

## Maternity, Paternity, Adoption and Shared Parental Leave Policy and Procedure

Policy number:	014
Version:	1
Purpose:	To provide clear policy, procedure and guidance relating maternity, paternity, adoption and shared parental leave and pay
Consultation:	This policy has been developed in consultation with staff side employees via the JNCF
Approved by:	Director of HR and Organisational Development
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Author:	HR Operations Team
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Audience:	All Trust employees
Dissemination:	Available on the Trusts intranet and notified via internal communication cascade
Impact assessments:	This policy has been equality impact assessed using the Trust's agreed process, and the assessment has not identified any significant adverse impact on people with one or more protected characteristic

### Version History

Version	Date	Reason for Change
1	September 2019	Creation of a harmonised policy for the 2gether and Gloucestershire Care Services NHS Trusts

## **PART 1**

### **SUMMARY**

The aim of this policy is to inform employees of their entitlements to leave options in relation to maternity leave, paternity leave, adoption leave and shared parental leave, and provide guidance on how they may apply for such leave. Entitlements take into account arrangements defined under the Agenda for Change Terms and Conditions Handbook in addition to statutory legislation.

All employees regardless of their length of service are entitled to take up to 52 weeks of maternity leave. Eligibility to access maternity pay is based on length of service.

Employees who are pregnant are legally required to take a minimum of 2 weeks maternity leave following the birth of their baby.

Employees who meet the eligibility criteria are entitled to take up to 2 weeks of paternity leave following the birth of a child. The leave must be taken as one continuous block of 2 weeks or 2 blocks of 1 week. Eligibility to access paternity pay is based on length of service. The Trust has agreed that employees who do not meet the eligibility criteria to access paternity leave may take up to 2 weeks of unpaid leave.

All employees regardless of their length of service are entitled to take up to 52 weeks of adoption leave if they are the main adopter. Eligibility to access adoption pay is based on length of service.

Employees who meet the eligibility criteria may opt to take shared parental leave. Parents can share up to 50 weeks of leave and choose to take the leave in a more flexible way, including at the same time. To access shared parental leave the mother / main adopter must end their maternity leave / adoption leave.

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## **PART 2**

### **1. INTRODUCTION**

- 1.1. The Trust recognises the importance for employees to take leave in order to raise and take care of a family. This policy provides guidance to both managers and employees. The policy supports employees so that they are fully aware of their entitlements in order to make informed decisions in regard to their leave.
- 1.2. This policy sets out the Trust's maternity, adoption, paternity and shared parental leave and pay entitlements. It explains the procedure required to be followed when expecting a baby, following the birth of a baby or once confirmation is received of an adoption placement and leave.

### **2. PURPOSE**

- 2.1. This policy has been developed to provide a framework to ensure that managers and employees know the principles and processes relating to maternity, paternity, adoption and shared parental leave and pay entitlement and that the application of these are applied consistently, fairly and transparently throughout the Trust, ensuring that legal requirements are met.
- 2.2. This policy ensures that the Trust is consistent in its approach to managing maternity, paternity, adoption and shared parental leave.

### **3. SCOPE**

- 3.1. These arrangements will apply to all employees employed by the Trust and sets out their entitlements as per qualifying terms.
- 3.2. This policy should be viewed in addition to the Agenda for Change Terms and Conditions of Employment Handbook.

### **4. DUTIES**

- 4.1. Employees are responsible for:
  - Informing their managers that they are pregnant, in order that a risk assessment can be carried out, to protect them under health and safety regulations;
  - Informing their manager of any changes or factors regarding their health, the pregnancy or working environment that require a review of the risk assessment;
  - Notifying their manager of their intentions to take and return from maternity, paternity, adoption and shared parental leave in accordance with the timescales set out in the policy;
  - Notifying their manager if their circumstances change.
- 4.2. Managers are responsible for:
  - Ensuring that their staff are aware of the entitlements and options available to

them during pregnancy, having recently given birth, and the arrangements for antenatal care, pregnancy-related sickness, health and safety, and maternity, paternity, adoption and shared parental leave. These details should be confirmed in writing to the employee in accordance with the timescales set out in the policy;

- Ensuring a risk assessment is undertaken (available on the intranet);
- In respect of the statutory procedure for 'flexible working' managers are responsible for ensuring that all requests are dealt with promptly and in accordance with the procedure as set out, that they are given careful consideration and that employees are provided with appropriate support and information during the course of their application;
- Providing information regarding maternity, paternity, adoption and shared parental leave to paymasters in line with Payroll requirements.

## 5. MATERNITY LEAVE

### 5.1. Maternity Leave

5.1.1. There are two types of maternity leave:

- **Ordinary Maternity Leave** – 26 weeks of Ordinary Maternity Leave (OML). This includes the 2-week period immediately after the baby's birth where under law an employee may not work for her employer. See below regarding any entitlement to pay during this period.
- **Additional Maternity Leave** – Additional Maternity Leave (AML) begins immediately after Ordinary Maternity Leave and continues for a further 26 weeks. Additional Maternity Leave is unpaid unless the employee qualifies for Statutory Maternity Pay (SMP). The total payment period for SMP is 39 weeks and therefore continues for 13 weeks into the additional maternity leave period.

5.1.2. An employee may begin her maternity leave at any time between the 11<sup>th</sup> week before the expected week of childbirth (EWC) and the EWC, provided she gives the required notice in writing. Maternity leave can start on any day of the week.

5.1.3. Employees are required to submit an application to request maternity leave using the Trust form F189 Application for Maternity Leave and Pay (see Supporting Documentation). This should be completed and submitted to their manager before the end of the 15<sup>th</sup> week before the expected week of childbirth. Employees must also provide their line manager with the original MAT B1 form, which is normally received from a midwife or GP at around 20 weeks prior to the due date. The manager is then responsible for submitting this documentation for processing and placing a copy on the employee's personal file.

5.1.4. The manager must write to the staff member within 28 days of receiving the notification of maternity leave. A risk assessment should also be carried out (risk assessment available on the intranet). The letter to the employee should confirm:

- Paid and unpaid maternity leave entitlements;
- The expected date of return to work based on 52 weeks maternity leave;
- The need for the employee to give 8 weeks' notice in writing if she wishes to return to work earlier than the above specified date.

5.1.5. If the employee wishes to change the date she has notified as the start of maternity leave, she must inform her manager at least 28 days beforehand (or, if this is not possible, as soon as is reasonably practicable).

5.1.6. If the employee wishes to return earlier than the agreed date, she must give 8 weeks' notice. Managers may not always be able to facilitate an early return, but will be flexible wherever reasonable.

5.1.7. Employees may also be eligible to access shared parental leave. See section 8 for further information.

5.1.8. Prior to going on maternity leave employees should ensure that they can access their payslips through myESR.

## 5.2. Maternity Pay

5.2.1. The maternity pay of individual employees can be made up of Occupational Maternity Pay (OMP) and / or Statutory Maternity Pay (SMP):

- **Statutory Maternity Pay** – All employees who are pregnant or who have just given birth are entitled to a maximum of 39 weeks SMP, whether or not they intend to return to work, if:
  - They have worked continuously for the employer for at least 26 weeks at the 15<sup>th</sup> week before the EWC;
  - Their average weekly earnings in the 8 weeks up to and including the qualifying week has been at least equal to the lower earnings limit for National Insurance Contributions.
- **Occupational Maternity Pay (NHS Contractual Maternity Pay)** – Under Agenda for Change terms and conditions the Trust gives additional benefits, over and above the Statutory Maternity Pay, to employees who intend to return to work in the NHS following their maternity leave and who have over one year of continuous NHS service. See maternity leave and pay entitlement charts in Supporting Documentation.

5.2.2. Maternity pay is paid by the employer for a maximum of 39 weeks.

5.2.3. All maternity pay will be paid in the way that the employee is normally paid.

5.2.4. If a second period of maternity leave occurs shortly after the employee returns from maternity leave, the employee should contact Payroll for guidance regarding any implications on maternity pay.

5.2.5. Employees who access a salary sacrifice should contact Payroll and their scheme administrator for further advice as this will have an impact on maternity pay.

5.2.6. In some instances, employees may not qualify for either Occupational or Statutory Maternity Pay as they do not meet the minimum earnings and/or continuous employment conditions, however, they may qualify for other state benefits. In these cases on receipt of Form F189, Application for Maternity Leave and Pay and the Original Maternity Certificate, MAT B1, the Payroll department will issue a form SMP1 'Why I cannot pay you SMP', which will explain why they do not qualify, which they should send to the local social security office to check if they are entitled to any other benefits.

## 5.3. Options for Returning to Work

5.3.1. Normally the employee will need to decide prior to starting maternity leave, whether or not she intends to return to work following her maternity leave, however, if she is undecided the Trust has a special option whereby she can agree to notify the Trust at a later date. The option notified to the Trust cannot be changed at a later date

5.3.2. The three options are detailed below and managers must ensure that the employee is advised of the options and the conditions:

- **Option 1 – To Return to Work**

An employee must return to work for the Trust or another NHS employer for a minimum period of 3 months. Failure to do so will result in the employee being required to refund the whole of the maternity pay, less any Statutory Maternity Pay received.

If an employee who has notified her intention to return to work for the same or a different NHS employer – Option 1 on form F189 – fails to do so within 15 months of the beginning of her maternity leave she will be liable to refund the whole maternity pay, less any Statutory Maternity Pay received. In these circumstances the manager must notify the Payroll department immediately.

- **Option 2 – Not Return to Work**

If an employee decides that she will definitely not be returning to work following her confinement she must confirm this decision by completing Form F189 Application for Maternity Leave and Pay and attach her MAT B1. Completion of Form F189 will also act as formal notice of her intention to terminate her contract of employment. The employee's last day of service with the Trust will be 52 weeks after the end of her final working week.

This option cannot be changed at a later stage. Managers should therefore ensure that the employee considers the implications of taking this option very carefully, in case of unforeseen changes in circumstances. She must be advised that she may take option 3 to Reserve the Right to Return to Work instead (see below).

- **Option 3 – To Reserve the Right to Return to Work**

An employee who has not decided whether she will be returning to work following maternity leave may defer the decision until after the birth and take the option to Reserve the Right to Return to Work. The employee will initially receive maternity pay based on her service as if she were taking the option Not to Return to Work (option 2). The manager should explain that this is to avoid having to refund considerable sums to the Trust if following the birth of her child she chooses not to return. However, should she return to work, she will receive any balance of payments outstanding.

- 5.3.3. As soon as reasonably practicable after the birth, and at least 26 weeks after the start of maternity leave, the employee must notify their manager whether or not they will be returning to work. If they are returning they may delay specifying the actual return date at this time, however, they must give their manager at least 8 weeks' notice of their return to work date.

#### **5.4. Time Off for Appointments**

- 5.4.1. Employees that are pregnant are entitled to paid time off for pre-antenatal care where it falls during normal working hours (including relaxation and parent-craft classes in addition to appointments).

- 5.4.2. This entitlement is subject to the following conditions:

- The employee must have made an appointment for the purpose of receiving antenatal care, and the time off must be requested in advance in order to keep that appointment;



- Except in the case of her first appointment, the employee must show her employer on request:
  - A certificate from a registered medical practitioner, registered midwife or registered health visitor, stating that she is pregnant; and
  - An appointment card or some other document showing that an appointment has been made.

## **5.5. Sickness During Pregnancy**

- 5.5.1. Employees that become ill with a pregnancy-related illness during the last 4 weeks before the expected week of childbirth will automatically commence maternity leave.
- 5.5.2. Leave will commence either at the beginning of the 4<sup>th</sup> week before the expected week of childbirth or at the beginning of the next week after the employee last worked before the expected week of childbirth, whichever is later.
- 5.5.3. Odd days of pregnancy-related illness during this period may be disregarded if the employee wishes to continue working until the maternity leave start date previously notified to the employee.
- 5.5.4. Absence prior to the last 4 weeks before the EWC, supported by a medical statement of incapacity to work, or a self-certificate, will be treated as sick leave in accordance with the Trust's Supporting Attendance Policy.
- 5.5.5. Liaison with the Working Well department may be needed during an employee's pregnancy. Working Well can provide advice on temporary adjustments to the working environment, appropriate duties, and suitable alternative work. It is the line manager's responsibility to ensure that any recommended adjustments are implemented. Any queries should be directed to Working Well or Human Resources.
- 5.5.6. In exceptional circumstances, Working Well may advise that an employee is redeployed to an alternative role for the duration of her pregnancy. The line manager should work with Human Resources and Working Well to identify a suitable alternative role.
- 5.5.7. Where Working Well state that there is no suitable or reasonable alternative employment for a pregnant employee, the employee should be suspended from duty with full pay for as long as necessary to protect the health and safety of the mother and child. Where the employee is suspended for the whole pregnancy, maternity leave will commence on the planned date.
- 5.5.8. Where an employee unreasonably refuses an offer of suitable alternative work, she will forfeit the right to paid maternity suspension and will be eligible for unpaid leave until planned maternity leave commences.
- 5.5.9. In the event of sickness absence following the date the employee was due to return to work, the normal sickness absence procedure should be followed, as per the Supporting Attendance Policy.

## **5.6. Annual Leave**

- 5.6.1. Managers should discuss arrangements to take leave with the employee and confirm the agreement in the letter confirming maternity leave and pay.
- 5.6.2. It is reasonable to expect that the employee will use all of their annual leave prior to commencing maternity leave, unless there are exceptional service delivery restrictions which would be impacted by this.
- 5.6.3. In exceptional circumstances where an employee has not reasonably been able to take all of the accrued annual leave in the current leave year specifically due to their date of confinement, they may be able to carry forward more than the normal carry over provisions. There is an expectation however that the taking of annual leave will not be delayed and will be taken soon after the return from maternity leave. Also before any agreement can be made, this must be discussed with a HR representative and any accrual of annual leave must be reported to the Finance Department in line with the normal procedure for the accrual of annual leave.

## **5.7. Premature Births**

- 5.7.1. In the occasion that a baby is born alive prematurely, the employee will be entitled to the same amount of maternity leave and pay as if their baby was born at full term.
- 5.7.2. If the baby is born before the 11<sup>th</sup> week prior to the expected week of childbirth and the employee has worked during the actual week of childbirth, maternity leave will commence on the first day of the employee's absence.
- 5.7.3. If the baby is born before the 11<sup>th</sup> week prior to the expected week of childbirth and the employee has been absent from work on certified sickness absence, maternity leave will commence on the day after the day of birth.
- 5.7.4. If a baby is born before the 11<sup>th</sup> week prior to the expected week of childbirth and the baby is hospitalised, the employee will have the option of taking the 2 compulsory weeks of maternity leave immediately after the birth and then splitting the remaining weeks of leave to commence once the baby has been discharged from hospital.

## **5.8. Still Birth or Miscarriage**

- 5.8.1. In the occasion that a baby is still born after the 24<sup>th</sup> week of pregnancy the employee is entitled to the same amount of maternity leave and pay as if the baby was born alive.
- 5.8.2. Where an employee has a miscarriage before the 25<sup>th</sup> week of pregnancy, normal sick leave provisions will apply as necessary.

## **5.9. Professional Registration**

- 5.9.1. An employee is responsible for ensuring that they maintain their competence and professional registration (where applicable) at all times during their paid and unpaid maternity.

## **5.10. Keeping In Touch**

- 5.10.1. Employees are entitled to take up to a maximum of 10 optional 'Keeping in Touch' (KIT) days without bringing their maternity leave to an end. These days can help facilitate a smooth return to work for employees after their period of leave.
- 5.10.2. Managers and employees should discuss and agree, prior to the start of the maternity leave, any voluntary arrangements to keep in touch during the maternity leave period including:
- Any voluntary arrangements that the employee may find helpful to help her keep in touch with developments at work and nearer the time of her return, to help facilitate her return to work;
  - Keeping the employer in touch with any developments that may affect her intended date of return.
- 5.10.3. An employee cannot take any KIT days during the 2 weeks immediately after the birth of her baby.
- 5.10.4. KIT days must be taken during maternity leave, they cannot be taken during periods of annual leave immediately before or after maternity leave.

## **5.11. Contractual Rights**

- 5.11.1. During maternity leave (both paid and unpaid) an employee retains all of her contractual rights except remuneration.
- 5.11.2. An employee returning from Ordinary Maternity Leave (the first 26 weeks of leave) has the right to return to the job in which she was previously employed on the same benefits, terms and conditions.
- 5.11.3. An employee returning from Additional Maternity Leave (the additional 26 weeks following Ordinary Maternity Leave) has the right to return to her job on the same terms and conditions unless not reasonably practicable, in which case there is a right for her to return to a suitable and appropriate alternative job on the same terms and conditions.
- 5.11.4. Annual leave and bank holiday entitlement will continue to accrue during maternity leave, whether paid or unpaid.
- 5.11.5. Maternity leave, whether paid or unpaid, will count as service for any service qualification for additional annual leave.
- 5.11.6. Maternity leave whether paid or unpaid will count towards continuous service for annual increment calculations.
- 5.11.7. Employees will pass through their incremental date on the due date, if concerns about meeting the requirements had not been raised prior to maternity/adoption leave.

## **5.12. Fixed-Term Contracts**

- 5.12.1. Employees on a fixed-term or training contract, which expire after the 11<sup>th</sup> week before the expected week of childbirth or date on which the child is placed and employees satisfy eligibility criteria, will have their contracts extended to allow them to receive 52 weeks of maternity leave.
- 5.12.2. Employees whose contracts would have ended if pregnancy had not occurred will not have the right to return to employment following their maternity leave. Any Statutory Maternity Pay will not have to be reimbursed to the Trust.
- 5.12.3. Employees on fixed-term contracts with less than 12 months service may still be eligible for Statutory Maternity Leave.

### **5.13. Returning to Work**

- 5.13.1. Employees are expected to return back to work on the date outlined on their initial application for leave form.
- 5.13.2. Any change in return to work date should be given to their line manager in writing with at least 28 days' notice.
- 5.13.3. Prior to the end of maternity leave it is the manager's responsibility to complete an amendment form confirming the end of maternity leave.
- 5.13.4. Employees have the right to return to their jobs under their original contracts and on no less favourable terms and conditions.
- 5.13.5. An employee must return to work for the Trust or another NHS employer for a minimum period of 3 months. Failure to do so will result in the employee being required to refund any occupational maternity pay received.
- 5.13.6. The line manager should ensure that a risk assessment is completed before the employee returns to work.
- 5.13.7. Phased return – Any mother returning from maternity leave may apply for a phased return to work, irrespective of her length of service. The maximum length of the phased return is 1 month from the date the individual returns to work. During the period covering the phased return to work, the employee must increase their hours up to their contracted hours by the end of the phased return period. The timetable for this will be agreed on an individual basis. The employee will receive no pay for hours not worked during the phased return period. Should the phased return period be combined with annual leave, the employee will receive any such days at the normal rate of pay. Requests for a phased return from maternity leave must be put in writing to the line manager at least 8 weeks before the expected return to work date.
- 5.13.8. Flexible working – Employees may have the right to request flexible working. Details regarding eligibility and further information are contained in the Flexible Working Policy and Procedure. Although an employee has the right to request amended hours, this does not mean that this will automatically be sanctioned. The needs of the business will be considered by the line manager and the outcome of the request will be discussed between employee and line manager as soon as reasonably practicable.

5.13.9. Should employees wish to continue breast feeding once they return to work, line managers must ensure that adequate breaks are provided in order to allow the employee to express milk. An appropriate location must be identified where employees may express, and storage facilities for expressed milk must also be identified. The manager should ensure that a risk assessment is completed before the employee returns to work.

#### **5.14. Not Returning to Work**

5.14.1. Employees that do not wish to return to their role or other NHS employment for a minimum of 3 months following maternity leave and have notified their manager prior to taking maternity leave will be entitled to Statutory Maternity Pay only, regardless of their entitlement to occupational maternity pay.

5.14.2. If an employee decides not to return, they should resign as they would anytime and giving the appropriate notice. If an employee resigns during their maternity leave they do not have to go into work to 'work' their notice, they can remain on maternity leave.

5.14.3. Employees that outlined their intention to return to work and then fail to return to work within 15 months of the beginning of her maternity leave will be liable to refund all Occupational Maternity Pay less the Statutory Maternity Pay element to the Trust.

## **6. PATERNITY LEAVE**

### **6.1. Eligibility and Entitlements**

6.1.1. Employees who meet the following criteria will normally be eligible for either Statutory or Occupational Paternity Pay and Leave to care for their baby, or to support the mother following birth as detailed below.

#### **6.1.2. Statutory Paternity Leave and Pay**

- Eligibility criteria:
  - Has been employed by the Trust for 26 weeks or more at the 15<sup>th</sup> week before the expected week of confinement (EWC), and continues to be employed up to the date of birth.
  - Has average weekly earnings at or above the Lower Earnings Limit for National Insurance at the end of the qualifying week. Payroll services will advise on specific rates at the time;
  - Has or expects to have responsibility for the baby's upbringing and is either the biological father, or the mother's husband or partner (partner refers to someone who lives with the mother, either male or female, in an enduring family relationship, but who is not a blood relative);
  - Notifies their manager in writing of their intention to take paternity leave at least 28 days before they want to start their leave.
- Statutory entitlement:
  - Leave: Maximum of 2 weeks paternity leave paid (to be taken in blocks of 1 week or 2 consecutive weeks, not odd days);
  - Pay: £148.68 per week or 90 per cent of your average weekly earnings, whichever is lower (April 2019 rate).

#### **6.1.3. NHS Occupational Paternity Leave and Pay**

- Eligibility criteria:
  - Has 1 year or more NHS service before the beginning of the EWC, and continues to be employed up to the date of birth;
  - Has average weekly earnings at or above the Lower Earnings Limit for National Insurance at the end of the qualifying week. Payroll Services will advise on specific rates at the time;
  - Is the biological father, nominated carer, or same sex partner of the mother;
  - Notifies their manager in writing of their intention to take paternity leave at least 28 days before they want to start their leave.
- NHS Occupational entitlement:
  - Leave: 2 weeks paternity leave (to be taken in blocks of 1 week or 2 consecutive weeks, not odd days),
  - Pay: Equivalent of 2 weeks full pay (pro rata if part time).

6.1.4. Employees not eligible for Statutory or NHS Occupational Paternity Pay and Leave  
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will be entitled to take up to 2 weeks unpaid leave. The same application process outlined below should be followed.

- 6.1.5. Leave will be based on the number of days that the employee normally works each week.
- 6.1.6. Only one period of leave can be taken even if more than one baby is born as a result of the same pregnancy.

## **6.2. Time Off for Antenatal Care**

- 6.2.1. Partners of those eligible for maternity or adoption leave are entitled to time off with pay to attend 2 antenatal appointments.
- 6.2.2. Time off to attend antenatal classes with the mother must be negotiated and agreed in advance by the employee with their manager. Managers should look at ways to support this time to enable employees to attend these classes, such as taking annual leave, time off in lieu, flexible working, changing rotas, etc.

## **6.3. General Principles**

- 6.3.1. Paternity leave cannot be used for any other purposes although other support may be available in the form of Parental Leave (see Parental Leave Policy).
- 6.3.2. A person who would satisfy the criteria for eligibility of paternity leave were it not for a premature birth, the death of the mother, or the stillbirth or death of the child, retains the right to paternity leave.
- 6.3.3. Where a pregnancy ends before 24 weeks (a miscarriage) the employee will not be able to take paternity leave, however he or she may be able to take some time off under the Trust's Other Types of Leave Policy.
- 6.3.4. Paternity leave should be taken within 56 days of the birth or, where the child is born earlier than expected, between the date of birth and 56 days from the first day of the EWC.
- 6.3.5. Paternity leave should be taken in blocks of 1 week or 2 consecutive weeks, not odd days, as agreed in advance by the employee with their manager.
- 6.3.6. Eligible employees who wish to take paternity leave must notify their manager of their intention to take paternity leave at least 28 days before they want to start their leave.
- 6.3.7. The actual dates of paternity leave must be recorded on the electronic roster / timesheet and confirmed to Payroll Services using a Variation Form.
- 6.3.8. Employees may also be eligible to access Shared Parental Leave. See section 8 for further information.

## **6.4. Applying for Paternity Pay and Leave**

- 6.4.1. Managers should meet with employees who request paternity leave at the earliest

opportunity to outline the procedure and satisfy themselves that the employee is eligible for paternity leave and pay.

6.4.2. Employees should be advised that they will be required to sign a declaration confirming their eligibility in order to receive paternity pay and/or leave. They are also required to provide the following specific information:

- The expected week of the baby's birth;
- When they wish to start the paternity leave;
- How they anticipate taking the leave (2 consecutive weeks or two blocks of 1 week);
- Arrangements for time off for antenatal care.

6.4.3. To satisfy the notification requirements employees should complete Part 1 of Notice to take Paternity Leave Form (in Supporting Documents) at least 28 days prior to the start of the paternity leave.

6.4.4. Once the form has been completed and signed by the employee the manager should complete Part 2 of the form and forward it to Payroll Services. A copy of the form should be kept in the employee's personal file.

6.4.5. Managers should ask the employee to notify them as soon as reasonably practicable of any anticipated changes to the dates. Paternity leave cannot be taken before the birth of the baby and if the baby arrives late or early this will affect the timing of the leave and payment. Payroll must be advised of any changes as soon as possible thereafter.

6.4.6. Managers will be responsible for informing Payroll Services of the actual paternity leave dates.

## 6.5. **Contractual Rights**

6.5.1. Whilst on paternity leave employees are entitled to the benefit of all their terms and conditions of employment, except those relating to remuneration.

6.5.2. Employees have the right to return to the same job as before on the same terms and conditions of employment.

6.5.3. Employees who believe that they have suffered a detriment as a consequence of taking or applying for paternity leave can access the Trust's Resolution Procedure to seek a remedy.



## **7. ADOPTION LEAVE**

### **7.1. Eligibility and Entitlements**

7.1.1. The arrangements for adoption leave and pay are, subject to certain qualifying criteria, available to individuals who adopt, or to one member of a couple who are adopting jointly. The couple must choose which partner takes adoption leave.

7.1.2. The partner of an individual who adopts, or the other member of a couple who are adopting jointly, may be entitled to paternity leave and pay and shared parental leave and pay.

#### **7.1.3. Eligibility criteria**

- There is no qualifying period for adoption leave;
- To qualify for paid adoption leave an employee must be:
  - 'Newly' matched with a child for adoption by an approved adoption agency, and;
  - Have worked continuously for the Trust for 26 weeks ending with the week in which they are notified of being matched with a child (the 'matching week').

7.1.4. Adoption leave and pay is not available in circumstances where a child is not 'newly' matched for adoption, for example when a step-parent is adopting a partner's child.

#### **7.1.5. There are two types of adoption leave:**

- 26 weeks of Ordinary Adoption Leave; followed immediately by:
- Up to 26 weeks of Additional Adoption Leave (total of up to 52 weeks leave).

7.1.6. Employees may also be eligible to access Shared Parental Leave. See section 8 for further information.

7.1.7. The amount of paid adoption leave is dependent upon the employee's length of service and 'mirrors' that set out for maternity leave and pay:

- Less than one year of continuous NHS service ending with the week in which the employee is notified of being matched with the child for adoption:
  - 6 weeks at 90% average weekly earnings;
  - 33 weeks at the lesser of the Statutory Adoption Pay (SAP) rate or 90% of normal pay.
- One year or more of continuous NHS service ending with the week in which the employee is notified of being matched with the child for adoption:
  - 8 weeks full pay (less SAP or any DSS benefits);
  - 18 weeks half pay (plus standard SAP – must not exceed full pay);
  - 13 weeks standard SAP rate.

- 7.1.8. Employees who have average earnings below the Lower Earnings Limit for National Insurance Contributions do not qualify for Statutory Adoption Pay. In these circumstances they should contact their adoption agency as they may be able to receive financial support in relation to their adoption.

## **7.2. General Principles**

- 7.2.1. Adoption leave can commence on any day of the week, either from the date of placement or from a fixed date up to 14 days before the placement.
- 7.2.2. Only one period of leave/pay is available irrespective of whether more than one child is being placed as part of the same arrangement.
- 7.2.3. Where both adoptive parents are employed by the organisation, leave may be shared or taken in entirety by the primary carer. The Trust also recognises that a single person may adopt.
- 7.2.4. If the child's placement ends during the adoption leave period, the adopter can continue adoption leave for up to 8 weeks afterwards.

## **7.3. Procedure**

- 7.3.1. Employees are required to inform their manager of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child, unless it is not reasonably practicable to do so.
- 7.3.2. Managers should meet with employees who are proposing to adopt a child at the earliest opportunity to discuss entitlement; they should outline the procedure and satisfy themselves that the employee is eligible for adoption leave and pay. Eligible employees should be treated in the same way as those taking maternity leave in respect of pay and reserving their right to return to work.
- 7.3.3. Managers should outline the following options:

- **Option 1 – To Return to Work**

The adopter should return to work for the Trust or another Trust/ for a minimum period of 3 months. Failure to do so may result in them being required to refund the Occupational Adoption Pay received. In these circumstances the manager must notify Payroll Services immediately.

- **Option 2 – Not Return to Work**

If the adopter does not wish to return to work the manager should ensure that they know they may exercise the option to reserve the right to return to work (see option 3 below). If the adopter still wishes not to return then they should be treated as a leaver and the Leaver Form completed as soon as possible. For employees who have an entitlement to adoption pay a period of 14 weeks after the commencement of their adoption leave shall be regarded as service with the Trust.

- **Option 3 – To Reserve the Right to Return to Work**

Where an adopter wishes to retain their right to return to work, then the manager

should advise them that they will receive adoption pay based on their service as if they were taking option 2 to Not to Return to Work. The manager should explain that this is to avoid having to refund considerable sums to the Trust if following the adoption they choose not to return. However, should they return to work, they will receive any balance of payments outstanding on their return.

- 7.3.4. Employees are required to complete two copies of Part 1: Adoption Leave Notification (in Supporting Documentation), no later than 7 days after being notified by their adoption agency that they have been matched with a child.
- 7.3.5. Employees are required to provide documentary evidence in the form of a 'matching certificate' (Part 2) which includes basic information on matching and expected placement dates. Employees should ask their adoption agency to complete Part 2 and attach to Part 1 at the time of notification.
- 7.3.6. If employees wish to change the date on which they want their adoption leave and pay to commence they should give at least 28 days of notice in advance.
- 7.3.7. Employees who intend to return to work at the end of their full adoption leave entitlement do not have to give any further notification. However, if they wish to return before the end of their adoption leave period they must give 8 weeks of notice in writing of the date they intend to return.
- 7.3.8. The manager must send Part 1 and Part 2 of the Adoption Leave Notification (in Supporting Documentation) to Payroll Services as soon as possible. For the duration of the adoption leave, the manager should continue to complete timesheets where appropriate to Payroll Services in the normal way. At the point the employee is due to return to work the manager should complete a Variation Form as soon as possible, indicating that they are returning to work.
- 7.3.9. Optional Keeping in Touch Days (KIT) allow employees to undertake up to 10 days during their adoption leave without losing statutory payment for the week in which the work is done and without bringing their adoption leave to an end. These days should be arranged between the employee and their manager who should inform Payroll Services by completing a Variation Form and recording the KIT days appropriately using the electronic roster or timesheet.

#### **7.4. Rights during Adoption Leave**

- 7.4.1. At the point of being matched with a child, the main adopter will be able to take paid time off for up to 5 adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to 2 appointments.
- 7.4.2. Prior to a match being confirmed, time off for appointments should be taken as TOIL, annual leave or unpaid leave.
- 7.4.3. Employees are entitled to the benefit of all their terms and conditions of employment, except those relating to remuneration, during both the ordinary and additional leave period.
- 7.4.4. Employees have the same right to return to their job in the same way as if they were taking maternity leave (section 5.13)

- 7.4.5. Employees who believe that they have suffered a detriment as a consequence of taking or applying for adoption leave, can access the Trust's Resolution Procedure to seek a remedy.

#### **7.5. Professional Registration**

- 7.5.1. An employee is responsible for ensuring that they maintain their competence and professional registration (where applicable) at all times during their paid and unpaid adoption leave.

## 8. SHARED PARENTAL LEAVE

- 8.1. Shared Parental Leave (referred to as SPL) and Statutory Shared Parental Pay (referred to as ShPP) is designed to enable working parents to share leave to care for a child in a flexible way during the first year following birth or adoption. SPL enables eligible parents to share up to 50 weeks.
- 8.2. To be able to access SPL the mother/adopter has to end their maternity/adoption leave.
- 8.3. To qualify for shared parental leave a mother/primary adopter must:
- Share responsibility for the child with one of the following: their husband, wife, civil partner or joint adopter, the child's other parent or their partner (if they live with them);
  - Be entitled to either maternity/adoption leave or to statutory maternity/adoption pay or maternity allowance;
  - Have curtailed, or given notice to reduce, their maternity/adoption leave, or their pay/allowance (if not eligible for maternity/adoption leave).
- 8.4. A parent intending to take SPL must:
- Be an employee;
  - Share the primary responsibility for the child with the other partner (as defined above) at the time of the birth or placement for adoption;
  - Have properly notified their manager of their entitlement and have provided the necessary declarations and evidence (see section 8.12).
- 8.5. In addition, a Trust employee wanting to take SPL is required to satisfy the 'continuity of employment test' and their partner must meet the 'employment and earnings' test:

<b>Continuity of Employment Test (Trust employee)</b>	<b>Employment and Earnings Test (Partner)</b>
The individual has worked for the Trust for at least 26 weeks at the end of the 15 <sup>th</sup> week before the child's expected due date/matching date and is still working for the Trust at the start of each leave period.	In the 66 weeks leading up to the baby's expected due date/matching date, the person has worked for at least 26 weeks and earned an average of at least £30 (as of 2015) a week in any 13 weeks.

- 8.6. There will be occasion where only one parent is eligible. For example, a self-employed parent will not be entitled themselves but they may still pass the employment and earnings test so their partner, if they are an employee, may still qualify.
- 8.7. In order to check eligibility, employees and/or their line manager may use the Shared Parental Leave and Pay calculator available on [www.gov.uk](http://www.gov.uk).
- 8.8. Any Trust employee intending to give notice of curtailment of maternity or adoption

leave must do so in writing to their manager at least 8 weeks before they or their partner intend to commence SPL. If the individual's right to work is via a Certificate of Sponsorship they must also notify the Human Resources department in order to ensure compliance with UKBA regulations.

## **8.9. Shared Parental Leave (SPL)**

- 8.9.1. Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family.
- 8.9.2. The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave (52 weeks). If the mother/adopter reduces their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.
- 8.9.3. A mother/adopter reduces their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or when they give notice to curtail their leave at a specified future date.
- 8.9.4. If the mother/adopter is not entitled to maternity/adoption leave (for example, if they are self-employed) but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 week paid period (this would only apply in cases where the partner of the Trust employee were not entitled to the leave, i.e. agency workers or self-employed). If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.
- 8.9.5. SPL can commence as follows:
  - The mother can take SPL after she has taken the legally required 2 weeks of maternity leave immediately following the birth of the child;
  - The adopter can take SPL after taking at least 2 weeks of adoption leave;
  - The partner can take SPL following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements. The father/partner cannot take paternity leave or pay once they have taken any SPL or Shared Parental Pay (ShPP).
- 8.9.6. Where a mother/adopter gives notice to curtail maternity/adoption entitlement, the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.
- 8.9.7. SPL will generally commence on the employee's chosen start date specified on their leave booking notice (see Supporting Documents), or in any subsequent variation notice (see below) but must be taken in blocks of 1 week.
- 8.9.8. If the employee is eligible to receive Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period (see section 8.10 below).
- 8.9.9. SPL must end no later than 1 year after the birth/placement of the child. Any SPL

not taken by the first birthday or first anniversary of placement for adoption is lost.

8.9.10. Employees and managers should where possible have an informal discussion prior to employees giving formal notification of intention to take SPL so that leave and pay can be discussed and to ensure that plans for any discontinuous periods of leave can be considered as early as possible.

8.9.11. Requests for SPL which are not made in accordance with the statutory notification requirements will be given reasonable consideration, but may not be granted.

#### **8.10. Shared Parental Pay (ShPP)**

8.10.1. Employees who qualify for SPL will not always be entitled to ShPP.

8.10.2. Eligible employees may be entitled to take up to 37 weeks ShPP, the actual entitlement will depend upon the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

8.10.3. ShPP may be payable during some or all of SPL. The duration is dependent up on the length and timing of the leave.

8.10.4. In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

- The mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
- The employee must intend to care for the child during the week(s) in which ShPP is payable;
- The employee must have average weekly earnings for the period of 8 weeks leading up to and including the 15th week before the child's expected due date/matching date of not less than the lower earnings limit in place for national insurance contributions;
- The employee must remain in continuous employment until the first week of ShPP has begun;
- The employee must give proper notification in accordance with the requirements set out below.

8.10.5. Any ShPP due will be paid at a rate set by the government for the relevant tax year. Current rates can be found on [www.gov.uk](http://www.gov.uk).

#### **8.11. Notifying the Organisation of Curtailment of Maternity/Adoption Leave**

8.11.1. SPL can only be used after the mother/primary adopter has:

- Returned to work following maternity/adoption leave; or
- Given notice to their employer that reduces their maternity/adoption leave, confirming when their maternity/adoption leave will come to an end. This notice is binding and so cannot be withdrawn (except in exceptional circumstances).

8.11.2. Any Trust employee intending to give notice of curtailment must do so in writing to their manager at least 8 weeks before they or their partner intend to commence SPL. If the individual's right to work is via a Certificate of Sponsorship they must also notify the Human Resources Department in order to ensure compliance with UKBA regulations.

8.11.3. Where the mother is claiming maternity allowance rather than statutory maternity pay, the curtailment notice must also be forwarded to the benefits office in addition to the Trust.

## **8.12. Notifying the Organisation of an Entitlement to Shared Parental Leave/Pay**

8.12.1. At least 8 weeks before an employee can take a period of SPL or claim ShPP an employee who is intending to take SPL and/or ShPP must give their line manager;

- Notification of their entitlement;
- Notification of their intention to take to SPL;
- Notification of their intention to claim ShPP.

8.12.2. Notification must be in writing and provide:

- The name of the employee;
- The name of the other parent;
- The start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available;
- The date on which;
  - The child is expected to be born and the actual date of birth, or,
  - The employee was notified of having been matched with the child and the date of placement for adoption;
- The amount of SPL the employee and their partner each intend to take;
- An indication (non-binding) of when the employee expects to take the leave;
- The start and end dates of any maternity/adoption pay or maternity allowance;
- The total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP.

8.12.3. The employee must provide;

- A signed declaration confirming:
  - They meet, or will meet, the eligibility conditions and are entitled to take SPL and/or ShPP;
  - The information they have given is accurate;
  - Where the employee is not the mother/adoption, that they are either the partner of the mother/adoption;



- Should they cease to be eligible for either SPL or ShPP they will immediately inform the Trust.
- A signed declaration from their partner confirming:
  - The partner's name, address and national insurance number (or a declaration that they do not have a national insurance number);
  - They are the mother/adopter of the child or they are the partner of the mother/adopter;
  - They satisfy the 'employment and earnings test' (see section 8.5), and had at the date of the child's birth or placement for adoption the main responsibility for the child, along with the employee;
  - They consent to the amount of SPL that the employee intends to take;
  - They consent to the Trust processing information contained in their declaration form;
  - Their agreement to the employee claiming ShPP and the Trust processing any ShPP payments to the employee;
  - That they will immediately inform their partner should they themselves cease to satisfy the eligibility conditions;
  - (In the case whether the partner is the mother/ adopter) That they have reduced their maternity/adoption pay or maternity allowance.

### **8.13. Booking Shared Parental Leave**

- 8.13.1. In addition to notifying the line manager of their entitlement to SPL/ShPP, an employee must also provide notice to take the leave. Notice to take leave should be provided at the same time as their notice of entitlement to SPL (see Supporting Documentation) to fulfil notification requirements.
- 8.13.2. The employee must book SPL by giving the correct notification at least 8 weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.
- 8.13.3. If the individual's right to work is via a Certificate of Sponsorship they must also notify the Human Resources department in order that they can ensure compliance with UKBA regulations.

### **8.14. General Principles**

- 8.14.1. The employee has the right to submit up to 3 separate notifications (this includes variation, cancellation notices) specifying leave periods they are intending to take.
- 8.14.2. Each notification may contain either:
  - A single period of weeks of leave; or
  - Two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.
- 8.14.3. Any variation or cancellation notification made by the employee (which must be

signed by both parties where it alters the total amount of SPP each party will take), including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one.

- 8.14.4. A change as a result of a child being born early, or as a result of the organisation requesting it be changed, and the employee being agreeable to the change, will not count as further notification.
- 8.14.5. Any notification, variation or cancellation notice will be responded to writing by the manager in accordance with the timescales as set out below and Payroll advised accordingly.
- 8.14.6. SPL can only be taken in complete weeks but may begin on any day of the week (i.e. if a week of SPL began on a Tuesday it would end on a Monday). Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

#### **8.15. Continuous Leave Notifications**

- 8.15.1. A notification can be for a period of continuous leave, i.e. a number of weeks taken in a single unbroken period of leave (e.g. 6 weeks in a row).
- 8.15.2. An employee has the right to take a continuous block of leave notified in a single notification, providing the request:
  - Does not exceed the total number of weeks of SPL available to the employee; and
  - The employer has been given at 8 eight weeks' notice.
- 8.15.3. An employee may submit up to 3 separate notifications for continuous periods of leave.

#### **8.16. Discontinuous Leave Notifications**

- 8.16.1. A single notification may also contain a request for 2 or more periods of discontinuous leave, i.e. a set number of weeks of leave over a period of time, with breaks between leave periods where the employee returns to work (e.g. an arrangement where an employee will take 6 weeks of SPL and work every other week for a period of 3 months).
- 8.16.2. The Trust will consider requests for discontinuous leave but retains the right to refuse such a request.
- 8.16.3. Where a request for discontinuous leave is made by an employee, there will be a 14 day discussion period during which the Trust and/or the employee may arrange a meeting to discuss the detail of the request. The meeting will be made with the aim of agreeing an arrangement that meets both the needs of the employee and the service.
- 8.16.4. If a discontinuous leave pattern is refused the employee may:

- Withdraw the request without detriment on or before the 15th day after the notification was given; or
- Take the total number of weeks requested the notice in a single continuous block.

8.16.5. If the employee chooses to take the leave in a single continuous block, the employee has until the 19<sup>th</sup> day from the date the original notification was given to confirm when they would wish the leave period to commence. Leave cannot commence prior to 8 weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

## **8.17. Responding to a Shared Parental Leave Notification**

8.17.1. Upon receipt of such notification(s), the manager should arrange to discuss the request with the employee at the earliest opportunity. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can be approved without further discussion, a meeting may not be necessary. Where a meeting does take place, although not part of a formal procedure, the employee may request to be accompanied by a companion who is either a representative of his/her recognised staff organisation/trade union or a work colleague. Where appropriate, a Human Resources representative may also be present. The request will be considered.

8.17.2. Where the request is for discontinuous leave the discussion may focus on;

- How the leave proposal could be agreed;
- Whether a modified arrangement could be agreed; and
- What the outcome may be if no agreement is reached.

8.17.3. Each request for discontinuous leave will be considered on a case-by-case basis taking into account the needs of the service. Agreement of a request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL. A request may be granted in full or part; i.e. the Trust may propose a modified version of the request for consideration.

8.17.4. Once a decision is reached, the manager must indicate on the form whether the request has been accepted or rejected. Employees should be notified of the outcome of their request at the earliest opportunity but no later than 14 days following receipt of their notification.

8.17.5. Written confirmation should be provided to the employee stating:

- The employees paid and unpaid leave entitlement;
- The period(s) of leave agreed;
- The number of booking notifications remaining to the employee;
- The need for the employee to give at least 8 weeks' notice if he/she wishes to vary or cancel the agreed and booked period(s) of SPL.

8.17.6. The manager must advise Payroll Services of the dates the employee is taking Shared Parental Leave on a Variation Form and the time recorded appropriately on the electronic roster or timesheets. Any variations to these dates must be communicated to Payroll Services via a Variation Form.

#### **8.18. Evidence of Eligibility**

8.18.1. The Trust will require confirmation of the following, within 14 days of the SPL entitlement notification being given:

- The name and business address of the partner's employer (where the employee's partner is no longer employed or is self-employed their contact details must be provided) in the case of biological parents;
- A copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth or MAT B1 where the birth has not yet taken place);
- In the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption.

8.18.2. In order to be entitled to SPL, the employee must produce this information within 14 days of the employer's request.

#### **8.19. Contact during SPL**

8.19.1. Before going on SPL, the manager and the employee should agree any voluntary arrangements for keeping in touch during the employee's SPL.

8.19.2. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence.

#### **8.20. Keeping In Touch Days**

8.20.1. Subject to agreement with the line manager, each employee can work up to 20 optional Shared Parental Leave in Touch (SPLIT) days during SPL without losing the entitlement to ShPP and without bringing the SPL to an end. Any days of work will not extend the SPL period.

8.20.2. The SPLIT work can be consecutive days or not, and can include training (including the completion of mandatory training) or other activities which enable the employee to keep in touch with their workplace.

8.20.3. The employee will be paid a proportion of their basic daily rate for the actual hours worked, less appropriate maternity leave payment for SPLIT days worked.

8.20.4. Working for part of any day will count as one SPLIT day.

## **8.21. Return to Work**

- 8.21.1. An employee who has notified their intention to return to work is not required to give any further notification of return.
- 8.21.2. If the employee wishes to return to work earlier than the expected return date, the employee must provide a written notice to vary the leave and must give at least 8 weeks' notice.
- 8.21.3. This notice will count as one of the employee's 3 notifications. If the employee has already used 3 notifications to book and/or vary leave then the Trust is not required to accept the notice to return early but may choose to do so where reasonably practicable.
- 8.21.4. The manager must advise Payroll Services within 2 working days of being aware of the employee's return to work date via a Variation Form.
- 8.21.5. Following SPL:
- If the employee's aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, they are entitled to return to the same job. The same job is the job they occupied immediately before commencing leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.
  - If the employee's aggregate total maternity/paternity/adoption leave and SPL amounts to 26 weeks or more, they are entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

## **8.22. Fixed-Term Contracts or Training Contracts**

- 8.22.1. An employee subject to a fixed-term or training contract who meets the eligibility criteria will have their contract extended so as to allow them to receive the 50 weeks Shared Parental Leave and Shared Parental Pay providing the employee has submitted the required notifications prior to the end of the fixed-term contract and they continue to meet the continuity of employment test and employment and earnings test.

## **8.23. Rotational Training Contracts**

- 8.23.1. Where an employee is on a planned rotation of appointments with one or more NHS employers as part of an agreed programme of training, the employee shall have the right to return to work in the same post.
- 8.23.2. In such circumstances, the employee's contract will be extended to enable the practitioner to complete the agreed programme of training.

## **8.24. Accrual of Annual Leave/Public Holidays**

- 8.24.1. Annual leave/public holidays will continue to accrue during shared parental leave

and where possible should be taken during the relevant holiday year.

8.24.2. The amount of accrued annual leave/public holidays an employee can carry over to the next annual leave year should not normally exceed 5 days, i.e. 1 working week (pro-rata for part-time employees). The same principles apply as maternity leave regarding any carry over of leave (section 5.6)

8.24.3. Shared parental leave, whether paid or unpaid, will count as service for the purposes of any service qualification period for additional annual leave.

#### **8.25. Pension**

8.25.1. Pension rights and contributions will be dealt with in accordance with the provisions of the NHS Pension Scheme. Any queries should be referred to the Pensions Manager.

#### **8.26. Professional Registration**

8.26.1. An employee is responsible for ensuring that they maintain their competence and professional registration (where applicable) at all times during their paid and unpaid SPL.

#### **8.27. Working whilst on Shared Parental leave**

8.27.1. With the exception of shared parental leave in touch days in the employee's substantive post, work on the Trust Bank or working anywhere outside the Trust during the employees contracted hours is not permitted during paid or unpaid Shared Parental Leave. Managers should contact Human Resources for further advice.

## **PART 3**

### **9. DEFINITIONS**

- 9.1. Ordinary Maternity Leave (OML) – the first 26 weeks of maternity leave and includes the 2-week period immediately after the baby's birth where under law an employee may not work for their employer.
- 9.2. Additional Maternity Leave (AML) –begins immediately after Ordinary Maternity Leave and continues for a further 26 weeks.
- 9.3. Statutory Maternity Pay (SMP) – the rate of pay employees who are pregnant or who have just given birth are entitled to, if they meet the eligibility criteria. Statutory Maternity Pay is payable for a maximum of 39 weeks, whether or not an employee intends to return to work. The rate is set by the government
- 9.4. Occupational Maternity Pay (OMP) – the additional pay, over and above the Statutory Maternity Pay, that eligible employees may be entitled to under Agenda for Change terms and conditions where an employee intends to return to work in the NHS following their maternity leave.
- 9.5. Paternity Leave – is a period of time that fathers or partners can take off from work following the birth of a child. It must be taken as either one or two consecutive weeks.
- 9.6. Statutory Paternity Pay (SPP) – the rate of pay an employee taking paternity leave is entitled to receive, if they meet the eligibility criteria. The rate is set by the government.
- 9.7. Occupational Paternity Pay – the additional pay, over and above the Statutory Paternity Pay, that eligible employees may be entitled to under Agenda for Change terms and conditions.
- 9.8. Adoption Leave – is period of time the main adopter can take off from work following notification they have been matched with a child, if they meet the eligibility criteria. Up to 52 weeks of adoption leave can be taken.
- 9.9. Statutory Adoption Pay – the rate of pay an employee taking paternity leave is entitled to receive, if they meet the eligibility criteria. The rate is set by the government.
- 9.10. Shared Parental Leave (SPL) – enables working parents to share leave to care for a child in a flexible way during the first year following birth or adoption. Eligible parents can to share up to 50 weeks. To access SPL the mother/main adopter must curtail their maternity/adoption leave.
- 9.11. Shared Parental Pay (ShPP) – the rate of pay an employee taking Shared Parental Leave may be entitled to receive, if they meet the eligibility criteria and if the mother or adopter curtails their entitlement to maternity/adoption leave (and pay) or maternity allowance before they have used up their statutory entitlement to 39 weeks' pay. The rate is set by the government.

## **10. PROCESS FOR MONITORING COMPLIANCE**

- 10.1. Management and Staff Side will jointly review this policy and procedure 12 months after it has been ratified to ensure its collective performance and effectiveness. There shall normally be no variation to this policy except by joint agreement through the Trust JNCF. Exceptionally the Trust will reserve the right to make changes outside of the normal review and consultation process where there are legislative imperatives outside of the control of the Trust. All such changes will be reported to the JNCF.
- 10.2. During the lifetime of the document, it will be subject to audit to ensure that a) the policy and procedure continues to meet service need b) that management of grievances are compliant with the policy and procedure. The audit will be commissioned by the Director of Human Resources and Organisational Development and will involve a selection of a sample of records/documents to be checked against relevant criteria from the policy.

## **11. ASSOCIATED DOCUMENTATION**

- 11.1. The policy should be used in conjunction with, and meet the requirements of the following Trust policies and procedures, this list is not exhaustive:
- Maternity, Paternity, Adoption and Shared Parental Leave Supporting Documentation for Managers and Employees
  - Annual Leave Policy
  - Other Types of Leave Policy
  - Resolution Policy
  - Supporting Attendance Policy