

## **Human Resources Policy Review**

### **1. INTRODUCTION**

- 1.1 The purpose of this report is to present the Committee with a copy of the proposed Sexual Harassment policy attached as **Appendix 1** to this report and provide an update on the wider annual HR policy review.

### **2. BACKGROUND**

- 2.1 The organisational HR policies have been reviewed by Jenny Simpson, the partnership's HR adviser. HR support services are provided by Falkirk Council through our existing service level agreement. This agreement will be subject to review before May 2026.

### **3. SEXUAL HARRASSMENT POLICY**

- 3.1 The Worker Protection (Amendment of Equality Act 2010) Act 2023, places a legal duty on employers to proactively take reasonable steps to prevent sexual harassment in the workplace.
- 3.2 The Act sets out new responsibilities for employers. This means employers must take preventative measures to protect employees from harassment in the workplace by colleagues and also third parties such as clients and customers.
- 3.3 It also places enhanced accountability on employers as tribunals can increase compensation for affected individuals by up to 25% if a breach is found.
- 3.4 The policy sets out SEStran's commitment to a working environment that is free from sexual harassment. It includes a definition of sexual harassment, including examples of behaviours that may constitute sexual harassment. The policy sets out how an employee can report sexual harassment and how such a report would be handled.
- 3.5 **Equal Opportunities & Dignity at Work Policy** – a minor change has been made to reference the Sexual Harassment Policy.

### **4. HR POLICY CHANGES**

- 4.1 A review of SEStran's policies was carried out and the following policies were identified as requiring revision.
- Flexible Working Policy
  - Family Leave Policy
  - Recruitment Policy

The following is a summary of the changes made to those policies:

4.1.1 **Flexible Working Policy**

Changes have been made in line with the Flexible Working Bill. These include changes to timescales relating to the process and eligibility for applying for flexible working.

Guidance has also been added on making a reasonable adjustment request for employees with disabilities.

4.1.2 **Family Leave Policy**

Changes have been made in line with legislation. These include changes to maternity and adoption

4.1.3 **Recruitment Policy**

Updated guidance is provided on eligibility to work in the UK checks, including changes in how biometric residence permits are treated.

**5. FUTURE UPDATES**

- 5.1 Members should note that the Anti-Bribery policy and procedures will be reviewed in the near future and any proposed amendments will be subject of a future report to the Committee.

**6. RECOMMENDATIONS**

It is recommended that the Performance and Audit Committee:

- 6.1 Approves the Sexual Harassment Policy for implementation
- 6.2 Approves the amendments made to the Flexible Working Policy for implementation;
- 6.3 Approves the amendments made to the Family Leave Policy for implementation;
- 6.4 Approves the amendments made to the Recruitment Policy for implementation;
- 6.5 Notes that the Anti-Bribery Policy and Procedures will be subject to a review and any amendments will be brought to this committee for approval.

Angela Chambers  
**Business Manager**  
August 2025

**Appendices:**

- 1 Sexual Harassment Policy
- 2 Flexible Working Policy
- 3 Family Leave Policy
- 4 Recruitment Policy

Policy Implications	As outlined in the report
Financial Implications	None
Equalities Implications	None
Climate Change Implications	None



## SEXUAL HARASSMENT POLICY

### DOCUMENT VERSION CONTROL

Date	Author	Version	Status	Reason for Change
September 2025	SEStran	1.0	FINAL	Policy Adopted

## INTRODUCTION

SEStran is committed to a working environment free from sexual harassment and where everyone is treated with dignity and respect. We will not tolerate sexual harassment. The law requires employers to prevent sexual harassment of their workers. We assess the risks of sexual harassment and take steps to manage risks.

## DEFINITION

Sexual harassment is where someone is subjected to unwanted conduct of a sexual nature which has the purpose or effect of violating their dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Sexual harassment can also occur if someone is treated less favourably because they reject or submit to harassment of a sexual nature.

Sexual harassment can occur:

- **Inside and outside the workplace.** This can include business trips and work-related social events.
- **In person (face-to-face) or via other means.** This includes via email, text or social media and whether it is via our IT systems or equipment or otherwise.
- **During and outside working hours.**

Sexual harassment may be carried out:

- **By someone working for us.** This includes employees, consultants, contractors, casual workers and agency workers.
- **By third parties.** This includes customers, service users, suppliers and visitors to our premises. With a view to preventing sexual harassment by third parties, we will for example, make clear to suppliers that we will not tolerate sexual harassment.
- **Regardless of the gender of the victim or harasser.** A harasser can be the same gender as the victim or a different gender.

A one-off incident can amount to sexual harassment. It does not need to be directed at the alleged victim. It can, for example, be witnessed or overheard. Conduct can still be 'unwanted' if it has been accepted in the past, is acceptable to others, or is common in the working environment.

Sexual harassment can occur if a person:

- intends to cause offence; **or**
- does not intend to cause offence, but this is the **effect** of their conduct – in these cases, in deciding whether there has been sexual harassment, we will consider the alleged victim's perception; whether it is reasonable for the conduct to have the alleged effect; and any other relevant circumstances.

## Examples

If it meets the definition above, sexual harassment can include:

- **Unwanted physical contact**, such as patting, pinching, hugging, inappropriate touching and sexual assault.
- **Verbal conduct**, including jokes or 'banter' of a sexual nature (even if not directed at a particular individual); sexual advances; promises in return for sexual favours; spreading sexual rumours.
- **Non-verbal conduct**, including sending emails or texts with material of a sexual nature; posting something of a sexual nature on social media; displaying sexually explicit or suggestive images in the workplace (including computers, desks, mobile phones); sexually-suggestive gestures; whistling / leering; basing a decision about a person (e.g. turning someone down for a promotion) on the fact that they rejected or submitted to sexual advances.

These are examples and other conduct might amount to sexual harassment.

## LEGAL LIABILITY AND DISCIPLINARY OFFENCE

Sexual harassment (including by third parties) can result in legal liability for SEStran and the perpetrator.

Sexual harassment by employees can amount to misconduct or gross misconduct and in serious cases may lead to dismissal without notice. This includes sexual harassment:

- at work and work-related events
- against a colleague or other person connected to us outside of work (for example, via social media)
- against anyone outside of work if relevant to the employee's suitability for their role.

Aggravating factors, such as abuse of power over a more junior colleague, may be relevant in deciding what disciplinary action to take.

## REPORTING SEXUAL HARASSMENT

Employees are encouraged to report incidents of sexual harassment, including by third parties (such as contractors). Employees making such reports will be protected from victimisation as explained below. Employees can make an anonymous complaint via SEStran's HR Adviser at by emailing [hrhelpdesk@falkirk.gov.uk](mailto:hrhelpdesk@falkirk.gov.uk). If such a complaint is made, this will be directed to the Partnership Director, if appropriate, or to the Chairperson of the Board who will be advised on appropriate steps to be taken.

### Informal steps

An employee may feel able to tell an alleged harasser that their behavior is not welcome

and that it offends them or makes them uncomfortable. Whether this is appropriate will depend on the circumstances, for example, the nature of the sexual harassment and individuals involved. Employees can use the other reporting options (anonymous reporting or a formal complaint) without first taking informal steps or after they have taken informal steps.

If an employee feels that a matter can be dealt with informally but does not want to speak directly to the individual themselves, they can contact their line manager, the Business Manager or the Partnership Director instead.

If management become aware of an allegation informally, they may still decide that a formal investigation is appropriate.

### **Formal complaint**

If an employee considers that they have been subjected to sexual harassment, they can make a formal complaint in writing:

- In line with the Grievance Procedure.
- The complaint should be sent to the employee's line manager, the Business Manager or the Partnership Director. If none of these options are suitable, it can be sent to SEStran's Human Resources Adviser at [hrhelpdesk@falkirk.gov.uk](mailto:hrhelpdesk@falkirk.gov.uk).

The complaint should include as much information as possible, for example: the name of the alleged harasser; nature of the harassment; where and when it took place; any witnesses; any action taken so far.

Non-employees can submit a complaint to the Business Manager or Partnership Director. They will determine the appropriate action in consultation with SEStran's Human Resources Adviser as required.

### **Other policies**

SEStran's Equal Opportunities and Dignity at Work Policy may also be relevant to a sexual harassment complaint. [SEStran Equal Opportunities and Dignity at Work Policy](#)

### **Criminal allegations**

It is open to an employee who has been a victim of physical violence, or any other crime, to contact the police at any time.

### **Sexual harassment of someone else**

An employee may witness or become aware of sexual harassment or victimisation of someone else. This includes sexual harassment of (and by) colleagues, other workers, suppliers and visitors. Employees are encouraged to act in this situation. What is appropriate will depend on the circumstances but might include:

- Intervening if the employee feels able to do so
- Supporting the victim to report it
- Reporting it themselves.
- Co-operating in any investigation.

Any employee reporting sexual harassment of someone else will be protected from victimisation as explained below.

## **INVESTIGATION/ POTENTIAL OUTCOMES**

Formal complaints or sexual harassment will be investigated. An investigation may also be undertaken into some cases, where SEStran become aware of sexual harassment allegations informally.

### **Complaints against SEStran employees**

These will be investigated by an appropriate manager in line with the Disciplinary Policy. Any action taken will be in line with that policy. Sexual harassment can amount to misconduct or gross misconduct, and in serious cases may lead to dismissal without notice.

### **Complaints against individuals who are not SEStran employees**

The appropriate approach will be determined in consultation with SEStran's Human Resources Adviser. This may include investigation.

Potential outcomes may include for example: for service users - warning them about their behaviour or banning them from our premises; or for contractors - notifying their employer or ceasing to work with them.

### **False information**

Anyone making a complaint or giving evidence in support of it will not be subjected to disciplinary action or another detriment simply because a complaint is not upheld. However, disciplinary action may be taken if an employee:

- provides false information as part of an investigation under this policy; **and**
- they do so in bad faith i.e. they know the information is false.

In serious cases, this may amount to gross misconduct leading to dismissal without notice.

### **Communicating the outcome of the complaint**

After the steps above, the decision maker will:

- Arrange a meeting with the complainant to inform them of their decision in relation to the complaint and reasons for this.
- Write to the complainant to confirm that decision and the reasons for it.
- Confirm if action will be taken. In some cases, the complainant may be informed of the nature of any action taken to address their specific complaint and any measures put in place to prevent a similar event happening again. This will not always be possible or appropriate (eg to maintain confidentiality linked to a disciplinary process).

An employee who is dissatisfied with the outcome of their complaint may submit an appeal within five working days. The appeal process in the Grievance Policy will apply.



## **Ongoing working relationships**

Whatever the outcome, SEStran will consider how best to manage ongoing working relationships. This could include, for example, mediation, counselling or training.

## **Other steps**

If sexual harassment or victimisation occurs, SEStran will consider what steps can be taken to prevent it happening again. These may include, for example, updating policies or providing further staff training.

## **Victimisation**

An employee will not be victimised or subjected to any detriment (such as being denied or excluded from opportunities at work) or retaliation for making an allegation (or giving evidence or information as part of an investigation) in good faith. If an employee believes that they have been victimised or subjected to detriment they can raise this under the Grievance Policy.

Victimisation or retaliation by employees can amount to misconduct or gross misconduct, and in serious cases may lead to dismissal without notice.

This policy will be reviewed annually, to take account of developments within SEStran and legislative requirements.





FLEXIBLE WORKING PROCEDURE

DOCUMENT VERSION CONTROL

Date	Author	Version	Status	Reason for Change
May 2009	SEStran	1.0	FINAL	Policy Adopted
July 2016	SEStran	1.1	FINAL	Revised to include flexitime hours recording system
Oct 2017	SEStran	1.2	FINAL	Adoption of version control
Aug 2021	SEStran	1.3	FINAL	Reference to Home Working Policy added
<u>Sept 2025</u>	<u>SEStran</u>	<u>1.4</u>	<u>FINAL</u>	<u>Changes to reflect Flexible Working Bill</u>

## INTRODUCTION

SEStranTRAN recognises the importance of helping employees balance their work and home life by offering flexible working arrangements.

Legislation provides employees who meet the eligibility criteria set out below with the right to apply to work flexibly and for this application to be considered.

### Scope

This policy encompasses all SEStran employees.

### Eligibility

~~Under the terms of the legislation the employee has the right to apply to work flexibly if they meet the following eligibility criteria:~~

- ~~• 26 weeks continuous service with SEStran at the date the application is made.~~
- ~~• Not have made a request to work flexibly during the previous 12 months.~~

### Flexible Working Options

~~Examples of flexible working options include: The following section covers the options available to employees in respect of Flexible Working arrangements.~~

#### Compressed Hours

Compressed hours are a working pattern that reallocates the normal hours of work and the work activity into fewer and longer blocks of time. A full-time employee on this arrangement will normally have their standard hours per week compressed into fewer than five full working patterns that suit service delivery needs. This can include term time working.

#### Part-time Working

Part-time working is where an employee works fewer hours per day, per week or per year, than those who work full time in the same job. Part-time working hours can be arranged into work patterns that suit service delivery needs. This can include term time working.

#### Job Share

This involves two employees carrying out the work of a full-time post that would normally be done by one employee. There is no set model for managing time, which may involve working a set number of hours each week or alternative weeks.

#### Annualised Hours

Annualised hours are where the contracted hours are worked over an entire year rather than per week. Hours of work may be varied, as agreed, in a way that reflects seasonal/operations variations in service delivery over the year.

### Eligibility

There is no minimum length of service to make a request.

Employees can make a maximum of two statutory requests in any 12-month period. A statutory request cannot be made if an earlier one is still "in process". A request is "in process" until:

- It is withdrawn
- SEStran issue a decision (although if the employee appeals, the request will be "in process" again until the appeal decision)
- An agreement is reached with the employee regarding the request



## Flexitime Scheme

The operation of the Flexitime Scheme must observe the following basic principles:

- The level of service must not be reduced in any way through the operation of the flexible working hours.
- Continuous cover must be made during public opening hours and the Director or a Senior Manager will determine suitable staffing levels.
- Flexitime applies to the day to day operations of the service. Any other working arrangements, for example, overseas trips must be discussed with the relevant line manager.

It is recognised however that the options contained in the policy cannot be made available to all employees. The scope to undertake flexitime is subject to the requirements of services and exclusions. It is an over-riding principle that service provision must not suffer.

### Time Recording Arrangements

All employees are required to record their attendance by using the excel flexi sheet manual recording system.

Abuse of the flexitime scheme is regarded as a serious matter and may result in disciplinary action.

Flexible Hours: 7:00am – 7:00pm Monday – Friday

No core time hours

Employees must work a minimum of 4 hours per day. Employees who wish to work out with standard working hours require prior permission from their line manager.

### Lunch Period

There is a minimum lunch break of 30 minutes. Appropriate operation cover should be maintained during the lunch period.

### Accounting Period

The period over which employees must work their contracted hours, allowing for any carry forward, is 4 weeks.

Contracted Hours: 148 hours per 4 week period

Contracted Weekly Hours: 37 hours

Employees working reduced or increased hours will be required to work four times their weekly contracted hours within each accounting period.

Credit Hours: maximum of 14.48 hours for full time employees can be carried over

Debit Hours: maximum of 7.4 hours for full time employees can be carried over

For employees working reduced or increased hours this will be calculated on a pro-rata basis.

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## Flexi-Leave

Up to 2 days flexi leave may be authorised in any one accounting period. Flexi leave may only be used where the hours being carried forward into the next accounting period will not exceed the maximum debit limit. All flexi leave must have prior management approval. Employees should not work additional hours with the sole purpose of building up flexitime.

### How to Make a Request

Applications should be made on the attached form and submitted to the Business Manager.

### Withdrawing a Request

Employees can withdraw a request at any time by letting us know in writing (this can be by email).

### Consultation

The manager may be able to agree to an employee's request in full without consulting with them. Otherwise, they will consult with the employee before reaching a decision. In such circumstances the employee would be invited to a meeting (in person or online) to discuss the request.

If the employee is unable to attend a scheduled meeting, they must let their manager know as soon as possible and confirm the reasons for this. The request will be deemed to be withdrawn if the employee fails to attend both an initial and rescheduled meeting to discuss the request without good reason. In such circumstances the employee would be written to confirming if the request is being treated as withdrawn.

What would be discussed at a meeting would depend on the circumstances, but might include:

- The employee's reasons for requesting flexible working.
- The changes they are looking for.
- Any impact on the employee's terms and conditions.
- Potential benefits or other impacts of SEStran accepting or refusing the request – including for the employee, their work, their colleagues and the business.
- Practical considerations if the request was agreed.

If it may not be possible to agree to the request, it may be appropriate to discuss alternative options and /or a trial period.

Trial periods will not be used in all cases and requests may be agreed or refused without a trial period. After any trial period, the employee would revert to their original working arrangements, other than in respect of any changes it has been agreed will be made on a temporary or permanent basis.

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### Agreement to a Flexible Working Request

If a request (or part of it) is agreed, this would be confirmed in writing to the employee. If necessary, this would include written confirmation of any changes to the employee's terms and conditions along with the date from which these will take effect.

Changes to an employee's terms and conditions will be permanent (unless temporary changes have been agreed).

### Agreeing alternative arrangements

If an employee's request (or part of it) cannot be agreed, in some cases, agreement may be reached with them on alternative changes to their working arrangements. In this case, written confirmation will be issued to the employee of the agreed changes to their terms and conditions along with the date from which these will take effect.

Changes to terms and conditions will be permanent (unless temporary changes have been agreed).

### Refusing a Request

If a request (or part of it) is refused and alternative arrangements cannot be agreed with the employee, the decision will be confirmed in writing, explaining the reasons for this. Any refusal must be for one or more of the following reasons:

- the burden of additional costs
- detrimental effect on ability to meet customer demand
- inability to re-organise work among existing staff
- inability to recruit additional staff
- detrimental impact on quality
- detrimental impact on performance
- insufficiency of work during the periods you propose to work
- planned structural changes.

Advice should be sought from SEStran's Human Resources Adviser where a manager is unsure if their reason for refusal falls within these headings.

### Appeals

Any employee whose request (or part of it) has been refused can submit an appeal in writing within 5 working days of receipt of the letter advising of the refusal. The submission must set out the reasons for the appeal and should be sent to the Partnership Director. The appeal will be handled in line with the appeal stage of the if the request is rejected, the employee has the right of appeal through the Grievance Policy & Procedure. The timescales within the policy apply. and their written grievance should be submitted to the Partnership Director within 14 days of receipt of the written response;

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a hearing is arranged within 10 days of receipt of the grievance;

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the employee is advised of the outcome of the appeal decision within 5 days of the hearing.

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**Timescales**

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To meet statutory requirements, the whole process, including any appeal, must be completed within two months of the statutory request being received unless an extension to this period is agreed with the employee.

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**Reasonable adjustment requests from employees with disabilities<sup>†</sup>**

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Employees should be encouraged to make any type of request that relates to disability as a reasonable adjustment request. They can do this in writing or can ask their manager to discuss this. Requests must be considered in line with SEStran's legal obligations under the Equality Act 2010. This requires an employer to make reasonable adjustments to remove any disadvantage related to a person's disability.

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The legal obligation to make reasonable adjustments is separate to the legal obligation to consider a request for flexible working.

Advice may be sought from SEStran's Human Resources Adviser on any such requests.

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**Flexible Working – Employee's Responsibilities**

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While employees have the right to make an application to work flexibly, they also have the responsibility to:

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- apply using the attached proforma well in advance of proposed date;
- ensure that they meet the eligibility criteria;
- indicate the work pattern they wish to adopt;
- highlight the impact on the employer;
- suggest how it can be accommodated;
- come to the meeting prepared to discuss their application in an open and constructive manner;
- be prepared to be flexible to reach an agreement with their manager.

**The Request Process**

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The process is bound by timescales which must be adhered to unless the manager agrees with the employee to different timescales. These are:

- within 28 days of receipt of the application, the manager should arrange a meeting with the employee to discuss their request. The employee has the right to be accompanied at this meeting. This can be a work colleague or TU representative;
- within 14 days of the meeting, the manager should provide a written response to the employee advising them of their decision;
- if the request is rejected, the employee has the right of appeal through the Grievance Procedure and their written grievance should be submitted to the Partnership Director within 14 days of receipt of the written response;
- a hearing is arranged within 10 days of receipt of the grievance;
- the employee is advised of the outcome of the appeal decision within 5 days of the hearing.

If the manager decides to agree to the request, they should discuss with the employee any arrangements that need to be made to facilitate the change and the expected timescales for this. Any change agreed will be a permanent change to the employee's terms and conditions unless agreed otherwise with them. Confirmation of the change

should be given to the employee in the form of an amendment to their contract. Payroll also should be advised of the change.

### **Reasons for Refusal**

When considering any request on behalf of SESTRAN, the manager should be aware that should they decide to reject the request, the reason must fall under one or more of the following headings:



- burden of additional costs
- inability to meet customer demand
- inability to reorganise work with existing employees
- inability to recruit additional employees
- detrimental impact on quality
- detrimental impact on performance
- insufficiency of work when employee proposes to work
- planned structural changes.

**Advice should be sought from SESTRAN's Human Resources Adviser where a manager is unsure if their reason falls within these headings.** **Flexitime Scheme**

The operation of the Flexitime Scheme must observe the following basic principles:

- The level of service must not be reduced in any way through the operation of the flexible working hours.
- Continuous cover must be made during public opening hours and the Director or a Senior Manager will determine suitable staffing levels.
- Flexitime applies to the day to day operations of the service. Any other working arrangements, for example, overseas trips must be discussed with the relevant line manager.

It is recognised however that the options contained in the policy cannot be made available to all employees. The scope to undertake flexitime is subject to the requirements of services and exclusions. It is an over-riding principle that service provision must not suffer.

#### Time Recording Arrangements

All employees are required to record their attendance by using the excel flexi sheet manual recording system.

Abuse of the flexitime scheme is regarded as a serious matter and may result in disciplinary action.

Flexible Hours: 7:00am – 7:00pm Monday – Friday

#### No core time hours

Employees must work a minimum of 4 hours per day. Employees who wish to work out with standard working hours require prior permission from their line manager.

#### Lunch Period

There is a minimum lunch break of 30 minutes. Appropriate operation cover should be maintained during the lunch period.

#### Accounting Period

The period over which employees must work their contracted hours, allowing for any carry forward, is 4 weeks.

Contracted Hours: 148 hours per 4 week period

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Contracted Weekly Hours: 37 hours

Employees working reduced or increased hours will be required to work four times their weekly contracted hours within each accounting period.

Credit Hours: maximum of 14.48 hours for full time employees can be carried over

Debit Hours: maximum of 7.4 hours for full time employees can be carried over

For employees working reduced or increased hours this will be calculated on a pro rata basis.

#### Flexi Leave

Up to 2 days' flexi leave may be authorised in any one accounting period. Flexi leave may only be used where the hours being carried forward into the next accounting period will not exceed the maximum debit limit. All flexi leave must have prior management approval. Employees should not work additional hours with the sole purpose of building up flexitime.

#### Review of Procedures

SESTRAN will undertake a review of this document annually. However, either the employer or trades unions may propose amendments at any time, by giving notice in writing to the Partnership Director.

#### Appendix 1 – Application for flexible working

#### FURTHER GUIDANCE

Further guidance can be found in the Home Working Policy

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## Appendix 1

### APPLICATION FOR FLEXIBLE WORKING

This form should be used to make an application to apply for a flexible working option. The details you provide will help your manager to consider your request. You can make up to 2 applications to work flexibly in any 12 month period. You must receive an outcome within 2 months of your application. **Please complete this form and pass it to your manager.**

- If your application is being agreed in full, your manager does not need to meet with you.
- If your manager wishes to discuss your application further or is unable to agree to it in full, they should arrange a consultation meeting with you to discuss your request as soon as possible and within 14 days of receipt of your application. You be accompanied at the meeting.
- Your manager will provide you with a written response to your request advising you of the decision within 14 days of the meeting or 28 days of your application.

Name: _____	Employee Number: _____
Service: _____	Job Title: _____
Manager's Name: _____	Manager's Job Title: _____

Describe your current working pattern

Hours per week: _____
Working Pattern: _____

I am applying for (choose one):

_____	<u>Part time</u>
_____	<u>Annualised hours</u>
_____	<u>Compressed hours</u>

Describe your requested working pattern

Hours per week: _____
Working Pattern: _____
I would like this arrangement to start from: _____

#### Confirmation of eligibility and other arrangements

<u>I confirm that:</u>	
_____	<u>I have not made a request to work flexibly in the past 12 months (if you have, please state the date the application was made)</u>
_____	<u>Date of previous application:</u>

<u>Signed</u> _____	_____
<u>Date</u> _____	_____

#### Record of Decision (Line Manager to complete)

<u>Date of meeting with employee:</u>	_____
<u>Date letter sent to employee with outcome (within 14 days of the meeting or 28 days of the application)</u>	_____
_____	_____
<u>Application Accepted</u>	_____
<u>Date new working pattern will start</u>	_____
<u>Date of review (if applicable)</u>	_____

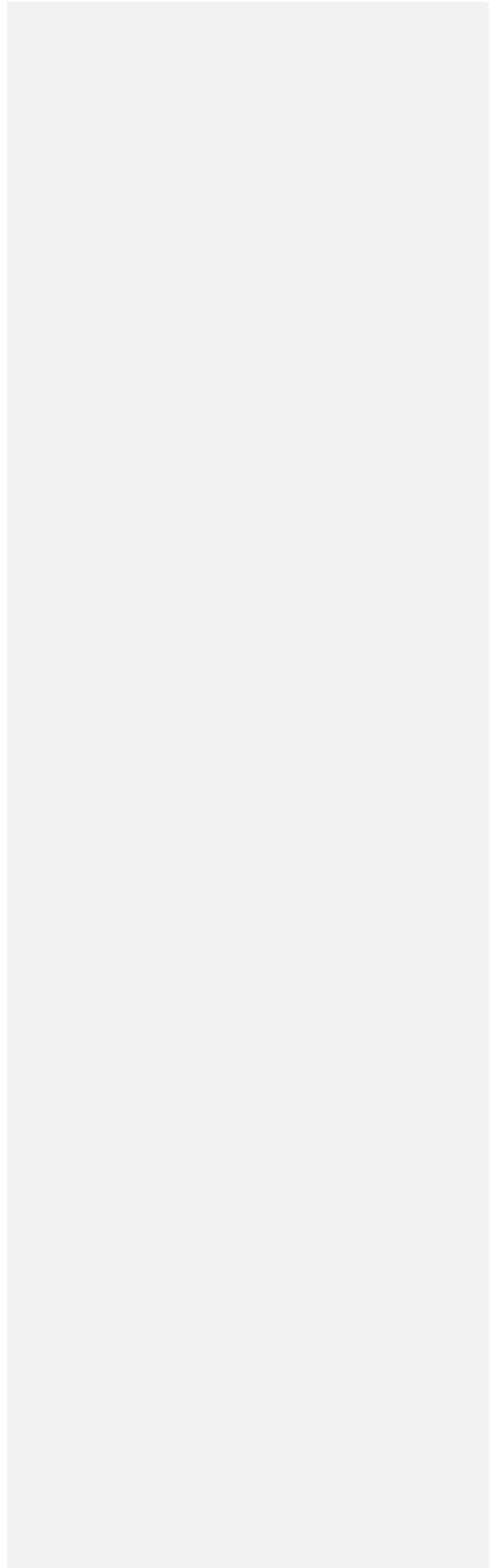
<hr/>	
<b><u>Application Rejected</u></b>	<hr/>
<u>Reason for rejection:</u>	<u>You must choose one of the following:</u>
	<u>Burden of additional costs</u>
	<u>Inability to reorganise work with existing employees</u>
	<u>Inability to recruit additional employees</u>
	<u>Detrimental impact on quality</u>
	<u>Detrimental impact on performance</u>
	<u>Detrimental impact to meet customer demand</u>
	<u>Insufficiency of work when employee proposes to work</u>
	<u>Planned structural changes</u>
<hr/>	
<u>Name</u>	<hr/>
<u>Signature</u>	<hr/>
<u>Date</u>	<hr/>

**Next Steps**

Line manager to advise employee of outcome in writing within 14 days of the consultation meeting.



I





#### Flexi Leave

Up to 2 days flexi leave may be authorised in any one accounting period. Flexi leave may only be used where the hours being carried forward into the next accounting period will not exceed the maximum debit limit. All flexi leave must have prior management approval. Employees should not work additional hours with the sole purpose of building up flexitime.

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#### **Review of Procedures**

~~SESTRAN will undertake a review of this document annually. However, either the employer or trades unions may propose amendments at any time, by giving notice in writing to the Partnership Director.~~

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~~This Policy has been equality impact assessed and no adverse impact has been identified.~~

#### **Appendix 1 – Application for flexible working**

#### **FURTHER GUIDANCE**

~~Further guidance can be found in the Home Working Policy.~~

~~S:\HR\Staff\Policies\PDF docs~~

Appendix 1

APPLICATION FOR FLEXIBLE WORKING

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**Note to Employee**

You can use this form to make an application for flexible working.

It will help your manager to consider your request if you provide as much information as possible. It is important that you complete all the questions as otherwise your application may not be valid. When completing sections 4 & 5, think about what effect your change in working arrangements will have on both the work you do and on your colleagues.

Your manager will have 28 days after the date of your application to initially respond to your request. If the request is granted, you will receive a separate letter outlining the specific arrangements that have been agreed.

Service:

**1. Personal details**

Name:

Employee No:

Address:

**2b. Describe the working pattern you would like to work**

**2c. I would like this working pattern to commence from:**

**Date:**

**3. Reason for application**

**4. Impact of the new working pattern**

I think this change in my working pattern will affect my employer and colleagues as follows:

**5. Accommodating the new working pattern**

I think the effect on my employer and colleagues can be dealt with as follows:

**Employer's Confirmation of Receipt:**

Dear:

I confirm I have received your application to work flexibly on:      Date

I shall be arranging a meeting with you to discuss your application within 28 days following this date.

From:



## FAMILY LEAVE POLICY

### Document Version Control

Date	Author	Version	Status	Reason for Change
Jun 2007	SEStran	1.0	FINAL	Policy Adopted
Sept 2015	SEStran	1.1	FINAL	Adapted for compliance with new legislation, related to Shared Parental Leave
Oct 2017	SEStran	1.2	FINAL	Adoption of version control
Sept 2021	SEStran	1.3	FINAL	Adapted for Parental Bereavement Leave
June 2023	SEStran	1.4	FINAL	Update to Adoption and Surrogacy leave entitlement and new guidance on Foster Carers and Approved Kinship Carers
<u>Sept 2025</u>	<u>SEStran</u>	<u>1.5</u>	<u>FINAL</u>	<u>Updated to reflect changes in legislation for maternity or adoption leave, parental leave and neonatal leave</u>

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## INTRODUCTION

SESTRAN aims to recruit and retain high calibre employees and ensure a commitment to equal opportunities.

The following provisions are available for employees in order to assist in the balance of work and family/parental commitments.

### 1. MATERNITY LEAVE

This section of the policy sets out the rights and responsibilities of employees who are pregnant or have recently given birth and gives details of the arrangements for antenatal care, pregnancy-related illness, and maternity leave and pay.

SESTRAN recognises that, from time to time, employees may have questions or concerns relating to their maternity rights. It is SESTRAN's policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the maternity provisions are complex, if an employee becomes pregnant, she should clarify the relevant procedures with the Office Manager or the SESTRAN Human Resources Adviser to ensure that they are followed correctly.

The following definitions are used in this policy:

'Expected week of childbirth' means the week, starting on a Sunday, during which the employee's doctor or midwife expects her to give birth.

'Qualifying week' means the 15<sup>th</sup> week before the expected week of childbirth.

#### Notification of pregnancy

On becoming pregnant, an employee should notify her line manager as soon as possible. This is important as there are health and safety considerations for SESTRAN.

By the end of the qualifying week, or as soon as reasonably practicable afterwards, the employee is required to inform SESTRAN in writing of:

- the fact that she is pregnant;
- her expected week of childbirth; and
- the date on which she intends to start her maternity leave.

The employee must also provide a MAT B1 form, which is a certificate from a doctor or midwife confirming the expected week of childbirth. The

form must have either the doctor's name and address or the midwife's name and registration number on it.

The employee is permitted to bring forward her maternity leave start date, provided that she advises SESTRAN in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone her maternity leave start date, provided that she advises SESTRAN in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

SESTRAN will formally respond in writing to the employee's notification of her leave plans within 28 days, confirming the date on which she is expected to return to work if she takes her full 52-week entitlement to maternity leave.

#### **Time off for antenatal care**

Once an employee has advised SESTRAN that she is pregnant, she will be entitled to take reasonable paid time off work to attend antenatal appointments as advised by her doctor, registered midwife or registered health visitor.

In order to be entitled to take time off for antenatal care, the employee is required to produce a certificate from her doctor, registered midwife or registered health visitor, stating that she is pregnant. Except in the case of the first appointment, the employee should also produce evidence of the appointment, such as a medical certificate or appointment card, if requested to do so.

Antenatal care may include relaxation and parent craft classes that the employee's doctor, midwife or health visitor has advised her to attend, in addition to medical examinations.

The employee should endeavour to give her line manager as much notice as possible of antenatal appointments and, wherever possible, try to arrange them as near to the start or end of the working day as possible.

Fathers and partners of pregnant women are entitled to unpaid time off to attend two ante-natal appointments, on production of appropriate evidence of appointments.

#### **Health and safety**

SESTRAN has a duty to take care of the health and safety of all employees. We are also required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have recently given birth or are breastfeeding.

SESTRAN will provide the employee with information as to any risks identified in the risk assessment. If the risk assessment reveals that the employee would be exposed to health hazards in carrying out her normal job duties, SESTRAN will take such steps as are reasonably necessary to avoid those risks, such as altering the employee's working conditions. In some cases, this may mean offering the employee suitable alternative work (if available) on terms and conditions that are not substantially less favourable.

If it is not possible for the employee's working conditions to be amended to remove the risks to her health and there is no suitable alternative work available to offer her on a temporary basis, the employee may be suspended from her work on maternity grounds until such time as there are no longer any risks to her health. This may be for the remainder of her pregnancy until the commencement of her maternity leave. If an employee is suspended in these circumstances, her employment will continue during the period of the suspension and it does not in any way affect her statutory or contractual employment and maternity rights. The employee will be entitled to her normal salary and contractual benefits during the period of her suspension, unless she has unreasonably refused an offer of suitable alternative employment.

#### **Sickness absence**

If an employee is absent from work during pregnancy owing to sickness, she will receive normal statutory or contractual sick pay in the same manner as she would during any other sickness absence provided that she has not yet begun ordinary maternity leave. If, however, the employee is absent from work due to a pregnancy-related illness after the beginning of the fourth week before her expected week of childbirth, her maternity leave will start automatically.

If the employee is absent from work wholly or partly because of pregnancy during the four weeks before the expected week of childbirth, she must notify SESTRAN in writing of this as soon as reasonably practicable.

#### **Maternity leave**

All pregnant employees are entitled to take up to 26 weeks' ordinary maternity leave and up to 26 weeks' additional maternity leave, making a total of 52 weeks. This is regardless of the number of hours they work or their length of service. Additional maternity leave begins on the day after ordinary maternity leave ends.

Ordinary maternity leave can start at any time after the beginning of the 11<sup>th</sup> week before the employee's expected week of childbirth (unless her child is born prematurely before that date in which case it will start earlier).

Maternity leave will start on whichever date is the earlier of:

- the employee's chosen start date;
- the day after the employee gives birth; or
- the day after any day on which the employee is absent for a pregnancy-related reason in the four weeks before the expected week of childbirth.

If the employee gives birth before her maternity leave was due to start, she must notify SESTRAN in writing of the date of the birth as soon as reasonably practicable.

The law obliges all employees to take a minimum of two weeks of maternity leave immediately after the birth of the child.

### Ordinary maternity leave

During the period of ordinary maternity leave, the employee's contract of employment continues in force and she is entitled to receive all her contractual benefits, except for salary. In particular, any benefits in kind will continue; contractual annual leave entitlement will continue to accrue; and pension contributions will continue to be made provided that the employee is receiving maternity pay (Employee contributions will be based on actual pay, while employer contributions will be based on the salary that the employee would have received had she not gone on maternity leave).

Salary will be replaced by maternity pay if the employee is eligible to receive it, as noted below.

Employees are encouraged to take any outstanding annual leave due to them before the commencement of ordinary maternity leave. Employees are reminded that holiday must be taken in the year that it is earned and therefore if the holiday year is due to end during maternity leave, the employee should take the full year's entitlement before maternity leave.

### Additional maternity leave

During the period of additional maternity leave, the employee's contract of employment remains and she is entitled to receive all her contractual benefits, except for salary. Any benefits in kind will continue; contractual annual leave entitlement will continue to accrue.

Payment during additional maternity leave, if the employee is eligible to receive it, will be as noted below.

Pension contributions will continue to be made during the period when the employee is receiving pay but not during any period of unpaid additional maternity leave. [There will be the option to buy back this period on return to work.](#)

Jennysimpson

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could say leave accrued up to point start mat leave and then give carry over to next leave year or add. "If you are unable to take your full holiday entitlement in the relevant holiday year because of your maternity leave, we will allow you to carry any unused entitlement forward to the next holiday year."

## Maternity pay

Maternity pay is payable for up to 39 weeks during maternity leave. An employee is entitled to maternity pay if:

- she has been continuously employed by SESTRAN for at least 26 weeks at the end of the qualifying week and she is still employed during that week (previous local authority continuous service is recognised for the purposes of determining maternity leave entitlement);
- her average weekly earnings in the eight weeks up to and including the qualifying week are not less than the lower earnings limit for national insurance contributions, (in which case the employee may be entitled to claim Maternity Allowance from the Benefits Agency). For the purposes of calculating average weekly earnings, any allowances or overtime payments made during the eight week period will be included;
- she is still pregnant 11 weeks before the start of the expected week of childbirth (or has already given birth);
- she provides a MAT B1 form stating her expected week of childbirth; and
- she gives SESTRAN proper notification of her pregnancy in accordance with the rules set out above.

If the employee returns to work following maternity leave maternity pay will be:

- 6 weeks at 90% of the employee's average weekly earnings calculated over the period of eight weeks up to and including the qualifying week
- followed by 12 weeks at half pay, plus SMP at the standard rate, followed by,
- 21 weeks at SMP only.

If the employee becomes eligible for a pay rise between the start of the original calculation period and the end of her maternity leave (whether ordinary maternity leave or additional maternity leave), the maternity pay to which the employee is eligible will be recalculated to take account of the pay rise and appropriate payment made.

Statutory maternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Payment of SMP cannot start prior to the 11<sup>th</sup> week before the employee's expected week of childbirth. Statutory maternity pay can start from any day of the week in accordance with the date the employee starts her maternity leave.

Statutory maternity pay is payable whether or not the employee intends to return to work after her maternity leave. If the employee does not

intend to return to work she is not entitled to occupational maternity pay, ie 12 weeks at half pay. If an employee intends to return to work and is accordingly paid occupational maternity pay but subsequently does not return for 3 months at the end of her maternity leave she will be required to repay the occupational element of her maternity pay but not the statutory maternity pay.

Employees who are not entitled to SMP may be entitled to receive maternity allowance payable by the Government.

### **Contact during maternity leave**

Shortly before an employee's maternity leave starts, the employee's manager will discuss the arrangements for her to keep in touch during her leave, should she wish to do so. SESTRAN reserves the right in any event to maintain reasonable contact with the employee from time to time during her maternity leave. This may be to discuss the employee's plans for return to work, to discuss any special arrangements to be made or training to be given to ease her return to work or simply to update her on developments at work during her absence.

### **Keeping-in-touch days**

Except during the first two weeks after childbirth an employee can agree to work for SESTRAN (or to attend training) for up to 10 days during either ordinary maternity leave or additional maternity leave without that work bringing the period of her maternity leave to an end and without loss of a week's SMP. These are known as 'keeping-in-touch' days. Any work carried out on a day shall constitute a day's work for these purposes.

SESTRAN has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during her maternity leave. Any work undertaken, including the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between SESTRAN and the employee. Any keeping-in-touch days worked do not extend the period of maternity leave. Once the keeping-in-touch days have been used up, the employee will lose a week's SMP for any week in which she agrees to work for SESTRAN.

Pension contributions will be made in respect of any 'keeping in touch days worked.

### **Returning to work**

Upon notification that they are pregnant the employee will have been formally advised in writing by SESTRAN of the date on which she is expected to return to work if she takes her full 52-week entitlement to maternity leave. The employee is expected to return on this date, unless she notifies SESTRAN otherwise. If she is unable to attend work at the

end of her maternity leave due to sickness or injury, SESTRAN's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

While the employee is under no obligation to do so, it would assist SESTRAN if she confirms as soon as convenient during her maternity leave that she will be returning to work as expected.

If the employee wishes to return to work earlier than the expected return date, she must give SESTRAN at least eight weeks' notice of her date of early return, preferably in writing. If she fails to do so, SESTRAN may postpone her return to such a date as will give SESTRAN eight weeks' notice, provided that this is not later than the expected return date.

If the employee decides not to return to work after maternity leave, she must give notice of resignation as soon as possible and in accordance with the terms of her contract of employment. If the notice period would expire after maternity leave has ended, SESTRAN may require the employee to return to work for the remainder of the notice period.

#### **Rights on and after return to work**

On resuming work after ordinary maternity leave, the employee is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent.

On resuming work after additional maternity leave, again she is entitled to return to the same job as she occupied before commencing maternity leave on the same terms and conditions of employment as if she had not been absent. However, if it is not reasonably practicable for SESTRAN to allow the employee to return to the same job, the employee may be offered suitable alternative work, on terms and conditions that are no less favourable than would have applied if she had not been absent.

An employee who worked full-time prior to her maternity leave has no automatic right to return to work on a part-time basis or to make other changes to her working patterns. However, all requests for part-time work or other flexible working arrangements will be considered in line with the operational requirements of SESTRAN's business. If an employee would like this option to be considered, she should write to her line manager setting out her proposals as soon as possible in advance of her return date, so that there is adequate time for full consideration of the request. The procedure for dealing with such requests is set out in SESTRAN's flexible working procedure.

## **2. ADOPTION AND SURROGACY LEAVE**

This section of the policy sets out the rights of employees to adoption and surrogacy leave and pay.

Where the policy refers to adoption pay or leave, this includes surrogacy pay and leave unless otherwise stated.

You will be entitled to up to 52 weeks leave regardless of your length of service. If you are entitled to adoption pay, it will start on the day your leave begins.

The leave can start:

- up to 14 days before the date the child starts living with you (UK adoptions)
- when the child arrives in the UK or within 28 days of this date (overseas adoptions)
- the day the child's born or the day after (if you've used a surrogate to have a child)

You must tell us within 28 days if the date of placement (or UK arrival date for overseas adoptions) changes.

Where a couple jointly adopts a child, the couple must choose one person only to take leave under this policy (the adopter). The partner of the adopter may be entitled to adoption support leave, paternity leave or shared parental leave. Only the adopter will receive the entitlements outlined in this section, including leave and pay.

If more than one child is placed as part of the same adoption/surrogacy arrangement, only one period of leave will be granted.

### **Leave if you're adopting a child from overseas**

You must also sign [form SC6](#) if you're adopting from overseas with a partner. This confirms you're not taking paternity leave or pay.

### **You're fostering for adoption**

If you're eligible for adoption pay and leave, you'll receive them from when the child comes to live with you.

### **Exceptions**

You do not qualify for Statutory Adoption Leave or Pay if you:

- arrange a private adoption
- become a special guardian or kinship carer
- adopt a stepchild



- adopt a family member

If you get adoption leave, you can also get paid time off work to attend 5 adoption appointments after you've been matched with a child.

Your manager might need to see evidence of appointments

### **Adoption Pay**

Employees who qualify for adoption leave will also qualify for statutory adoption pay provided that their average weekly earnings are not less than the lower earnings limit for national insurance contributions. If the employee returns to work following adoption leave, adoption pay will be as follows:

- 6 weeks at 90% of earnings (off set against payments by way of SAP); followed by;
- 12 weeks at half pay plus SAP, and
- 21 weeks at SAP only

Adoption pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Statutory adoption pay is payable whether or not the employee intends to return to work adoption leave. If the employee does not intend to return to work they are not entitled to occupational adoption pay, ie 12 weeks at half pay. If an employee intends to return to work and is accordingly paid occupational adoption pay but subsequently does not return for 3 months at the end of their adoption leave they will be required to repay the occupational element of their adoption pay but not the statutory adoption pay.

### **Timing of adoption leave**

Adoption leave can start on the day the child is placed for adoption, or on an agreed date up to 14 days earlier.

In order to make administration as easy as possible, the employee should discuss the timing of his/her adoption leave with his/her immediate manager as early as possible.

### **Notice requirements**

In order to be entitled to take adoption leave and receive statutory adoption pay, the employee is required to give SESTRAN written notification of his/her intention to take adoption leave no later than seven days after the date on which notification of the match with the child was provided by the adoption agency. This notification must specify the date the child is expected to be placed with the employee for

adoption and the date the employee intends his/her adoption leave to start.

The employee is permitted to bring forward his/her adoption leave start date, provided that he/she advises SESTRAN in writing at least 28 days before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone his/her adoption leave start date, provided that he/she advises SESTRAN in writing at least 28 days before the original proposed start date or, if that is not possible, as soon as reasonably practicable. The employee must also provide evidence of entitlement to adoption leave and pay by producing a 'matching certificate' from the adoption agency.

Within 28 days of receiving the employee's notice of intention to take adoption leave, SESTRAN will write to the employee confirming the latest date on which the employee must return to work after adoption leave.

#### **Pre-Adoption Meetings/Training Courses**

Where an employee is required to attend the pre-adoption meetings/training courses associated with progressing through the adoption processes, they will be granted half (50%) of this time as special leave and the rest of the time will be made up by the employee through either annual leave or flexi time.

#### **Rights during ordinary adoption leave and additional adoption leave**

##### **Ordinary adoption leave**

During ordinary adoption leave the employee's contract of employment continues in force and they are entitled to receive all contractual benefits except for salary. In particular, any benefits in kind will continue; contractual annual leave entitlement will continue to accrue; and pension contributions will continue to be made provided that the employee is receiving adoption pay. Employee contributions will be based on actual pay, while employer contributions will be based on the salary that the employee would have received had they not taken adoption leave.

Salary will be replaced by adoption pay as noted above if the employee is eligible to receive it.

Employees are encouraged to take any outstanding holiday due to them before the commencement of adoption leave. Employees are reminded that holiday must be taken in the year that it is earned.

##### **Additional adoption leave**

Additional adoption leave begins on the day after ordinary adoption leave ends and lasts for a further 26 weeks. During additional adoption leave the employee's contract of employment remains and they are entitled to receive all contractual benefits, except for salary. Any benefits in kind will continue and contractual annual leave entitlement will continue to accrue.

Payment during additional adoption pay will be as noted previously. Pension contributions will continue to be made during the period when the employee is receiving adoption pay but not during any period of unpaid additional adoption leave.

### **Contact during adoption leave**

SESTRAN reserves the right to maintain reasonable contact with employees during adoption leave. This may be to discuss employees' plans for return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

### **Keeping-in-touch days**

Employees can agree to work for SESTRAN (or to attend training) for up to 10 days during their adoption leave without that work bringing their adoption leave to an end and without loss of a week's statutory adoption pay. These are known as 'keeping-in-touch' days. Any work carried out on a day shall constitute a day's work for these purposes

Pension contributions will be made in respect of any 'keeping in touch days' worked.

SESTRAN has no right to require employees to carry out any work and employees have no right to undertake any work during their adoption leave. Any work undertaken, and the amount of salary paid for any work done on keeping-in-touch days, is entirely a matter for agreement between employees and SESTRAN.

### **Termination of Placement**

Where the child or children's placement ends during the adoption period, the adopter will be entitled to remain absent on adoption leave for up to 8 weeks after the end of the placement. In this respect employees are required to advise their manager of this at the earliest opportunity. In the case of an earlier return, notification should be given as noted below.

### **Returning to work after adoption leave**

The employee may return to work at any time during ordinary adoption leave or additional adoption leave, provided that he/she gives the appropriate notification. Alternatively, the employee may take his/her

full period of adoption leave entitlement and return to work at the end of this period. If the employee wishes to return before the full period of adoption leave has elapsed, he/she must give at least eight weeks' notice in writing to SESTRAN of the date on which he/she intends to return.

Failure to return to work by the end of adoption leave will be treated as an unauthorised absence unless the employee is sick and produces a current medical certificate before the end of the adoption leave period.

If the employee decides during adoption leave that he/she does not wish to return to work, he/she should give written notice of resignation to SESTRAN as soon as possible and in accordance with the terms of his/her contract of employment

### 3. MATERNITY & ADOPTION SUPPORT LEAVE/ PATERNITY LEAVE

Maternity or Adoption Support Leave is designed to help support the mother at or around the time of birth or placement of the child (adoption or surrogacy).

An employee is entitled to this leave if they are:

- The child's father
- The mother's partner (including civil partner) or
- A nominated carer or support partner

And

- Have 41 weeks continuous service during the EWC or placement.

available to all employees, who have a minimum of 26 weeks continuous service at the start of the 15<sup>th</sup> week before the EWC, or date of placement of a child, and who is a nominated carer.

In the absence of the child's father or mother's partner, the mother can nominate a The nominated carer or support partner who will provide the main support at or around the time of the birth or placement. is the person nominated by the mother or the person taking adoption leave to assist in the care of the child and to provide support to her/him.

Leave consists of up to a maximum of 5 days' paid leave (pro-rated for part-time/part-week workers). The leave may be taken as half working days, full working days or block periods as appropriate and can be must be taken between the 11<sup>th</sup> week before the EWC and 52 weeks after the birth/placement. within 56 days of the baby's birth.

Application for maternity or adoption support leave should be made to SESTRAN in the same way as that for annual leave and the employee will require to produce for inspection form MATB1, confirming the expected date of childbirth, or matching certificate, confirming the expected date of placement. If the employee is not the father, they will be required to produce a statement from the expectant mother declaring the applicant as the nominated carer/support partner. ——— This will also be the case if the mother

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does not work and is unable to produce a MATB1 certificate.

| In the event of a stillbirth, the five days' maternity support leave will still be available.

Employees will be entitled to return to the same job after maternity or adoption support leave.

**NB:** Fathers or partners of an expectant mother or partners of adopters are also entitled to an additional week's ordinary paternity leave (see below).

| [Ordinary paternity leave](#)

### Ordinary paternity leave

In addition to maternity/ adoption support leave, an employee whose wife, civil partner or partner gives birth to a child, or who is the biological father of the child, is entitled to a further one week's ordinary paternity leave, provided that he or she has 26 weeks' continuous service by the end of the 15th week before the week in which the child is expected.

Ordinary paternity leave is also available to an employee whose spouse, civil partner or partner adopts a child, or where the employee is one of a couple jointly adopting a child, provided that he or she has 26 weeks' continuous service by the end of the week in which notification of the match occurs.

To qualify for ordinary paternity leave, the employee must also have, or expect to have, responsibility for the upbringing of the child and be making the request to help care for the child or to support the child's mother.

Ordinary paternity leave must be taken in a single block of one week within eight weeks of the birth or adoption of the child. If the employee is eligible to receive it, pay during ordinary paternity leave will be at the weekly rate of statutory paternity pay, or at a rate equivalent to 90% of the average weekly earnings, if this figure is less than the weekly rate of statutory paternity pay.

The employee must give SESTRAN 15 weeks' written notice of the date on which the baby is due and the date on which they wish their leave to commence. In an adoption situation, no later than seven days after the adopter is informed of the match, they must inform SESTRAN in writing of the date notification of the adoption occurred, the date on which the child is expected to be placed for adoption, and the date on which they wish their leave to commence. If they subsequently wish to change the timing of their ordinary paternity leave, they must give 28 days' written notice of the new dates. They must also, if so requested, complete and sign a self-certificate declaring that they are entitled to ordinary paternity leave.

### Additional paternity leave

~~Eligible employees may take up to 26 weeks' additional paternity leave within the first year of their child's life provided that the mother has returned to work. Additional paternity leave is also available to adoptive parents within the first year after the child's placement for adoption provided that the child's adopter who elected to take adoption leave (the "primary adopter") has returned to work.~~

~~The earliest that additional paternity leave may commence is 20 weeks after the date on which the child is born, or 20 weeks after the date of placement of the child for adoption, and it must end no later than 12 months after that date. Additional paternity leave must be taken as a single block in multiples of complete weeks. The minimum period is two consecutive weeks and the maximum period is 26 weeks.~~

~~To be eligible for additional paternity leave, the employee must satisfy each of the following criteria:~~

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The employee must be the father of the child or married to, the civil partner of, or the partner of, the child's mother; married to, the civil partner of, or the partner of, the primary adopter; and, in the case of a birth child, expect to have the main responsibility for the upbringing of the child (apart from the mother's responsibility); or, in the case of adoption, have been matched with the child for adoption, and in either case be taking the leave to care for the child.

The employee must have a minimum of 26 weeks' continuous service by the end of the 15th week before the week in which the child is expected or by the end of the week in which notification of the match occurs.

The employee must remain in continuous employment until the week before the first week of additional paternity leave.

The mother of the child must be entitled to one or more of maternity leave, statutory maternity pay or maternity allowance or, in the case of adoption, the primary adopter must be entitled to one or both of adoption leave or statutory adoption pay, and the mother or primary adopter must have returned to work.

Where the employee wishes to request additional paternity leave and pay, they must give SESTRAN eight weeks' written notice of the date on which they wish the leave and, if applicable, additional statutory paternity pay to commence. The request must be in writing and must specify, in the case of the birth of a child, the date the child was expected to be born and the actual date of birth or, in the case of an adopted child, the date on which they were notified of having been matched with the child and the date of placement for adoption and, in either case, their name and intended start date and end date of additional paternity leave and statutory paternity pay.

In addition, not less than eight weeks before the proposed start date of additional paternity leave and pay, the employee must submit a written and signed self-certification form and the mother or primary adopter must submit a written and signed declaration form. These forms can be obtained from the Office Manager.

The employee must also, if so requested, produce the name and business address of the mother's or primary adopter's employer and a copy of the child's birth certificate or, in the case of an adopted child, evidence of the name and address of the adoption agency, the date on which the employee was notified of having been matched with the child and the date on which the agency expects to place the child for adoption.

SESTRAN will formally respond in writing to the notification of the employee's additional paternity leave plans within 28 days, confirming the relevant start and end dates of additional paternity leave and pay. If the employee subsequently wishes to change the timing of their additional paternity leave, they must give six weeks' written notice of the new dates.

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## FOSTER CARERS AND APPROVED KINSHIP CARERS

We are committed to support any staff member who is a foster carer or approved kinship carer. We will do this, wherever possible, by creating a fostering friendly organisation that offers flexible working arrangements which respond to the needs of all staff who are foster carers or approved kinship carers.

### Eligibility

This policy applies to employees who have three months or more employment service and:-

- are applying to become a foster carer
- are an approved foster carer and have a child in placement (or have had a child in placement for 75% of the previous twelve months)
- are an approved kinship carer

### Time Off

We will support foster carers and approved kinship carers by giving paid time off per leave year as follows:-

- assessment and training prior to approval as a foster carer - up to three days as a one off pre placement – pro rata for part time
- attendance at panel for approval – one day, pro rata for part time
- child review meetings, annual foster carer review meeting, training – up to five days per year- pro rata for part time.

The line manager will approve the leave on a discretionary basis taking into account individual circumstances of each case and operational requirements of the business. The leave will be considered and approved on a pro rata basis.

The request for time off should outline the reason and the amount of leave required.

Where more than the maximum entitlement of paid leave is requested (as outlined above), the line manager and the staff member should discuss other means available eg annual leave, time off in lieu, parental leave.

## 4. PARENTAL LEAVE

Parental leave is time off work to care for your child. It is in addition to statutory maternity leave, paternity, adoption and shared parental leave. An employee is entitled to parental leave up to 18 weeks' unpaid parental leave per child if he/she meets one of the following conditions are met:

- They have at least one year's continuous service at the time they would like their parental leave to start
- They are taking the leave to care for a child
- At the time they want to take the leave, they have parental responsibilities in respect of that child
- The child will be He/she is the parent of a child who is under 18five years of age while the leave is being taken.

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- Advance notice is given as set out below (and we do not postpone the leave as set out below)
- They comply with any request from us to produce evidence of their entitlement to parental leave.

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- Employees will normally have parental responsibilities for a child if they are the child's biological mother or father (whether or not they are living with the child) or they are the child's adoptive parent. Other individuals, such as guardians, may have parental responsibilities. In many cases, stepparents and foster parents will not qualify for parental leave as they will not have legal parental responsibilities.

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### **Amount of Parental Leave Available**

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Employees can take up to 18 weeks' parental leave in respect of each individual child. It can be taken up to the child's 18<sup>th</sup> birthday.

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A maximum of four weeks' parental leave can be taken in respect of any individual child in any year.

Parental leave must be taken in blocks of one whole week or a whole number of weeks, except in the case of disabled children.

In the case of disabled children, leave can be taken as single days or in multiples of one day. A disabled child is a child who is entitled to a disability living allowance, armed forces independence payment or personal independence payment.

### **Definition of One Week's Leave**

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If the employee usually works a fixed number of hours each week, one week's leave will be the length of time they are normally required to work.

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If the number of days worked varies from week to week, one week's leave will be the average working week. This will be calculated by dividing the total number of days normally worked in a year by 52. In the case of single days being taken in respect of a disabled child, one week's entitlement will only be used up when the combined total of shorter periods of leave taken amounts to the one week's leave for the employee.

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### **Parental Leave Taken with Another Employer**

The total entitlement to parental leave is 18 weeks in respect of each individual child, not 18 weeks per employer. Employees who have taken any of their 18 weeks' entitlement with a former employer, or another employer they currently work for, should inform their line manager so that the amount can be taken from their 18 weeks' entitlement and the balance will remain to be taken.

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- He/she has adopted a child under the age of 18 (the right to parental leave lasts for a period of five years from the date of adoption or until the child's 18<sup>th</sup> birthday, whichever is the sooner).

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- He/she has acquired formal parental responsibility for a child who

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| ~~is under five years of age.~~

~~An employee who is the parent or adoptive parent of a child who has been awarded Disability Living Allowance is entitled to up to 18 weeks' unpaid parental leave, which can be taken up to the child's 18<sup>th</sup> birthday.~~

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~~To qualify for parental leave, employees must have completed at least one year's continuous service with SESTRAN\_\_.~~

### **Rights during parental leave**

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~~Qualifying employees will be entitled to a maximum of 13 weeks' parental leave to be taken up until the child's fifth birthday (unless the child is adopted or disabled – see above).~~ During parental leave the employee will remain employed, although pay and most contractual benefits will be suspended. The right to accrue statutory holiday entitlement will, however, remain in place. Certain other terms of employment will remain in force, ~~as follows~~. During parental leave employees will be entitled to the implied obligation of trust and confidence, and any terms and conditions of employment relating to:

- notice of termination;
- redundancy compensation; and
- disciplinary or grievance procedures.

Employees taking parental leave will be bound by the implied obligation of good faith, and any terms and conditions of employment relating to:

- notice of termination;
- disclosure of confidential information;
- the acceptance of gifts or other benefits; and
- participation in any other business.

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### **Conditions of leave**

~~An employee must, if required comply with any request made by SESTRAN to produce evidence as to his/her entitlement (eg parental responsibility or expected responsibility for the child in question; the child's date of birth or date on which placement for adoption began; where the employee is exercising a right in relation to a disabled child, details of the child's entitlement to Disability Living Allowance).~~

### **Notice of Intention to Take Parental Leave**

The employee must give proper notice of the period of leave that ~~they~~he/she proposes to take. This notice must be given to SESTRAN at least 21 days before the date on which leave is to start and must specify the dates on which the period of leave is to begin and end.

Where the employee is the father of the child in respect of whom the

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leave is to be taken, and he requests parental leave to begin when his child is born, his notice must specify the expected week of childbirth and the duration of the period of leave. The employee must give this notice at least 21 days before the expected week of childbirth. The leave can then start as soon as the baby is born (even if this is earlier or later than expected). The expected week of childbirth is the week, from Sunday to Saturday, in which a doctor or midwife expects the child to be born.

Where the parental leave is in respect of an adopted child and is to begin on the date of the placement, the employee's notice must be given to SESTRAN at least 21 days before the beginning of the week in which the child is to be placed for adoption, or as soon as is reasonably practicable thereafter. It must specify the week in which the placement is expected to occur and the duration of the period of parental leave requested. The leave can then start on the date of the child's placement, regardless of when this actually occurs.

Employees may be asked to provide reasonable evidence of:

- Their responsibility (or expected responsibility) for the child, and
- The child's date of birth or the date on which the adoption placement began.

If employees are asked to provide this evidence, they should not take parental leave until it has been provided to SESTRAN.

SESTRAN may postpone a period of parental leave (other than where parental leave has been requested immediately after childbirth or immediately after placement for adoption) where it is considered business would be unduly disrupted if the employee were to take leave during the period requested. In such a case, the employee will be allowed to take an equivalent period of parental leave beginning no later than six months after the commencement of the period originally requested and not beyond the child's 18<sup>th</sup> birthday.

SESTRAN will give notice in writing of the postponement stating the reason for it and specifying suggested dates for the employee to take parental leave. Such notice will be given no more than seven days after the employee's notice of their intention to take parental leave.

### **Return from leave**

Employees will be able to return to the same job if they return to work from:

- Parental leave lasting four weeks or less, which was an isolated period of leave; or
- Parental leave lasting four weeks or less, which was the last of two or more consecutive periods of statutory leave which did not include:
  - Any period of parental leave lasting more than four weeks; or

- Any period of statutory leave which when added to any other period of statutory leave (excluding parental leave) taken in relation to the same child means that the total statutory leave taken in relation to that child is more than 26 weeks.

In all other circumstances employees will be able to return to the same job unless this is not reasonably practicable, in which case they will be able to return to another job which is both suitable and appropriate for them to do in the circumstances.

In all cases the employee will be able to return to work on terms and conditions that are not less favourable than those which would have applied if they had not taken parental leave.

child is born, his notice must specify the expected week of childbirth and the duration of the period of leave. The employee must give this notice at least 21 days before the expected week of childbirth.

Where the parental leave is in respect of an adopted child and is to begin on the date of the placement, the employee's notice must be given to SESTRAN at least 21 days before the beginning of the week in which the child is to be placed for adoption, or as soon as is reasonably practicable thereafter. It must specify the week in which the placement is expected to occur and the duration of the period of parental leave requested.

SESTRAN may postpone a period of parental leave (other than where parental leave has been requested immediately after childbirth or immediately after placement for adoption) where it is considered business would be unduly disrupted if the employee were to take leave during the period requested. In such a case, the employee will be allowed to take an equivalent period of parental leave beginning no later than six months after the commencement of the period originally requested. SESTRAN will give notice in writing of the postponement stating the reason for it and specifying suggested dates for the employee to take parental leave. Such notice will be given no more than seven days after the employee's notice of their intention to take parental leave.

Employees may not take parental leave in blocks of less than one week (except in relation to a child who is disabled).

Employees may not take more than four weeks' leave in respect of any individual child in any year. For these purposes a year is the period of 12 months beginning when the employee first becomes entitled to parental leave in respect of the child in question, and each successive period of 12 months beginning on the anniversary of that date.

## **Return from leave**

At the end of parental leave, the employee will be entitled to return to the same job provided that the leave was for a period of four weeks or less (and did not follow on immediately from a period of additional maternity or adoption leave). If the period of parental leave was longer than four weeks (or followed on immediately from a period of additional maternity or adoption leave), then the employee will be entitled to return to the same job or, if that is not practicable, to a similar job that has the same or better status, terms and conditions as the previous job.

## **5. [SHARED PARENTAL LEAVE (ShPL)]**

### **What is Shared Parental Leave?**

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## 5. SHARED PARENTAL LEAVE (ShPL)

Shared Parental Leave (ShPL) is designed to give parents/adopters more flexibility in how to share the care of their child in the first year following birth or adoption. Eligible employees can share up to 50 weeks' leave, and can decide to be off work at the same time and/or take turns to have periods of leave to look after their child.

This option applies to employees, whether they are the mother or the partner. For an employee to be eligible for shared parental leave, both parents need to meet certain qualifying criteria (as noted below).

If it is the mother who is employed by SEStran, her partner must submit any notifications to take ShPL to their own employer. Similarly, if it is the partner who is employed by SEStran, the mother must submit any notifications to take ShPL to her own employer.

The mother and the partner should ensure that they are each liaising with their own employer to ensure that requests for ShPL are handled as smoothly as possible.

### Eligibility for Shared Parental Leave

#### Who is eligible?

ShPL can only be used by 2 people:

- The mother/adopter, and
- One of the following:
  - The father of the child (in the case of birth) or,
  - The spouse, civil partner or partner of the child's mother/adopter.

Working parents who share the main responsibility for caring for their child are able to opt into the shared parental leave system.

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

If an employee has 2 or more posts with SEStran they are required to take shared leave in respect of all posts. In the case of the mother, they are required to curtail their maternity leave for all posts.

### Eligibility Criteria

For employees to be able to take ShPL, **both** parents must meet certain eligibility requirements.

### Maternity Entitlements

The mother of the child must be entitled to maternity leave or (if she is not entitled to maternity leave) to statutory maternity pay or maternity allowance.

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| In addition, she must have curtailed her entitlement to maternity leave (or her



maternity pay or maternity allowance period) before she has taken her full entitlement. See Section 1 to determine eligibility to maternity leave.

**Care of the child** – the mother must be sharing the main responsibility for the care of the child with the child's father or partner.

**Continuity of employment** – an employee must meet a continuity of employment test. This means that the employee must have been employed by the same employer for 26 weeks at the end of the 15<sup>th</sup> week before the expected week of childbirth and remain employed by that employer at the start of the week in which shared parental leave is to be taken.

The continuity of employment test is similar to that for statutory maternity pay and paternity pay. So an employee who is entitled to SMP or SPP is likely to meet the continuity test for shared parental leave (See Section1).

**Eligibility for the other parent – “employment and earning test”** – the other parent, who must be the partner of the employee (i.e. the mother's/adopter's partner or the child's father – even if the father is not in a relationship with the mother) must satisfy an employment and earnings test and must make a declaration that they meet this test.

The employment and earnings test requires that in the 66 weeks leading up to the week in which the child is due (or in the case of adoption, the date when the adopter is notified of a match), they have worked in the UK for at least 26 weeks and in 13 weeks during the 66 week period they have earned the nationally agreed minimum level and would have paid class 1 national insurance contributions.

### **Shared Parental Leave Entitlement**

Employees are entitled to take up to 50 weeks ShPL during the child's first year. The amount of ShPL which an individual is entitled to will depend on when the mother brings her maternity leave period to an end (i.e. curtails her leave) and the amount of leave that the other parent takes in respect of the child.

The first two weeks following birth are the compulsory maternity leave period and are reserved for the mother. This means that the mother cannot curtail her maternity leave to take ShPL until two weeks after the birth and the maximum period that the parents could take as ShPL is 50 weeks between them (although it will normally be less than this if the mother/adopter has taken leave before the birth or adoption placement).

The mother's partner can begin a period of ShPL at any time from the date of the child's birth if the correct booking notification has been given. **Note:** the partner must ensure that they use up any paternity leave or maternity/adoption support leave prior to taking shared parental leave. If paternity leave is not taken before Shared Parental Leave it will be lost.

## Shared Parental Leave Options

It is up to the parents how they share the parental leave – they can take it in turns or take time off together, provided no more than 50 weeks of shared leave is taken in total.

An employee wishing to take ShPL is encouraged to contact their line manager to arrange an informal discussion as early as possible regarding their leave request. A line manager upon receiving a formal request should arrange a meeting with the employee to talk about their intentions and how they currently expect to use their ShPL entitlement. The purpose of any meeting is to discuss the leave proposed and what will happen when the employee is away from work.

Employees have the option to take leave in one continuous block (see Continuous Leave) or as separate blocks of leave (see Discontinuous Leave). Particularly in cases of requests for separate blocks of leave, the employee should discuss this in detail with their line manager to determine if the request can be granted and if necessary discuss other options that would be agreeable to both the employee and SEStran.

A maximum of three requests for leave per pregnancy can normally be made by each parent.

## Notice requirements for shared parental leave

The notices that the parents must give to the relevant employer to be able to take ShPL are made up of the following elements. They are

- Curtailment notice (mother only)
- Notice of entitlement and intention
- Booking Notice
- Variation or cancellation Notice

This is explained in more detail below and the relevant forms are available (Appendices 1-4).

## Curtailment Notice

Before the mother/adopter or partner can take ShPL, the mother/adopter must return to work before the end of their maternity/adoption leave. This will be done by giving the required eight weeks' notice of her planned return and providing SEStran with a curtailment notice.

A 'maternity/adoption leave curtailment notice' from the **mother/adopter** sets out when they propose to end their maternity/adoption leave (**see Appendix 1**).

The mother/adopter must provide the curtailment notice at the same time as the notice of entitlement and intention (Appendix 2) to take ShPL or a declaration of consent and entitlement signed by the mother confirming that her partner has given his/her employer a notice of entitlement and intention.

### **Revocation of maternity leave curtailment notice**

The curtailment notice can be withdrawn in limited circumstances. The withdrawal of a curtailment notice must be in writing and can be given only if the mother/adopter has not returned to work. The curtailment notice can be withdrawn if:

- it is discovered that neither the mother/adopter nor the partner are entitled to ShPL or statutory shared parental pay and the mother withdraws her curtailment notice within eight weeks of the date on which the notice was given;
- the curtailment notice was given before the birth of the child and the curtailment notice is withdrawn within six weeks of the child's birth; or
- the partner has died.

If a mother and her partner have already started a period of shared leave or agreed a period of shared leave which is due to start within 8 weeks following the revocation, they may be required to be absent from work on unpaid leave for some or all of this period. SEStran is under no obligation to accept an employee back to work with no notice.

### **Notice of entitlement and intention**

This notice is from the employee (whether they are the mother/adopter or partner) giving an initial, non-binding indication of their entitlement to, and intention to take, shared parental leave. This is a one-off notification and is only to inform SEStran of their intention to take shared parental leave (**See Appendix 2**).

A separate notice to book leave is required once an employee wishes to request specific dates of leave).

### **Adoption or Surrogacy Notice of Entitlement**

In addition to the notice of entitlement and intention, adoptive parents must also confirm:

- the date the parents were notified as having been matched with the child;
- the date the child is expected to be placed with the parents; and

- a declaration from the parents and consent to the amount of time the other parent intends to take.

Evidence of eligibility in this case will be copies of documents issued by the adoption agency confirming the date the parents were matched with the child.

For surrogacy arrangements, if the intended parents have applied, or intend to apply, for a 'parental order' then, subject to meeting qualifying conditions, the nominated 'primary' adopter will be entitled to take adoption leave and pay and to end their adoption leave early and move onto ShPL .

### **Booking Notice**

The employee's notice to book shared parental leave, must be in writing and be provided at least eight weeks before the start date of the first period of ShPL to be taken by the employee (**see Appendix 3**). However, the earlier an employee informs SEStran of their intentions, the more likely it is that SEStran will be able to accommodate the employee's wishes, particularly if they want to take periods of discontinuous leave.

Within 14 days of receiving a booking notice from the employee, whether the mother or partner, SEStran can request from the employee:

- a copy of the child's birth certificate (or, if the child has not been born, a copy of the birth certificate within 14 days of the birth - if the birth certificate has yet to be issued after this period, a signed declaration stating the date and location of the child's birth will suffice or a copy of the MATB1); and
- the name and address of the other parent's employer (or a declaration that the other parent has no employer).

The employee has 14 days from the date of the request to send SEStran the required information.

### **Variation or cancellation of notice of entitlement and intention**

The employee can vary or cancel their proposed ShPL dates following the submission of a Booking Notice. They must provide SEStran with a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence (**see Appendix 4**). The written notice can:

- vary the start date or the end date of any period of ShPL or cancel a request for leave;
- request that a continuous period of leave become discontinuous periods of leave; or
- request that discontinuous periods of leave become a continuous period of leave.

Any indication of leave intended to be taken that the employee provides in a Variation Notice is non-binding, until they provide a Booking Notice in relation to the new period of leave being requested.

#### **Limit on number of requests for leave**

The employee can provide a total of up to three Booking Notices per pregnancy (including the original request).

#### **Continuous period of shared parental leave**

If the employee submits a Booking Notice requesting one continuous period of leave, they will be entitled to take that period of leave provided they have followed the correct notification process. Discussions should however take place with the employee's line manager prior to any leave requests.

#### **Discontinuous periods of shared parental leave**

The employee may submit a Booking Notice requesting discontinuous periods of leave. For example, the mother and partner could request a pattern of leave from their respective employers that allows them to alternate childcare responsibilities.

If the employee submits notice requesting discontinuous periods of leave, SEStran, in the two weeks beginning with the date the notice was submitted, can:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested. If the decision is taken to refuse the leave, the employer must provide clear reasons for this to the employee.

Any response to the employee should be in writing. If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

If no agreement has been reached within that two-week discussion period, the employee is entitled to take the leave as one continuous period of leave. In that event, the employee must choose a start date for the leave that is at least eight weeks from the date on which the leave notice was originally submitted. The employee must notify SEStran of that date within five days of the end of the two-week discussion period. If the employee does not choose a start date within five days of the end of the two-week discussion period, the period of continuous leave will start on the date of the first period of leave originally requested.

Alternatively, if SEStran has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw

their Booking Notice requesting discontinuous periods of leave. The employee can withdraw this at any time on or before the 15th day after the notice was submitted. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make (maximum 3 requests).

### **Shared Parental Pay**

Only statutory pay is payable to either party for the duration of the ShPL period.

Statutory shared parental pay is available for eligible parents to share between them while on ShPL. The number of weeks' statutory shared parental pay available to the parents will depend on when the mother has ended her maternity leave and how much statutory maternity pay or maternity allowance the mother/adopter has been paid when her maternity leave or pay period ends.

A total of 39 weeks' statutory pay is available to the mother/adopter. As there is a compulsory maternity leave period of two weeks, this means that a mother who ends her maternity leave at the earliest opportunity could share up to 37 weeks' statutory shared parental pay with her partner (although it will normally be less than this because of the maternity leave that mothers usually take before the birth).

It is up to the parents to identify the period(s) of leave they are taking as shared parental leave in order that the appropriate rate of statutory shared parental pay is paid.

Statutory ShPL is paid for 37 weeks at the **lower** of the statutory prescribed rate or 90% of the relevant parent's normal weekly earnings (subject to the lower earnings limit). The remaining 13 weeks of ShPL are unpaid.

This means that statutory shared parental pay is paid at the statutory level throughout the leave period. Unlike occupational maternity/adoption pay, there is no provision for the first six weeks to be paid at 90% of the parent's actual weekly earnings. This is the case even if the mother returns from maternity leave after only two weeks, during the period where the higher (occupational) level of maternity would be have been available to her.

### **Eligibility for statutory shared parental pay**

For employees to be eligible for statutory shared parental pay, both parents must meet certain eligibility requirements.

- have at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with her employer until the week before any period of shared parental pay that they get;

Or in the case of the partner, have been employed or a self-employed earner during at least 26 of the 66 weeks immediately before the expected week of childbirth.

- have normal weekly earnings for a period of eight weeks ending with the 15th week before the expected week of childbirth/adoption placement of at least the lower earnings limit for national insurance contribution purposes;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is absent from work and intends to care for the child during each week in which they receive statutory shared parental pay; and

The mother must also be entitled to statutory maternity pay in respect of the child, but the maternity/adoption pay period has been curtailed.

#### **Terms and Conditions during shared parental leave**

During ShPL, all terms and conditions of the employee's contract except normal pay will continue. Salary will be replaced by statutory shared parental pay if the employee is eligible for it.

This means that, while sums payable by way of salary will cease, all other benefits will remain in place.

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

An employee can agree to work for SEStran (or to attend training) for up to 20 days during ShPL without that work bringing the period of his/her ShPL and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days. These will be in addition to the 10 keeping in touch (KIT) days already available for women on statutory maternity leave (as per paragraph 3.7.1).

SEStran has no right to require employees to carry out any work and employees have no right to undertake any work during their ShPL. Any work undertaken on SPLIT days, is entirely a matter for agreement between employees and SEStran. An employee will be paid the equivalent of their normal pay for time worked on a SPLIT day which will be inclusive of Statutory Shared Parental Pay.

### **6. PARENTAL BEREAVEMENT LEAVE**

Parental bereavement leave is designed to give parents additional leave ~~as a means~~ to provide extra support through their grief following the loss of a child. This leave can be taken by the child's birth parent, adoptive parent, the partner of the child's parent or adoptive parent – anyone with parental responsibility for the child.

This can be taken by all employees, regardless of their length of service. It is also available to parents who suffer a stillbirth after 24 weeks of pregnancy.

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Where an employee is eligible to take parental bereavement leave under this regulation as a result of the death of more than one child, they are entitled to parental bereavement leave in respect of each child.

The statutory right is for parents of children under the age of 18 however, SEStran are flexible on this as we appreciate that the loss of a child is equally as distressing for any parent.

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The employee can take one or two weeks' parental bereavement leave. This is in addition to bereavement leave which is available for up to five days (as noted in point 7.8 below). It is not available as individual days and can be taken as

- a single block of two weeks or
- two separate blocks of one week at different times.

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This leave can be taken within 56 weeks of the date of the death of the child.

### Payment

Under legislation, employees with 26 weeks' continuous service are entitled to two weeks of paid leave at the statutory rate and employees with less than 26 weeks will be entitled to unpaid leave.

SEStran have extended this to allow all employees, including those with less than 26 weeks service, access to their normal pay during the 2 week parental bereavement leave period.

### Notification

Employees do not need to provide notice in writing. Informal notification, such as a phone call, is sufficient to take parental bereavement leave.

Within the first 56 days of a child's death, the employee can take the leave straight away. This can begin by the employee letting their line manager know before they would have been due to start work or, if that is not feasible, as soon as possible.

If an employee wishes to take the leave more than 56 days after the child's death, they are required to give one week's notice of their intention to take the leave.

If an employee wishes to cancel parental bereavement leave, they must give notice before the leave starts of at least one week if it is 56 days after the child's death and no later than the first day the leave was due to start if it is within 56 days of the child's death. Bereavement leave which has already started cannot be cancelled.

### Right to return



If an employee requires a flexible return to work following parental bereavement leave, they should discuss this with their line manager.

Employees have the right to return to the same job, in the same location as they had before starting parental bereavement leave. Any changes to their job or location must be in accordance with the normal consultation procedures, and not in any way related to the leave.

If the employee is on a temporary contract, they will not have the right to return to work where their contract would have expired during the leave. They will however be entitled to all other provisions noted above, as long as if relevant eligibility criteria are met.

**7. NEONATAL CARE LEAVE & PAY**

Neonatal Care Leave applies to parents of babies, born after 6<sup>th</sup> April 2025, who are admitted into neonatal care up to 28 days old and who have a continuous stay in hospital of 7 full days or longer. These measures allow eligible parents to take up to 12 weeks of leave (and, if eligible, pay) on top of any other leave they may be entitled to, including maternity and paternity leave. Employees are entitled to this right from day one of employment and there is no qualifying service needed.

**Qualifying Conditions**

Statutory neonatal pay: to qualify for statutory neonatal pay, employees must have at least 26 weeks' continuous employment with SESTRAN up to the end of the 'qualifying week'.

If the employee is already entitled to other statutory parental pay - for example, maternity or paternity pay – the qualifying week is the 15th week before the baby is due. Otherwise, the qualifying week is the week immediately before the baby enters neonatal care.

The employee must also:

- remain employed up to the week before they want the pay to start
- meet the earnings criteria set out at <https://www.gov.uk/neonatal-care-pay-leave/check-eligible>

Slightly different rules apply if:

- the child is born before the relevant week, or
- the employee has between 25 and 26 weeks' continuous service ending with the relevant week.

In such circumstances contact the Business Manager so that further guidance can be obtained.

To be eligible for neonatal care leave, the employee must be either:

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- The child's parent and, at the date of their birth, have (or expect to have) responsibility for their upbringing; or
- At the date of the child's birth, the partner of the child's mother and have (or expect to have) the main responsibility (apart from the mother) for the child's upbringing.

A 'partner' is someone (of the same or a different sex) who lives with the mother in an enduring family relationship but is not their child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew – these include half-blood relationships.

Neonatal leave must be taken to care for the child. This condition does not apply if the child has died since receiving neonatal care. Please see Parental Bereavement Leave.

The employee should not work for SESTRAN during neonatal leave. If they work for another employer during neonatal leave, they will lose their entitlement to statutory neonatal pay unless: (i) the other employer is not liable to pay statutory neonatal pay; and (ii) they worked for them during the 15<sup>th</sup> week before the expected week of childbirth.

If the employee works for another employer during neonatal leave, and did not work for them during the 15<sup>th</sup> week before the expected week of childbirth, they must notify SESTRAN in writing (e.g. via email) within 7 days of the first day of that work.

### Neonatal Leave

The employee will accrue one week of neonatal leave for each 'qualifying week' in which the child receives neonatal care, up to a maximum of 12 weeks' neonatal leave.

A week will only be a 'qualifying week' if the period of neonatal care:

- starts within 28 days running from the day after the child's birth ('the 28-day period'); and
- lasts for an uninterrupted period of 7 days, with the first qualifying week starting the day after neonatal care starts.

Neonatal leave will not accrue in respect of part-weeks of neonatal care.

If neonatal care starts within the 28-day period and continues, uninterrupted, for a number of weeks, the employee will accrue neonatal leave in respect of each qualifying week, including those that extend beyond the 28-day period.

If neonatal care stops, then restarts, the employee can accrue neonatal leave in respect of each separate period but only if each period independently meets the 'qualifying week' conditions above (including starting within the 28-day period).

Employees should contact the Business Manager to check whether a period of neonatal care is continuous or has been interrupted. Care can be received in different places (as described below) and is not interrupted just because a child is transported between different places where they are receiving neonatal care.

### Neonatal Care Definition

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Neonatal care means any of the following:

- Medical care received in a hospital. This includes maternity homes, and clinics or outpatient departments connected to hospitals or maternity homes. The child does not necessarily need to have been admitted to hospital as an inpatient.
- Medical care received in any other place if: (i) the child was an inpatient in hospital and the care is received upon leaving hospital; (ii) the care is under the direction of a consultant; and (iii) the care includes ongoing monitoring by, and visits to the child from, healthcare professionals arranged by the hospital where the child was an inpatient.
- Palliative or end of life care.

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### Multiple Births from the Same Pregnancy

In the case of multiple births from the same pregnancy:

- Neonatal leave is only accrued in respect of any individual child whose neonatal care lasts for an uninterrupted period of 7 days (running from the day after neonatal care starts). For example, neonatal leave will not accrue if twins each receive neonatal care for only 5 days.
- Neonatal leave can accrue in respect of more than one child, if they are receiving neonatal care at different times. If they receive neonatal care at the same time, leave can only accrue in respect of one child.
- The maximum neonatal leave available remains at 12 weeks, even if more than one child receives neonatal care.

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### Statutory Neonatal Pay

Employees will not be entitled to normal pay during neonatal leave but will be entitled to statutory neonatal pay during any weeks of neonatal leave if they meet the eligibility conditions set out above.

The rate of statutory neonatal pay is the lower of either: (i) 90% of the employee's normal weekly earnings; or (ii) a prescribed rate set by the government each year – contact the Business Manager for the current rate.

SESTRAN will deduct tax and national insurance from neonatal pay. We may also deduct pension contributions.

Statutory neonatal pay will not be due for a week if, during any part of it, the employee is entitled to statutory sick pay. There are some other exceptional circumstances in which it will not be due, and employees will be notified if these arise.

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### Tier 1 and Tier 2 – time periods

There are two time periods for neonatal leave:

- Tier 1: runs from the start of neonatal care until 7 days after neonatal care stops.
- Tier 2: covers any other period during which you can take neonatal leave.

In the case of multiple births from the same pregnancy, if more than one child is receiving neonatal care, Tier 1 runs from the first day that any of the children starts receiving neonatal care and ends 7 days after the last child stops receiving it.

### When/how can neonatal leave be taken?

Employees can take neonatal leave while a child is receiving neonatal care or later, however:

- The earliest they can start neonatal leave is on 'day 9' of the child's neonatal care – so if neonatal care starts on a Monday, they cannot start neonatal leave until the Tuesday of the following week.
- Leave can start on any day of the week.
- Neonatal leave must be taken within 68 weeks of the child's birth. Any neonatal leave not taken within that time will be lost. In the case of multiple births from the same pregnancy, the 68-week period runs from the first child's birth.
- The leave must be taken in blocks of one or more weeks. It cannot be taken as single days or periods of less than a week.

If neonatal leave is taken:

- During Tier 1: the weeks of leave do not need to be consecutive.
- During Tier 2: the leave must be taken in consecutive weeks i.e. one block. The employee can choose how much of the accrued leave they want to take, and don't need to use it all, but they will lose any leave they do not take in that block and will not be able to take it at a different time.

Neonatal leave is available in addition to other statutory family leave (such as maternity or paternity leave) and taking neonatal leave does not impact on the amount of other leave available.

Employees should not stop any adoption, maternity, paternity or shared parental leave that has already started to take neonatal leave. They can take the neonatal leave after the other leave has ended, even if the child is not receiving neonatal care at that point.

Employees cannot give notice to take neonatal leave during Tier 2 if they know it will be interrupted by other family leave.

If a block of neonatal leave started during Tier 1 and is interrupted by other pre-booked statutory family leave (such as paternity or shared parental leave), the neonatal leave is paused and the employee moves to the other family leave. If the

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other family leave then ends:

- During Tier 1: the employee immediately moves back onto neonatal leave for the remaining duration of the neonatal leave they originally gave notice for (which might not be the full amount of accrued neonatal leave) – they do not need to give any additional notice to take this; or
- During Tier 2: the employee does not need to move straight back onto neonatal leave. They should give notice of when they want to take neonatal leave (as referred to below) and must take the remaining neonatal leave they originally gave notice for consecutively with any other neonatal leave they take.

## Process for Taking Neonatal Leave

To take neonatal leave, employees must give us notice of the following:

- Name
- The child's date of birth
- The start and end dates of each period of neonatal care. If neonatal care is ongoing when notice is given, notice, the employee should give the date it ends, as soon as is reasonable after that.
- The date the neonatal leave is to begin
- How many weeks of neonatal leave they plan to take
- Confirmation that they are taking neonatal leave to care for the child
- If this is the first notice of neonatal leave in respect of the child, confirmation that they meet the relationship and responsibility requirements described above.

Guidance on notice requirements is at Appendix 5.

All normal terms and conditions remain in force during neonatal leave except for terms relating to pay.

Any employee pension contributions will be based on the level of pay received during neonatal leave. The employee can seek to make these up. Further information can be sought from the Business Manager.

Any employer pension contributions SESTRAN are due to make during neonatal leave will be based on normal pay.

## 8. CARER'S and DEPENDANTS' LEAVE

## Definitions

A person is a "dependant" for the purposes of carer's leave if they:

- Are a spouse, civil partner, child or parent of the employee.

- Live in the same household as the employee, otherwise than by reason of being the employee's boarder, employee, lodger or tenant, or reasonably rely on the employee to provide or arrange care.

A dependant has a "long-term care need" for these purposes if:

- they have an illness or injury (whether physical or mental) that requires, or is likely to require, care for more than three months.
- they have a disability for the purposes of the Equality Act 2010, or
- they require care for a reason connected with their old age.

Carer's leave is available to all employees of SESTRAN irrespective of length of service, and whether they are part-time or full-time. It is available to deal with family/dependent emergency obligations or where normal care arrangements fall down. Examples when carer's leave may be applicable are:

- to provide assistance when a dependant falls ill, gives birth or is injured or assaulted;
- to make arrangements for the provision of care for an ill or injured dependant;
- because of the unexpected disruption or termination of arrangements for the care of a dependant;
- to deal with an incident that involves their child and occurs unexpectedly whilst the child is at school/other educational establishment.

#### Unplanned leave (paid)

Unplanned Carer's leave is intended to cover unforeseen matters and should not be used for pre-planned occurrences such as hospital and dental appointments. In these circumstances other options are available such as annual leave or parental leave.

Carer's leave consists of up to a maximum of 5 days' paid leave (pro-rated for part-time/week workers) in any one leave year to deal with emergency obligations. Notwithstanding, when normal care arrangements break down, employees will be expected to make alternative arrangements as soon as possible.

Leave may be taken as half days, single days or block periods.

A dependent is defined as an employee's partner, child (or partner's child), parent (or legal guardian) or someone who lives in the same household as the employee (other than by reason of being his employee, tenant, boarder or lodger).

#### Planned/Statutory leave (unpaid)

Planned carer's leave is to deal with situations where reasonable advance notice is available. This leave is to cover pre-planned occurrences such as hospital or dental appointments, legal meetings or residential care meetings.

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This leave is unpaid although employees may request annual and flexi leave or for extended periods, parental leave can be requested for childcare issues.

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It is an over-riding principle that service provision will not suffer and, whilst every effort will be made to support employees in relation to pre-planned leave requests, there may be occasions where due to other circumstances, such as office cover or service provisions, requests may be refused. This will be discussed with the employee and alternative options considered.

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Different notice periods apply for statutory carer's leave as noted below:

If statutory leave is being used to provide or arrange care for a dependant with a long-term care need, the employee can request up to one week's unpaid leave (pro rata for part time) in a rolling 12-month period which can be taken as one continuous block of leave, or multiple shorter periods through the year. The minimum period is half a day.

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If an employee wishes to take statutory carer's leave, they will need to give notice which must:

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- specify that they are entitled to take statutory carer's leave
- specify the days on which they want to take carer's leave (and specify if the leave relates to part of a day); and
- be given in advance - the notice period is either at least twice as many days as the period of leave requested or, if longer, 3 days.

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The notice can relate to all or part of the entitlement and does not need to be in writing. The notice requirement could on occasion be waived, provided the employee is otherwise eligible to take carer's leave.

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Statutory carer's leave cannot be declined but may be postponed where all the following apply:

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- SESTRAN reasonably consider that the operation of the business would be unduly disrupted if it allowed the leave during the requested period.
- We allow the employee to take a period of carer's leave of the same duration, within a month of the period initially requested.
- We give the employee written notice within seven days of the initial request (or sooner if possible), setting out the reason for the postponement and the agreed dates on which the leave can be taken.

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Where the leave is in respect of bereavement the provisions for bereavement leave as noted in section 98 will apply. Where a parent has lost a child, see also section 66. [For neonatal care leave see section 7.](#)

In the cases of serious illness, up to 3 months' leave may be granted at the discretion of the Partnership Director. This leave may be paid, unpaid, and in exceptional circumstances unpaid leave may be extended.

Authorisation for carer's leave should be obtained by following the normal procedures for absence notification.

## **9. SPECIAL LEAVE**

### **Bereavement Leave**

SESTRAN has discretion to grant up to 5 working days paid leave where a family member or close friend of an employee dies. In exercising discretion, the following will be taken into account:

- (a) the circumstances which justify leave to attend the funeral;
- (b) the requirement of an employee to make funeral arrangements and/or deal with financial or legal issues which occur immediately around the time of the death; and/or
- (c) the requirement for an employee to travel over long distances (for travel outside the UK absence may be part paid and part unpaid).

### **REVIEW**

This policy will be reviewed annually, to take account of developments within SESTRAN and legislative requirements.

### **Appendix 1 – Curtailment Notice Form**

### **Appendix 2 – Notice of Entitlement and Intention to Take Shared Parental Leave**

### **Appendix 3 – Shared Parental Leave Booking Notice**

### **Appendix 4 – Notice to Vary a Period of Shared Parental Leave**



## CURTAILMENT NOTICE

### Appendix 1

To be completed by the Mother only.

Please complete and return this form to your manager.

This form is to inform SEStran that you wish your maternity leave/pay to end in order that the person who shares the main responsibility to care for your child can take shared parental leave.

You must give at least 8 weeks' notice of your curtailment date. If you are entitled to maternity leave, the curtailment date must be at least two weeks after the birth of your child.

I wish my maternity/adoption leave to end on:..... (insert date)

Name	
Employee No	
Job Title(s)	
Signature	
Date	

**Please note:** This form is only notification that you wish to curtail your maternity leave. You are required to complete a Notice of Entitlement and Intention Form. This form can be completed and handed in at the same time as your curtailment notice.

(\*) If you have 2 or more jobs either with SEStran (or with SEStran and another employer) you are required to curtail your maternity leave in all posts. Please ensure that all your job titles are noted in this Curtailment Notice

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## Appendix 2

### Notice of Entitlement and Intention to Take Shared Parental Leave

If you wish to take shared parental leave, then you must submit this form to your manager at least **8 weeks** before the start of the first period of shared parental leave. If you are the mother, you must also complete a curtailment notice confirming you are bringing your maternity leave to an end.

In order to calculate the amount of shared parental leave you are eligible for please complete the following.

Employee Name:	
Employee No:	
Job Title(s):	
Date on which maternity / adoption leave commenced / will commence	

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#### Declaration:

☐ I confirm that I am the mother/main adopter of the child;

Or

☐ I confirm that I am the partner of the mother/main adopter of the child: And

☐ I confirm that I meet the eligibility criteria for shared parental leave (as per Section 5 of the Policy).

Signed:

Date:

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**Note (Mother only): If you have 2 or more jobs either with SEStran (or with SEStran and another employer) you are required to curtail your maternity leave in all posts.**

**Note (Partner only): If you have 2 or more jobs with SEStran you are required to give notice for shared leave in both posts. If you have one post with SEStran and one with another employer you can decide if you wish to take shared leave from all posts.**

**(\*) You are required to highlight details of all your posts in the Curtailment Notice.**

### Appendix 3

#### SHARED PARENTAL LEAVE BOOKING NOTICE

This form should be completed should you wish to book shared parental leave.

**You must give at least 8 weeks' notice of any dates in which you wish to take as shared leave.**

Name	
Employee No	

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A. Date in which you (or the mother/adopter) has curtailed their maternity leave		
B. Number of weeks maternity or adoption leave taken by the mother/ adopter.	<u>Start Date</u>	<u>End Date</u>
C. Remaining number of weeks of <b>shared parental leave</b> available (52 weeks minus the number of weeks taken according to the above dates) (e.g. 52 – B above)		
D. Maximum number of weeks of <b>shared parental pay</b> available (39 weeks minus the number of weeks taken according to the above dates) (e.g. 39 – B above)		
E. Total number of shared parental leave/pay you intend to take	<u>Shared Parental Pay</u>	<u>Shared Parental Leave</u>
F. Total Number of weeks of Shared parental leave/pay the other parent intends to take.	<u>Shared Parental Pay</u>	<u>Shared Parental Leave</u>

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#### Requested Shared Parental Leave / Pay Dates

Start date	End date	Number of weeks leave	Number of weeks pay (if applicable)

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#### Declarations By the Employee

Please confirm your eligibility by ticking the appropriate boxes below and signing the form

- ☐ I am the mother, father or main adopter of the child and will share the care of the child with my partner named below
- ☐ I meet the eligibility criteria for shared parental leave If appropriate:
- ☐ I meet the eligibility criteria for shared parental pay
- ☐ I am the mother or main adopter and have completed the **notice of curtailment of maternity / adoption leave** section and understand that this is **binding** subject to certain conditions outlined in the policy
- ☐ I consent to you retaining and processing the information contained in this form

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Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**For completion by the Employee's Partner**

Name	
Address	
Name and Address of Employer	
National Insurance Number	

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I confirm that I meet the following criteria for eligibility for shared parental leave:

- ☐ I have worked either directly, for an agency or self-employed, for 26 weeks in the 66 weeks leading up to the due date.
- ☐ I have earned above the maternity allowance threshold of £30 a week in 13 of the 66 weeks leading up to the due date.
- ☐ I consent to your employee taking shared parental leave and shared parental pay as detailed above.

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If appropriate:

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- ☐ I am the mother / main adopter and confirm I have curtailed my maternity / adoption leave and pay with my employer (or will have done so by the time your employee takes shared parental leave).
- ☐ I consent to you retaining and processing the information contained in this form.

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Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Appendix 4

Notice to Vary a Period of Shared Parental Leave

You should complete this form if you wish to vary a previously approved period of shared parental leave.

You must have previously submitted a **Booking Notice for Shared Parental Leave** (Appendix 8) and have had your eligibility for shared parental leave confirmed.

Name	
Employee No: (if employed by SEStran)	
Name of Partner	

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Request to Vary Previously Requested Parental Leave / Pay Dates

Previously Approved Start date	Previously Approved End date	Detail the change you would like to request (Including start and end dates)

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We confirm that we agree to the request as per the variation outlined above.

Signed: (Employee) \_\_\_\_\_ Date: \_\_\_\_\_

Signed: (Employee's Partner) \_\_\_\_\_ Date: \_\_\_\_\_

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Appendix 5

Neonatal Care Leave – Notice Requirements

<b>DURING TIER 1</b>
<b>How much notice?</b>
<u>You must give us notice before you are due to start work on the first day of each week of neonatal leave (or, if this is not reasonably practicable, as soon as is reasonably practicable).</u>
<u>If you give notice on a day when you have already started work, your neonatal leave cannot start until at least the following day. If you need time off work before that, speak to your line manager about your options.</u>
<b>Does it need to be in writing?</b>
<u>You can give notice verbally at first, but if you want to claim statutory neonatal pay, you must follow this up with written notice within 28 days of neonatal leave starting.</u>
<b>Can I withdraw notice?</b>
<u>You cannot return to work part-way through a week of neonatal leave – it must be taken in full weeks.</u>
<u>If you wish to cancel future weeks of neonatal leave that you have given notice of, this will be at our discretion and you should speak to your line manager to discuss the situation.</u>
<b>DURING TIER 2</b>
<b>How much notice?</b>
<u>You must give us notice:</u>
<ul style="list-style-type: none"><li><u>For one week of leave, no later than 15 days before the first day of leave.</u></li><li><u>For two or more consecutive weeks of leave, no later than 28 days before the first day of leave.</u></li></ul>
<u>In some cases, we may accept shorter notice, but this will be at our discretion.</u>
<b>Does it need to be in writing?</b>
<u>Notice must be in writing.</u>
<b>Can I withdraw notice?</b>
<u>Yes, so long as you give us notice in writing and:</u>
<ul style="list-style-type: none"><li><u>For one week of leave, no later than 15 days before the first day of leave.</u></li><li><u>For two or more consecutive weeks of leave, no later than 28 days before the first day of leave.</u></li></ul>
<u>If you withdraw your notice to take leave, you can then give notice to take leave on different dates, so long as those meet the other conditions in this policy.</u>
<u>In some cases, we may accept shorter notice of withdrawal, but this will be at our discretion.</u>

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RECRUITMENT POLICY

DOCUMENT VERSION CONTROL

Date	Author	Version	Status	Reason for Change
July 2008	SEStran	1.0	FINAL	Policy Adopted
Oct 2017	SEStran	1.1	FINAL	Adoption of version control
Oct 2021	HR Adviser	1.2	FINAL	Amendments to Eligibility to Work in UK section, guidance added on Asylum & Immigration Act checks and OH screening checks moved to online.
Nov 2021	SEStran	1.2	FINAL	Approved by Performance & Audit Committee
<u>Sept 2025</u>	<u>SEStran</u>	<u>1.3</u>	<u>FINAL</u>	<u>Updated guidance on eligibility to work in UK and biometric residence permits</u>

## **Introduction**

SESTRAN aims at all times to recruit the person who is most suited to the particular job. Recruitment will be solely on the basis of the applicant's abilities and individual merit as measured against the criteria for the job. Qualifications, experience and skills will be assessed at the level that is relevant to the job.

SESTRAN is committed to applying its equal opportunities policy at all stages of recruitment and selection. Shortlisting, interviewing and selection will always be carried out without regard to gender, sexual orientation, marital status, colour, race, nationality, ethnic or national origins, religion or belief, age or trade union membership.

Reasonable adjustments to the recruitment process will be made to ensure that no applicant is disadvantaged because of their disability.

## **Recruitment process**

It is SESTRAN's policy that vacancies will normally be advertised externally in appropriate media as well as being notified to existing employees who will be encouraged to apply for vacant posts if they have the appropriate qualifications, experience and skills.

All posts to be advertised will be agreed in advance by the Partnership Director and, where appropriate, the Partnership Board.

Before beginning to recruit to a post, the person responsible for the process must ensure that there is an up-to-date job description and a clearly drafted person specification. The job description will describe the duties, responsibilities and level of seniority associated with the post, whilst the person specification will describe the type of qualification(s), training, knowledge, experience, skills, aptitudes and competencies required for effective performance of the job.

Application packs to be issued to candidates will include: an application form, equal opportunities monitoring form, job description, copy of advert and SESTRAN information.

Copies of job description and person specification templates are attached at Appendices A and B respectively.

## **Selection process**

The shortlisting process will be undertaken only on the basis of the information provided on each person's application form and with regard to whether or not they meet the essential criteria noted in the person specification and job description.

Candidates will be advised whether or not they are being invited for interview in writing as soon as possible after the closing date. As much notice of interviews

will be given as possible, normally at least 5 working days. If a candidate is unable to attend for interview alternative arrangements will be made if practical.

Reasonable adjustments to the recruitment process will be made to ensure that no applicant is disadvantaged because of any disability they may have.

Interview panels will ensure that the questions they ask job applicants are not in any way discriminatory or unnecessarily intrusive. The interview will focus on the needs of the job and skills needed to perform it effectively, taking account of the information contained in the person specification and job description. A record of every recruitment interview must be made and retained in a confidential basis for a period of six months and thereafter confidentially destroyed. On no account should any job offer be made during or at the end of an interview.

Psychometric testing may be used as part of the recruitment process. Any test used must have been validated in relation to the job, be free of any bias, and be validated, administered, scored and feedback and by a suitably trained person.

All applicants invited for interview must be advised that, if successful at interview, they will be expected to complete an Occupational Health questionnaire.

Once the preferred candidate has been selected, the Occupational Health questionnaire should be sent to the candidate.

If the Occupational Health Adviser has any queries regarding the questionnaire, they may invite the candidate for a medical interview or a medical examination. If the candidate refuses to complete the questionnaire, or attend an Occupational Health interview or examination, this would mean that conditions of the appointment had not been satisfied, and the manager must obtain advice from the Service HR Adviser.

It is SESTRAN's practice to seek the successful candidate's consent to seek two written references and to ask for documentary proof of qualifications.

Information regarding attendance, ill health or disability must not be requested from previous employers prior to interview. However, two appropriate and satisfactory employment references will be required prior to confirming any conditional offer of employment, and the conditional offer letter will advise the candidate that references will be sought at that point. A template offer letter is attached at Appendix C.

On no account should any job offer be made during or at the end of an interview. Offers of employment may only be made on condition that all checks have been received and are satisfactory.

Candidates who have been unsuccessful at interview will normally be advised in writing within two weeks of the interview date.

## Eligibility to work in the UK

Under the Immigration, Asylum and Nationality Act ~~2006~~, specific documents must be checked and copied to establish that an individual has the right to work in the UK. Please see Appendix D for guidance on steps that must be taken to comply with the Act.

## Baseline Personnel Security Standard (BPSS)

BPSS is the minimum standard required to ensure the identity and integrity of an employee with access to official information/systems. It involves a number of checks:

- Identity check;
- Nationality and Immigration Status;
- Employment History (past 3 years);
- Verification of Criminal Record (unspent convictions only);
- References covering previous 3 year period;
- Checks relating to time spent living or working abroad;

Checks relating to gaps in employment history or additional references covering a 3\_ year period are not mandatory but are considered good practice.

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## Induction

All employees will undergo an induction appropriate to the duties of their post. An induction checklist should be used to keep a record of the induction process and retained in the employee's personal file.

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## Review

This policy will be reviewed annually, to take account of developments within SESTRAN and legislative requirements.

## Appendix A - Job Description Templates

## Appendix B - Person Specification Templates

## Appendix C - Draft Offer Letter

## Appendix D ~~— Guidance on Eligibility to Work in the UK checks~~ ~~List of documents which should be considered for the purpose of validating eligibility to work in the UK~~

## Appendix A

### JOB DESCRIPTION

**Section A    Job definition**

**Section B    Organisational relationship**

**Section C    Key Responsibilities**

**Section D    Knowledge, Skills & Experience**

Knowledge

Skills

Experience

**Section E    Communications and Contacts**

## Appendix B

### PERSON SPECIFICATION

#### TITLE OF POST:

POSTHOLDER'S ATTRIBUTES	<u>ESSENTIAL</u>	DESIRABLE	TO BE IDENTIFIED BY:
Qualifications/Training			
Special Knowledge			
Circumstances / Personal			
Disposition/Attitude			
Practical and Intellectual Skills			
Experience			

## Appendix C

Enquiries to: Chair of Interview Panel  
Direct Dial: Extn. No.  
Date:

### **CONFIDENTIAL**

Name  
Address  
Town  
Postcode

Dear Name,

Post: {Job Title}

Following a successful interview, the Interview Panel will be making recommendations to the Partnership Director in regard to your appointment, but any recommendation will be subject to satisfactory completion of various pre-employment checks.

This post requires that Occupational Health clearance is obtained. A questionnaire will be emailed to you using our Occupational Health system. Please complete this as quickly as possible. .

References will now also be requested.

It is important that you note that this letter is a conditional offer of appointment, and will only be confirmed after consideration of such pre-employment checks as may be conducted and considered necessary by the SESTRAN. SESTRAN reserves the right not to proceed with an appointment for any reason.

As we are not in a position to confirm a formal offer of employment to you at this stage of the recruitment process you are advised not to hand in your notice to your present employer. Please wait until such time as you receive a letter from SESTRAN formally offering you an appointment.

Yours sincerely,

**TITLE**

## Appendix D

### Eligibility to Work in the UK Checks

All internal and external candidates are legally required to evidence that they are allowed to work in the UK.

You must carry out a manual document (in person) check for all external candidates.  
You will also need to carry out an online check to establish a right to work for **ALL non-UK** candidates using the GOV.UK toolkit. This toolkit helps you to understand which documents are required to establish their right to work in the UK. They must provide their date of birth and a share code to the recruiting manager who will then be able carry out an online right to work check.  
We can no longer accept a biometric residence permit without also doing the online check.

#### Manual document check

You must **obtain original documents** from either **List A or List B** for a manual right to work check. You can find the list at: Employers' right to work checklist (accessible) - GOV.UK

1. Obtain original versions of one or more of the acceptable documents
  2. Check the documents in the presence of the holder of the documents.
- You must **check that the documents are genuine** and that the person presenting them is the employee or prospective employee, the rightful holder and allowed to do the type of work you are offering.

The photographs must be consistent across documents and with the person's appearance:

1. The dates of birth are consistent across documents and with the person's appearance.
2. The expiry dates for time-limited permission to be in the UK are in the future (ie they have not already passed).
3. The work restrictions to confirm if the person is able to work for SEStran and do the type of work you are offering (for students who have limited permission to work during term-times, you must also obtain, copy and retain details of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed).
4. All documents are genuine, have not been tampered with and belong to the holder.
5. Reasons for any different names across documents (eg marriage certificate, divorce decree, deed poll).

3. Make copies of the documents in a format which cannot later be altered; retain the copies marking the copy 'right to work check undertaken on [Date]'.

You must copy and retain:

- Passports
  - any page with the document expiry date
  - the holder's nationality

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- [date of birth](#)
- [signature](#)
- [leave expiry date](#)
- [biometric details](#)
- [photograph](#)
- [any page containing information indicating the holder has an entitlement to enter or remain in the UK and undertake the work in question](#)
- [- the front cover no longer has to be copied.](#)

- [All other documents](#)

- [eVisa - Individuals need to create a UKVI account at <http://www.gov.uk/evisa> to access their eVisa and generate a share code <http://www.gov.uk/view-prove-immigration-status>](#)

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### [Home Office online right to work checking service for non UK candidates](#)

[For those with a biometric residence permit, a biometric residence card or have status issued under the EU settlement scheme, the online right to work check must be used in addition to a manual document check. If a candidate has a biometric residence card \(BRC\) and holds status under the EU Settlement Scheme, then they will not need to take any action other than keeping their UKVI account up to date with their latest passport and contact details. The move to an eVisa will not impact their underlying status.](#)

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1. [Use the Home Office online right to work checking service for an applicant and only employ the person, or continue to employ an existing employee, if the online check confirms they are entitled to do the work in question](#)
2. [Satisfy yourself that any photograph on the online right to work check is of the individual presenting themselves for work; and](#)
3. [Retain a clear copy of the response provided by the online right to work check which should be uploaded to MyView along with the other documents](#)

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[If candidates are not from the UK further information regarding recruitment checks should be obtained from SEStran's Human Resources Adviser.](#)

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[EEA candidates who have made a successful application to the EU Settlement Scheme \(EUSS\) will have been granted their immigration status digitally and can only prove their right to work using the Home Office online checking service.](#)

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[If an EEA citizen has been granted 'Settled Status' by the Home Office, they will have a continuous right to work, in the same way as someone with Indefinite Leave to Enter / Remain status. If an EEA citizen has been granted 'Pre-Settled Status' by the Home Office, they will have a time-limited right to work and you must carry out a follow-up check. The Home Office online service will advise when a follow-up check must be carried out.](#)

[Some cohorts of EEA citizens will not have status under the EUSS. They will evidence their right to work using specified documents if they cannot use the home office online system. These are detailed below:](#)

- [Frontier Worker Permits](#)
- [Service Provider of Switzerland visas](#)
- [Outstanding applications to UK EUSS](#)
- [Outstanding applications to Crown Dependency EUSS](#)
- [EEA citizens with Indefinite Leave to Enter/Remain](#)
- [Points-Based System visas](#)

[If the appropriate evidence has not been provided or if there is any doubt that documents are genuine, a recommendation for or offer of employment should not be made. Advice should be sought from SEStran's Human Resources Adviser before progressing the application.](#)

Where it has been agreed to allow employment through a recruitment agency, it should not be left up to the recruitment agency to undertake these checks. The criminal liability still lies with SEStran as the employer to ensure that these checks have been carried out and are satisfactory. If the worker remains an agency employee, this will be the responsibility of the recruitment agency.

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#### Certificate of Sponsorship – Note before interview if this will be required

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SEStran will be able to apply to sponsor skilled migrants in specific situations. If a Certificate of Sponsorship is required, the recruiting manager must contact SEStran's Human Resources Advisor before any offer of employment is made. This process can take a number of weeks and there is no guarantee that sponsorship will be granted.

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Following recruitment of employees from outwith the UK, the manager has specific responsibility under the regulations to monitor and conduct annual checks to ensure continued right to remain and work in the UK. Failure to carry out these checks may result in a fine.

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#### How to conduct a right to work check – The 3 Step Check

All internal and external candidates are legally required to evidence that they are allowed to work in the UK.

#### You must know your employee's right to work

You may conduct a manual document check or perform an online check to establish a right to work. If applicants are not from the UK you can use the toolkit at <https://www.gov.uk/legal-right-work-uk> to confirm whether they have the right to work in the UK.

You must keep a record of which document(s) have been checked.

#### Home Office online right to work checking service:

For those with a biometric residence permit, a biometric residence card or have status issued under the EU settlement scheme, the online right to work check can be used <https://www.gov.uk/view-right-to-work>

There are three basic steps to conducting an online right to work check:

1. Use the Home Office online right to work checking service for an applicant and only employ the person, or continue to employ an existing employee, if the online check confirms they are entitled to do the work in question;
2. Satisfy yourself that any photograph on the online right to work check is of the individual presenting themselves for work; and
3. Retain a clear copy of the response provided by the online right to work check (storing that response securely, electronically or in hardcopy) for the duration of employment and for two years afterwards.

#### Manual document check:

Step 1	Step 2: Check	Step 3: Copy
--------	---------------	--------------

You must obtain original documents from either List A or List B (see below) for a manual right to work check.	You must check that the documents are genuine and that the person presenting them is the prospective employee or employee, the rightful holder and allowed to do the type of work you are offering.	You must make a <b>clear copy</b> of each document in a format which cannot later be altered, and retain the copy securely, electronically or in hardcopy. <b>You must also retain a secure record of the date on which you made the check.</b>
<p><b>List A</b> You have a <b>continuous statutory excuse</b> for the <b>full duration</b> of that person's employment with you. You do not have to carry out any repeat right to work checks on this person.</p> <p><b>List B (Part 1)</b> You have a <b>time-limited statutory excuse</b> which expires when the person's permission to be in the UK</p>	<p>The photographs must be consistent across documents and with the person's appearance</p> <ol style="list-style-type: none"> <li>1. The dates of birth are consistent across documents and with the person's appearance</li> <li>2. The expiry dates for time-limited permission to be in the UK are in the future (ie they have not already passed)</li> <li>3. The work restrictions to confirm if the person is able to work for Sestran and do the type of work you are</li> </ol>	<p>You must copy and retain:</p> <ol style="list-style-type: none"> <li>1) <b>Passports:</b> any page with the document expiry date, the holder's nationality, date of birth, signature, leave expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK and undertake the work in</li> </ol>
<p>expires. <b>You must carry out a follow-up check</b> when the document evidencing their permission to work expires.</p> <p><b>List B (Part 2)</b> You have a <b>time-limited statutory excuse</b> which expires 6 months from the date specified in the Positive Verification Notice. <b>You must carry out a follow-up check</b> when this notice expires.</p>	<p>offering (for students who have limited permission to work during term times, you must also obtain, copy and retain details of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed).</p> <ol style="list-style-type: none"> <li>4. All documents are genuine, have not been tampered with and belong to the holder</li> <li>5. Reasons for any different names across documents (eg marriage certificate, divorce decree, deed poll). Supporting documents should also be photocopied and a copy retained.</li> </ol>	<p>question (the front cover no longer has to be copied).</p> <ol style="list-style-type: none"> <li>2) <b>All other documents:</b> the document in full, including both sides of a Biometric Residence Permit. You must retain the copy or copies securely for not less than two years after the employment has come to an end.</li> </ol>

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**Lists of acceptable documents for manual right to work checks from 1 July 2021**

**LIST A - Documents which confirm that you have an on-going right to work in the UK – ONE document only is required**

1. A passport (current or expired) showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK
2. A passport or passport card (current or expired) showing that the holder is a national of the Republic of Ireland.
3. A current document issued by the Home Office to a family member of an EEA or Swiss citizen, and which indicates that the holder is permitted to stay in the United Kingdom indefinitely.
4. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has been granted unlimited leave to enter or remain under Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
5. A **current** Bio-metric Immigration document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK.
6. A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or have no time limit on their stay in the UK.
7. A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating the named person is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
8. A birth or adoption certificate issued in the UK, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
9. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
10. A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

**LIST B (Group 1) - Documents which confirm that you have a time limited right to work in the UK – ONE document only is required**

1. A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2. A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3. A current document issued by the Home Office to a family member of an EEA or Swiss citizen, and which indicates that the holder is permitted to stay in the United Kingdom for a time limited period and to do the type of work in question.
4. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has been

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granted limited leave to enter or remain under Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.

5. A document issued by the Bailiwick of Jersey or the Bailiwick of Guernsey, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has made an application for leave to enter or remain under Appendix EU to the Jersey Immigration Rules or Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008, on or before 30 June 2021.

6. A frontier worker permit issued under regulation 8 of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020.

7. A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

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#### **LIST B (Group 2) – Documents which confirm that you have a time limited right to work in the UK but where TWO documents are required. Documents where a time limited statutory excuse last for 6 months.**

1. A document issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the immigration rules on or before 30 June 2021 together with a Positive Verification Notice from the Home Office Employer Checking Service.

2.

3. A document issued by the Bailiwick of Jersey or the Bailiwick of Guernsey showing that the holder has made an application for leave to enter or remain under Appendix EU to the Jersey Immigration Rules or Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 on or before 30 June 2021 together with a Positive Verification Notice from the Home Office Employer Checking Service.

4. An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.

5. A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer which indicates that the named person may stay in the UK and is permitted to do the work in question.

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#### **Right to work checks for EEA citizens from 1 July 2021**

From 1 July 2021, EEA citizens and their family members require immigration status in the UK. They can no longer rely on an EEA passport or national identity card, which only confirms their nationality, to prove their right to work. They will be required to provide evidence of lawful immigration status in the UK, in the same way as other foreign nationals. Irish citizens continue to have unrestricted access to work in the UK. From 1 July 2021, they can prove their right to work using their Irish passport or Irish passport card, or their Irish birth or adoption certificate together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer. Irish citizens can also apply for a frontier worker permit, this permit can be issued digitally or as a physical permit, so they may choose to prove their right to work using the Home Office online right to work service or present their physical permit if they have one.

#### **How EEA citizens will prove their right to work from 1 July 2021**

From 1 July 2021, the majority of EEA citizens will prove their right to work using the Home Office online right to work service. Those who have made a successful application to the EU Settlement Scheme (EUSS) will have been granted their

immigration status digitally and can only prove their right to work using Home Office online service 'prove your right to work to an employer' available on GOV.UK:-  
<https://www.gov.uk/prove-right-to-work>.

To prove their right to work from 1 July 2021, individuals will provide you with a share code and their date of birth which will enable you to check their Home Office immigration status via the online service available on GOV.UK:-  
<https://www.gov.uk/view-right-to-work>.

You will obtain a statutory excuse against liability for a civil penalty if you carry out the check using the online service as set out in this guidance.

If an EEA citizen has been granted 'Settled Status' by the Home Office, they will have a continuous right to work, in the same way as someone with Indefinite Leave to Enter / Remain status. If an EEA citizen has been granted 'Pre-Settled Status' by the Home Office, they will have a time-limited right to work and you must carry out a follow-up check. The Home Office online service will advise when a follow-up check must be carried out.

#### **Exceptions to the Home Office online service when proving right to work**

As of 1 July, there will be some cohorts of EEA citizens who will not have status under the EUSS. They will evidence their right to work using specified documents if they cannot use the home office online system. These are detailed below:

- Frontier Worker Permits
  - Service Provider of Switzerland visas
  - Outstanding applications to UK EUSS
  - Outstanding applications to Crown Dependency EUSS
  - EEA citizens with Indefinite Leave to Enter/Remain
  - Points-Based System visas
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