reason of redundancy for the employee to return to work in their job, the employee is entitled to be offered a suitable alternative vacancy where one exists and their terms and conditions are not substantially less favourable to the employee than if they had been able to return to the job in which they were originally employed.

If a restructuring exercise takes place while an employee is on maternity leave, or if there is the possibility of a redundancy situation, the Line Manager must ensure the employee is consulted and kept informed of the process. The Line Manager must seek advice from HR as early in the process as possible.

#### Fixed Term Contracts

Where an employee is on a fixed term contract, maternity rights only remain for as long as they remain an employee. If the contract is due to terminate during the maternity leave, this will end the maternity leave as well as the employment with 100Fold. However, if the employee qualifies for Statutory Maternity Pay, this will continue until the full entitlement has been paid.

If the contract was due to expire at some later date, the employee should return to work following the maternity leave and complete the intended duration of the fixed term contract.

Non-renewal of a fixed term contract is a dismissal in law, and therefore it is unlawful for a fixed term contract not to be renewed for a reason connected with the maternity leave. Line Managers will discuss this with HR.

## **6. Paternity Leave**

### Entitlement to Ordinary Paternity Leave and Pay

To qualify for Ordinary Paternity Leave (OPL) they must be taking the time off to support the mother or carer for the baby and intend to be fully involved in their upbringing. The qualifying period is 26 weeks by either; the 15<sup>th</sup> week before the expected week of childbirth, or by the week in which the employee is notified they are matched with their child. The employee must be the baby's biological father or the partner/husband of the mother or the child's adopter or the partner/husband of the child's adopter.

The entitlement is for a single period of one or two week's paternity leave. The time off should be taken at, or around, the time of the birth or the placement, but must end within 56 days of the baby being born. A week is based on your usual working pattern.

The employee must advise their Line Manager of their intention to take paternity leave by the end of the 15<sup>th</sup> week before the baby is expected. They must advise their Line Manager of the start date of leave, the week the baby is expected, and the duration of leave to be taken. It is recognised the actual date of leave may change, where the actual date of birth changes. In cases of adoption notice must be given to the employer by the employee no more than 7 days after the date on which the adopter is notified of having been matched with the child, or as soon as practicable thereafter.

Employees will receive an enhanced entitlement of a weekly rate of 100% of their average weekly earnings, followed by one week at SSP (or 90% of weekly rate, whichever is the lower)

For Salaried GPs with a qualifying service of 12 months or more, before the EWC date, will qualify for 2 weeks full pay.

### Time off for Ante Natal Care

Expectant fathers or partners of pregnant woman have the right to take unpaid time off during working hours to accompany their pregnant partner to antenatal appointments on up to two occasions for a maximum of 6.5 hours each time.

Fathers and partners include:

- the baby's father.
- the expectant mother's spouse, their civil partner, or partner (of either sex) in an enduring relationship; or
- intended parents of a child in a surrogacy arrangement - if they expect to be entitled to and intend to apply for a parental order in respect of that child.

This right applies to expectant fathers/partners irrespective of their length of service. This right applies to appointments made on the advice of a registered medical practitioner, registered midwife or registered health visitor.

Where the father/partner requests more than two appointments or more than 6.5 hours each time it is down to the Line Manager's discretion whether they wish to approve the additional time.

Fathers/partners should provide as much notice of the appointment as possible and may be asked to provide a declaration stating:

- that the employee has a qualifying relationship with a pregnant woman or the expected child;
- that the employee's purpose in taking time off is to accompany a pregnant woman to an ante-natal appointment;
- that the appointment in question is made on the advice of a registered medical practitioner, registered midwife or registered nurse; and
- the date and time of the appointment.

Fathers/partners unpaid time off should be recorded on the timesheets and HR/payroll will make the appropriate amendments to pay.

#### Rights during and after paternity leave

Employees who qualify for paternity leave are entitled to return to the same job, the same terms and conditions of employment and not to be subjected to a disadvantage, unfair treatment or dismissal as a result of taking paternity leave.

Employees have a right to unpaid parental leave (see Special Leave Policy) and to request flexible working arrangements in accordance with the Flexible Working Policy. Employees may also be entitled to Shared Parental Leave and Shared Parental Pay where the mother/main adopter agrees to curtail their leave.

### **7. Shared Parental Leave**

#### Eligibility to Shared Parental Leave (SPL)

Shared Parental Leave enables eligible parents of babies due, or children placed for adoption, on or after 5 April 2015 to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child.

All eligible employees have a statutory right to take Shared Parental Leave (SPL). There may also be an entitlement to Shared Parental Pay (ShPP).

To qualify for SPL a mother/main adopter must:

- have a partner (it can only be shared with one person)
- be entitled to either maternity/adoption leave or to statutory maternity/ adoption pay or maternity

allowance

- have curtailed, or given notice to reduce, their maternity/adoption leave, or their pay/allowance (if not eligible for maternity/adoption leave).

A parent intending to take SPL must:

- be an employee
- share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption
- have properly notified their employer of their entitlement and have provided the necessary declarations and evidence.

In addition, a parent wanting to take SPL is required to satisfy the 'continuity of employment test' i.e. the individual has worked for us for at least 26 weeks at the end of the 15th week before the child's expected due date/matching date and is still employed the start of each leave period; and their partner must meet the 'employment and earnings test' i.e. in the 66 weeks leading up to the baby's due date/matching date, the person has worked for at least 26 weeks and earned an average of at least £390 in total across 13 weeks.

Sometimes only one parent will be eligible for SPL. For example, a self-employed parent will not be entitled to SPL themselves, but they may still pass the employment and earnings test so their partner, if they are an employee, may still qualify.

#### 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/main 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 date. The mother/main adopter must give their employer eight weeks' notice to end their entitlement to end their maternity/adoption leave early. This notice can be given before or after the child's birth/placement. If it is given after the birth/placement the notice is binding. If notice is given before the birth/placement they are able to revoke the notice up to six weeks after the birth/placement.

SPL can commence as follows:

- The mother can take SPL after they have taken the legally required two weeks of maternity leave immediately following the birth of the child
- The main 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 they cannot take paternity leave or pay once they have taken SPL or ShPP.

Where a mother/ main adopter gives binding 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 (see "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave" below).

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.

#### Notification Requirements

An employee entitled and intending to take SPL must give their Line Manager notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL. An employee can make up to three notifications for a period of SPL in the 50-week period.

The employee must give written notification to their Line Manager of their entitlement to SPL and ShPP, including:

- Their partner's name.
- Maternity/adoption leave or pay start and end dates.
- That they satisfy the eligibility criteria.
- The total amount of SPL and ShPP available and how much they and their partner intend to take.
- That they are sharing childcare responsibility with their partner.
- The date on which the child is expected to be born or 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 or the date of placement for adoption;
- A non-binding indication of when the employee expects to take the leave;
- Declare that the information they have given is accurate;
- If they are not the mother/main adopter they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter; and
- That should they cease to be eligible they will immediately inform 100Fold.

It must also include a signed declaration from the partner stating:

- They are the father, mother of the child or partner of the mother of the child their name,
- Address and National Insurance number.
- That they satisfy the 'employment and earnings test' 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 agree to the employee taking the amount of SPL and ShPP (as applicable).
- That they consent to the amount of SPL that the employee intends to take.
- That they consent to 100Fold processing the information contained in the declaration form; and (in the case where the partner is the mother/ main adopter), that they will immediately inform their partner should they cease to satisfy the eligibility conditions.
- (if the mother) they are entitled to statutory maternity leave, statutory maternity pay or
- maternity allowance and that they have given notice to end that leave and pay/allowance
- That at the time of the birth or placement they shared the responsibility for the care of the child with the employee seeking to take SPL

#### Requesting further evidence of eligibility

100Fold 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 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.

#### Discussions regarding Shared Parental Leave

An employee considering taking SPL is encouraged arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and enable 100Fold to provide appropriate support. The Line Manager may wish to discuss how they expect to use their SPL entitlement. Where a notice is submitted for a single period of continuous leave, or where a request is for discontinuous leave, a meeting may not be necessary.

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, it may focus on how the leave proposal could be agreed, or whether a modified arrangement would be agreeable, or what the outcome may be if no agreement is reached.

Qualifying employees have the legal right to choose to take SPL, however 100Fold can refuse to agree a request for discontinuous leave.

#### Booking Shared Parental Leave

In addition to notifying the employer of entitlement to SPL/ShPP, an employee must also give notice to take the leave, a copy should be provided to their Line Manager. 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 up to 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.

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 employer has been given at least eight weeks' notice.

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

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, 100Fold 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 100Fold.



100Fold 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.

When considering request for discontinuous leave 100Fold will take the following factors into account:

- The impact the employee's absence will have on 100Fold
- How this impact can be reduced
- Whether an alternative leave pattern would cause less disruption
- How the role can be backfilled to maintain business continuity

#### Responding to a Shared Parental Leave notification

100Fold will respond to the employee's leave booking no later than the 14th day after the leave request was made. The request may be granted in full or in part: for example, 100Fold may propose a modified version of the request.

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 100Fold 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.

#### Variations to arranged Shared Parental Leave

The employee can vary or cancel an agreed and booked period of SPL, if they advise 100Fold 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.

#### Statutory Shared Parental Pay (ShPP)

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 an average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child's expected due date/matching date which 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 100Fold 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 100Fold 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.

#### Terms and conditions during Shared Parental Leave

During the period of SPL, the employee's contract of employment continues in force, and they will receive all their contractual benefits, except for salary. Contractual annual leave entitlement will continue to accrue. Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL.

#### Annual Leave during Shared Parental Leave

Annual leave will continue to accrue during periods of Shared Parental Leave. Therefore, employees should discuss and plan with their Line Manager taking their annual leave before and after their SPL period.

#### Shared Parental Leave in Touch days (SPLIT)

An employee can agree to work (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. Any work conducted on a day or part of a day shall constitute a day's work for these purposes.

100Fold has no right to require the employee to carry out any work and is under no obligation to offer the employee any work, during the employee's SPL. Any work undertaken is a matter for agreement between 100Fold and the employee. An employee taking a SPLIT day will receive pay for any hours worked. If the employee only works part of the day, they will receive payment appropriate to the time actually worked. If they are receiving ShPP during a week in which the work is done, this will count towards the contractual pay they would receive for the work undertaken. For example, if the normal rate of pay for a working day is £60, and the ShPP for those days is £30, should the employee work the whole day as a 'SPLIT Day', they will receive an additional payment of £30. The Line Manager should notify payroll to make the additional payment.

#### Returning to work after Shared Parental Leave

The employee will have been informed in writing by 100Fold of the end date of SPL. The employee is

expected to return on the first working day after this date unless they notify 100Fold otherwise.

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 100Fold at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications.

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

#### **8. Data Protection**

100FOLD will treat personal data collected during this process in accordance with its data protection policy or policy on processing special categories of personal data. Information about how an employee's data is used and the basis for processing their data is provided in 100Fold's employee privacy notice.

#### **9. Review**

This procedure will be reviewed to respond to any changes in the employment legislation, and at least every three years.

