

Policy Document

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Leave for Parents and Guardians

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13	June 2018	Minor amendment made to the document as a statutory declaration of intent to apply for a parental order once the baby is born and the due date of the baby at least 15 weeks before the baby is due is not required in light of feedback from the Trust solicitor.
14	June 2019	Update to reflect new AfC Section 15, Occupational Shared Parental Pay
15	May 2022	Changes to policy title, 'Foster to Adopt' included, terminology changed to gender neutral, 'breastfeeding' replaced with 'breast/chest feeding', included Equality, Diversity and Inclusion Policy (HR12) and Special Leave Policy (HR61) to be read in conjunction with this policy, point A1.1.5 and shared parental leave scheme added to adoption and surrogacy leave section, points A3.11.2 and A3.11.3 added to A3.11 Rotational training contracts

Statement on Trust Policies

The latest version of 'Statement on Trust Policies' applies to this policy and can be accessed [here](#)

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1. INTRODUCTION

1.1 This policy and procedure aims to ensure that employees are aware of the benefits and entitlements available to parents, guardians and pregnant employees in accordance with legislation and Agenda for Change Conditions of Service.

1.2 This Policy should be read in conjunction with the following other Trust Policies:

- Employment Break Scheme (HR 28)
- Flexible Working Policy (HR 51)
- Organisational Change Policy (HR 04)
- Sickness Absence Management Policy and Procedures (HR 14)
- Annual Leave and Public Holiday Leave Policy (HR 52)
- Equality, Diversity and Inclusion Policy (HR12)
- Special Leave Policy (HR61)

2. POLICY STATEMENT

The University Hospitals of North Midlands (NHS) Trust is committed to promoting equality of opportunity for all and undertakes to treat all employees fairly and complying with employment legislation and best practice. The Trust is committed to the principles contained in the Human Rights Act. We aim to ensure that our employment policies protect the rights and interests of our staff and ensure that they are treated in a fair, dignified and equitable way when employed at the Trust.

3. SCOPE

This policy and procedure applies to all Trust employees.

4. RESPONSIBILITIES

4.1 Manager's responsibilities

It is the responsibility of the manager to:

- a. pass on relevant information to employees and ensuring that s/he/they understands his/her/their rights and what is required of him/her/them during the relevant leave period taken.
- b. ensure any Health and Safety assessments are carried out and implemented as outlined in this policy.
- c. confirm in writing an individual's entitlement, whether paid or unpaid, and responsibilities in writing, including the expected date of return to work where applicable.

4.2 Employee's responsibilities

It is the employee's responsibility to ensure they fully understand what is required of them when requesting / taking any leave outlined in this policy, and that they comply with these requirements.

4.3 Responsibility of the Human Resources Directorate

It is the responsibility of the Human Resources Directorate to:

- a. provide awareness raising and ongoing support in the application of the Policy in individual cases to all managers and employees.
- b. ensure that the Policy is regularly developed and updated.

4.4 Role of Staff Side

It is the role of Staff Side to negotiate, raise concern, or provide support on a member's behalf as

necessary in relation to this policy.

5. EDUCATION AND TRAINING

No formal training is required but Divisional Human Resources teams will raise awareness of the revised policy.

6. MONITORING AND REVIEW

This policy and procedure may be amended at any stage by joint agreement. In any event the policy will be reviewed and updated every three years or sooner if legislation dictates.

Application of this policy will be monitored on an on-going basis via information available from advice and queries sought, information from case reviews, and application of the Sickness Absence Management Policy and Procedures (HR14), Annual Leave and Public Holiday Leave Policy (HR52) and Special Leave Policy (HR61).

A1 ADOPTION AND SURROGACY LEAVE

A1.1 Adoption Leave

- A1.1.1 This entitlement is available to any employee who is identified as the main carer and who is newly matched with a child for adoption under the age of 18 years. The main carer is defined as the carer taking the day-to-day responsibility for child care. The entitlement also applies to employees who apply for a parental order in relation to a child under a surrogacy agreement.**
- A1.1.2 The Trust accepts that individuals or a member of a couple of any gender have equal rights as do Lesbian, Gay, Bisexual, Transgender and non-binary staff.
- A1.1.3 The adoption agency must be one which is properly recognised in UK law. There is no statutory right for private adoptions.
- A1.1.4 All employees are entitled to take 52 weeks adoption leave. This is made up of 26 weeks of Ordinary Adoption Leave and 26 weeks of Additional Adoption Leave.
- A1.1.5 When a couple adopt, they must decide which one of them will be 'the adopter' for adoption leave purposes. The adopter will be entitled to occupational adoption pay and Statutory Adoption Pay (SAP) if eligible, while the partner may be eligible for paternity leave and pay.
- A1.1.6 Where the child is below the age of 18 adoption leave and pay will be in line with the maternity leave and pay provisions set out in Appendix 3 of this policy.
- A1.1.7 In addition, if the employee is the primary adopter, paid leave may be granted to attend up to five adoption appointments prior to the adoption of a child to attend to any legal, medical or social services arrangements.
- A1.1.8 If the employee is named as the secondary adopter they are entitled to take unpaid time off for two appointments.
- A1.1.9 An individual will receive the same entitlements to holiday and sickness leave, incremental progression, superannuation etc., as a birth mother on maternity leave.
- A1.1.10 Prior to the adoption, the employee should discuss and agree with their manager the expected date of placement, an appropriate period of leave and a return to work date. This must be done within 7 days of the employee being told by the adoption agency that they have been matched with a child. The employee should also provide written authoritative evidence of the adoption.
- A1.1.11 If for any reason the adoption does not run its normal course, the employee shall return to work within a reasonable period of time unless good reason is shown, e.g. medical evidence is provided, in which case, the Sickness Absence Management Policy and Procedures (HR14) will apply.
- A1.1.12 If the Trust employs both parents, one parent should be identified as the primary carer. The other adoptive parent may be entitled to paternity leave. If the couple wish to share leave more equally, if eligible, they can use the shared parental leave scheme.
- A1.1.13 Eligibility for occupational adoption pay will be 12 months' continuous NHS service ending with the week in which they are notified of being matched with the child for

adoption. These entitlements mirror those outlined in Paragraphs A3.17 and A3.18 in Appendix 3 below.

- A1.1.14 If there is an established relationship with the child, such as fostering prior to adoption, or when a step-parent is adopting a partner's children, there is scope for local arrangements on the amount of leave and pay in addition to time off for official meetings. In such cases, please see advice from Human Resources.
- A1.1.15 Employees not eligible for occupational adoption pay may still be entitled to SAP subject to the qualifying conditions. The rate of SAP is the same as for Statutory Maternity Pay (SMP), found in the Maternity leave section below, and paid for up to 39 weeks
- A1.1.16 If the employee is not eligible for SAP they will be given a SAP1 form by payroll within 7 days of their decision. The employee must get this form within 28 days of their request for SAP or the date they were matched with the child (whichever is earlier).
- A1.1.17 Any employee applying for adoption leave must complete form AL1, found in the Policy below.
- A1.1.18 Managers must write to an employee confirming the adoption leave arrangements.
- A1.1.19 Employees will be entitled to 10 Keep in Touch Days (KIT days) in line with the maternity leave section below.
- A1.1.20 An employee who is dissatisfied with any decision made in respect of their adoption rights should instigate the Trust's formal grievance procedure.

A1.2 Surrogacy Leave

- A1.2.1 Employees who apply for a parental order in relation to a child born under a surrogacy agreement will be entitled to the same leave and pay as if the child were adopted, except that the leave may only start on the day the baby is born or the day after.
- A1.2.2 An application for a parental order must be made by two people, who are either married, in a civil partnership, or an 'enduring family relationship'. At least one of the applicants must be biologically related to the child.
- A1.2.3 When applying for a parental order a couple must decide which one of them will elect to take adoption leave (the 'primary adopter')
- A1.2.4 To qualify for surrogacy leave employees must give their manager a written declaration of intent to apply for a parental order once the baby is born and the due date of the baby at least 15 weeks before the baby is due.
- A1.2.5 Once the parental order is granted after the birth of the baby the employee will be required to provide the child's new birth certificate stating that they are now the child's named parent.
- A1.2.6 Prior to the birth of the child, the employee should discuss and agree with their manager the expected due date, an appropriate period of leave and a return to work date.
- A1.2.7 Employees are entitled to occupational adoption pay provided that they meet the criteria set out in A1.1.12 with the exception that the employee has to have 12 months continuous NHS service (see paragraph A3.16.1 for definition) at the beginning of the 11th week before the expected week of childbirth.
- A1.2.8 Employees who are surrogates will be entitled to the same maternity conditions as if they were keeping the child.

ADOPTION LEAVE/PAY FORM AL1 (NOTES)

Notes:

- Please ensure that you have read the **Trust's Leave for Parents and Guardians Policy** which explains your entitlement and tells you what you must do to qualify for adoption leave and/or adoption pay, before you complete this form.
- Return this form to your Manager as soon as possible, after a child match has been confirmed
- PART ONE of the form **MUST** be completed in all cases.
- If you intend to return to work following the adoption complete PART TWO of the form.
- If you intend to resign please complete PART THREE of this form. Remember to give at least the period of notice required by your Contract of Employment.
- If possible you should attach a copy of the matching certificate or the documentary evidence from the adoption agency which is properly recognised in UK law. If you have not received this certificate, do not delay, return in the form. Instead forward the certificate when you receive it.

If your home address changes while you are on adoption leave please notify your Manager.

PART TWO

FOR STAFF INTENDING TO RETURN TO WORK FOLLOWING ADOPTION

I intend to return to work with the Trust/another NHS employer within 52 weeks of the commencement of my Adoption leave and will remain in that employment for at least 3 months.

I understand that in the event of failure to return to work for 3 months after the expiry of my adoption leave, the University Hospitals of North Midlands will reclaim all adoption payments received, other than Statutory Adoption Payments (information on which can be found here - <https://www.gov.uk/employers-adoption-pay-leave>).

I certify that the conditions of the scheme providing for adoption leave have been explained to me and that I understand them.

I undertake to inform the University Hospitals of North Midlands of any change in personal circumstances which would affect my entitlement to Statutory Adoption Pay.

I intend to begin my Adoption Leave on:

I intend to return to work on:

I will give at least 28 days' notice of any change to these dates.

Name:
(Please print)

Signed: Date:

Please ensure that you have completed Part One of this form and enclosed a copy of the matching certificate or documentary evidence from the adoption agency before submitting this form to your manager.

Name of Manager (Please print):

Designation:

Signature: Date:

(*Please delete as appropriate)

PART THREE

FOR STAFF WHO DO NOT INTEND TO RETURN TO WORK FOLLOWING THE ADOPTION AND WHO WISH TO RESIGN

Resignation

I do not wish to return to my employment with University Hospitals of North Midlands after Adoption leave and claim any Statutory Adoption Pay which may be due to me. I understand that the Director of Finance will advise me if no payments are due under Statutory Adoption Pay provisions.

I do not intend to return to work following the adoption.

My last working day will be:.....

I certify that the conditions of the scheme providing for adoption leave have been explained to me and that I understand them. I have read and understood the Statutory Adoption Pay regulations in Appendix 1 of the Trust's Parental/Maternity Policy.

Name:
(Please print)

Signed: Date:

Please ensure that you have completed Part One of this form and enclosed a copy of the matching certificate or documentary evidence from the adoption agency before submitting this form to your manager.

Name of Manager (Please print):

Designation:

Signature: Date:

Note to Manager:

A termination form must also be completed on EASY

IMPORTANT STATUTORY ADOPTION PAY REGULATIONS

You have an obligation to notify payroll (via your Manager, if preferred) of any change in personal circumstances which may affect your entitlement to receive Statutory Adoption Pay.

Even if you are, or think you may be excluded from payment of Statutory Adoption Pay you should notify payroll that you have been matched with a child for adoption. If you are excluded from payment you will then receive Form SAP1 from payroll, giving you the reason for exclusion.

If you are not eligible for Statutory Adoption Pay, you may still be entitled to receive Income Support and should contact your local Benefits Agency, who will ask you for Form SAP1.

You may NOT be entitled to receive Statutory Adoption Pay for any one of the following reasons: -

- Employed by the University Hospitals of North Midlands without a break for at least 26 weeks up to and including the week the adoption agency, which is properly recognised in UK Law, told you that you had been matched with a child for adoption.
- Earnings rule not satisfied, as your average weekly earnings are below the lower earnings level for National Insurance Contributions you are not entitled to Statutory Adoption Pay.
- If you do not provide documentary evidence from the adoption agency. This may be given on a matching certificate.

MODEL LETTER ACKNOWLEDGING NOTIFICATION OF ADOPTION LEAVE

Dear *[name of employee]*,

Congratulations and thank you for telling me that you will be adopting a child. I am writing to you to confirm arrangements that have been agreed regarding your adoption leave and pay.

Entitlement to paid and unpaid adoption leave

As explained, you are entitled to **52 weeks' adoption leave** and qualify for **26 weeks' Occupational Adoption Pay and 39 weeks' Statutory Adoption Pay broken down as follows:**

- i. Weeks 1-8 of absence— full pay, less any SAP (including any dependents' allowances) receivable;
- ii. Weeks 9-26 of absence – half of full pay plus any SAP (including any dependents' allowances) receivable, providing the total receivable does not exceed full pay.
- iii. Weeks 27-39 of absence – SAP

***/are not eligible for Occupational Adoption Pay but are eligible for 39 weeks' Statutory Adoption Pay*/are not eligible for Statutory Adoption Pay* [**delete as appropriate*].**

Your adoption pay will be £*[insert amount]* from *[insert date]* to *[insert date]* and £*[insert amount]* from *[insert date]* to *[insert date]*.

Or

The form SAP1 (enclosed) explains why you do not qualify for Statutory Adoption Pay. You may however be entitled to Income Support. If you take this form to the Job Centre Plus or Social Security Office at *[insert local details]*, they will be able to tell you more.

Commencement of adoption leave

You have chosen to start your adoption leave on *[insert date]*. If you wish to change this date you must give at least 28 days' notice.

Return to work date

Your expected date of return based on your 52 weeks adoption leave will be *[insert return to work date]* ***/you informed me that you intend to return to work on *[insert return to work date]** [*delete as appropriate*].**

If you decide to return to work before *[insert date return to work date]*, you must give me at least 28 days' notice.

If you decide not to return to work you must still give me proper notice in accordance with your contract of employment. Your decision will not affect your entitlement to SAP.

Or

You informed me that you were not intending to return to work at the Trust or another NHS employer following the end of your adoption leave.

We agreed that you would accrue the following day's annual leave **[INSERT NO]**, during your adoption leave, which may be taken at the end of the formal adoption leave period. I must inform you that if you return to work earlier than intended this will reduce the number of days annual leave accrued.

During your adoption leave we are both able to make reasonable contact with each other to help stay in touch. We are also able to agree that you can work up to 10 'Keeping in touch days' during your adoption leave without it affecting your adoption leave or your SMP. Before you begin your adoption leave, we will discuss how we will keep in touch during your adoption leave.

If you have any questions about any aspect of your adoption leave and pay entitlement, please do not hesitate to get in touch with me. I hope all goes well.

A2 FOSTERING LEAVE

A2.1 This entitlement is available to any employee with 12 months' continuous service with the NHS. Managers have discretion as to how much leave to grant in each individual case, in accordance with the Trust's Annual Leave and Public Holiday Leave Policy (HR52). In general terms, up to 5 days paid leave per year may be granted for employees who are foster carers/applying to become registered as a foster parent and who are required to take time off to do so.

A2.2 Foster To Adopt

A2.2.1 The employee must tell their manager that they are adopting within 7 days if they fostering a child permanently and becoming their legal parent ('fostering to adopt') however, employees are encouraged to inform their manager at the earliest opportunity.

A2.2.2 The employee must tell their manager the date the child will be placed with them and when they want their leave to start in writing.

A2.2.3 The employee must give their manager evidence of a placement (for example, a letter from the adoption agency).

A2.2.4 Where the employee is a local authority foster parent who is also approved as a prospective adopter and a child is placed with the employee in a "foster to adopt" situation, they will be entitled to adoption leave and pay. Eligibility and pay entitlements are outlined in paragraphs A1.1.4 and A1.1.13.

A3 MATERNITY LEAVE

A3.1 All employees have the right to take up to 52 weeks of maternity leave whether or not they return to NHS employment subject to the conditions set out in this policy.

A3.2 Eligibility

A3.2.1 A full or part-time employee will be entitled to paid and unpaid maternity leave under the NHS contractual maternity pay scheme if they:

- a. have 12 months continuous NHS service (see paragraph A3.16.1 for definition) at the beginning of the 11th week before the expected week of childbirth.
- b. notifies the Trust in writing before the end of the 15th week before the expected date of childbirth:
 - i of their intention to take maternity leave
 - ii of the date they wish to start their maternity leave (see paragraph A3.6.1 below)
 - iii that they intend to return to work with the same or another NHS employer for a minimum period of 3 months after their maternity leave has ended
 - iv provides a MATB1 form from their midwife or GP giving the expected date of childbirth.

A3.2.2 To avoid any risk of not qualifying for, or delay in receiving maternity payments the employee must complete

- a. Form ML1 (Page 26) and return to payroll by the 21st week of pregnancy.
- b. Form ML2 (Page 28) Part 1 and return to their line manager at least three weeks before maternity leave is due to begin. Complete Part 2 if intending to return to work, and Part 3 if intending to resign.

A3.2.3 For employees with less than 12 months continuous service please refer to Section A3.8 below.

A3.2.4 For employees not returning to NHS employment after maternity leave please refer to Section A3.9 below.

A3.2.5 For employees on fixed term or non-rotational training contracts please refer to Section A3.10 below.

A3.2.6 For employees on rotation training contracts please refer to Section A3.11 below.

A3.3 Ante-natal Care

A3.3.1 Pregnant employees have the right to paid time off for antenatal care. Antenatal care includes relaxation and parent-craft classes as well as appointments for antenatal care. From 1st October 2014 mothers' partners have the right to take unpaid time off to attend up to two antenatal appointments with the mother. The pregnant employee's partner includes a spouse, civil partner (of either sex) or a person with whom they are in a long-term relationship.

A3.4 Maternity Uniform

A3.4.1 Maternity uniforms are available from the Royal Infirmary Sewing Room, on a loan basis. The employee's manager will, on request, supply the necessary request forms.

A3.5 Health and safety pre and post birth

- A3.5.1 Where an employee is pregnant, has recently given birth or is breast/chest feeding, the manager must carry out a risk assessment of the employee's working conditions. The manager and the member of staff must complete the "New & Expectant Mothers Hazard Management Check List" available on the Trust's intranet (A-Z > Business > Health and Safety > Risk Assessments > Pregnant Workers Information > New and Expectant Mother Check List) together. This may need regular reviews throughout the employees pregnancy upon their return to work and whilst breast/chest feeding.
- A3.5.2 If it is found, or a medical practitioner considers, that an employee or the child would be at risk were they to continue with their normal duties suitable alternative work will be provided for which the employee will receive their normal rate of pay. Where it is not reasonably practicable to offer suitable alternative work, the employee will be suspended on full pay.
- A3.5.3 If a member of staff or their manager has concerns regarding work activity, these should be raised with their manager, who must seek advice from the Trust's Occupational Health & Safety Departments.
- A3.5.4 Under Health and Safety legislation an employee must take a minimum of two weeks leave after childbirth.

A3.6 Commencement of maternity leave

A3.6.1 General

- a. An employee may begin maternity leave at any time between the 11th week before the expected week of childbirth (EWC) and the expected week of childbirth. They must inform their manager in writing of this date before the end of the 15th week before the EWC (section 3.2 above). If the employee subsequently wishes to change this date, they must give at least 28 days' notice.

A3.6.2 Pregnancy-related sickness absence

- a. If an employee is off work ill or becomes ill with a pregnancy related illness for more than one consecutive day during the last 4 weeks before the EWC, maternity leave will normally commence. If this situation arises the employee must inform their manager that this is the reason for their absence.
- b. Single non-consecutive days of absence due to pregnancy related illness during this period may be disregarded, if the employee wishes to continue working until the chosen maternity leave start date previously notified to their manager.

A3.6.3 Pre-term birth

- a. Where an employee's baby is born alive prematurely their entitlement to maternity leave and pay remains the same as if their baby was born at full term.
- b. Where an employee's baby is born before the 11th week before the EWC and the employee has worked during the actual week of childbirth, maternity leave will start on the first day of the employee's absence.
- c. Where an employee's baby is born before the 11th week before the EWC and the employee has been absent from work on certified sickness during the actual week of childbirth, maternity leave will start the day after the day of the birth.
- d. Where an employee's baby is born before the 11th week before the EWC and the baby is in hospital the employee may split their maternity leave, taking a minimum period of 2 weeks maternity leave immediately after childbirth and the rest of their maternity leave following their baby's discharge from hospital.

A3.6.4 Still-birth or miscarriage

- a. Where an employee's baby is stillborn (born dead after 24th week of pregnancy) the

employee will be entitled to the same amount of maternity leave and pay as if their baby was born alive.

- b. Where an employee has a miscarriage before the 25th week of pregnancy the Trust's Sickness Absence Management Policy and Procedures (HR14) will apply.

A3.7 Return to work

A3.7.1 General

- a. An employee who intends to return to work at the end of their full maternity leave (ordinary & additional maternity leave) and who has complied with Section A3.2 of this policy is not required to give any further notification of their return. However, if they wish to return early they must give at least 28 days' notice.
- b. An employee has the right to return to their job under their original contract and on no less favorable terms and conditions. See Section A3.7.2 if returning on flexible working arrangements.
- c. Under Health and Safety legislation an employee must take a minimum of two weeks leave after childbirth (see Section A3.5).

A3.7.2 Returning on flexible working arrangements

- a. If at the end of maternity leave the employee wishes to return to work on different hours, they must submit a flexible working application in accordance with the Trust's Flexible Working Policy (HR 51).
- b. If it is agreed that the employee will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period this will not affect the employee's right to return to their job under their original contract at the end of the agreed period,

A3.7.3 Sickness following the end of maternity leave

- a. In the event of illness following the date the employee was due to return to work, the Trust's Sickness Absence Management Policy and Procedures (HR14) Policy will apply.

A3.7.4 Failure to return to work after the end of maternity leave

- a. If an employee, who has notified their employer of their intention to return to work for the same or a different NHS employer, fails to do so within fifteen months of the beginning of their maternity leave, they will be liable to refund the whole of their maternity pay, less any Statutory Maternity Pay, received.

A3.7.5 Postponement of Right to Return to Work

- a. The maximum period of maternity leave (either Ordinary Maternity Leave or Additional Maternity Leave, dependent upon length of service) can only be extended in one instance, i.e. if any employee gives birth more than 6 weeks after the EWC, and this relates to the compulsory period of leave that must be taken following the birth.

A3.8 Employees with less than 12 months continuous service

- A3.8.1 If an employee does not satisfy the conditions in Section A3.2 for occupational maternity pay they may be entitled to SMP. SMP will be paid regardless of whether they satisfy the conditions in Section A3.2.

- A3.8.2 If their earnings are too low for them to qualify for SMP or they do not qualify for another reason, they should be advised to claim maternity allowance from their local Job Centre Plus or social security office.

- A3.8.3 All pregnant employees have the right to take 52 weeks of maternity leave whether or not they return to NHS employment subject to the conditions set out in this policy.

A3.9 Employees not returning to NHS employment

A3.9.1 An employee who satisfies the conditions in Section A3.2 except that they do not intend to work with the same or another NHS employer for a minimum period of 3 months after their maternity leave is ended, will be entitled to pay equivalent to SMP, which is paid at 90% of their average weekly earnings for the first 6 weeks of their maternity leave and to a flat rate sum for the following 33 weeks.

A3.10 Fixed term contracts and non-rotational training contracts

A3.10.1 Employees subject to fixed term or non-rotational training contracts which expire after the 11th week before the EWC and who satisfy the conditions in paragraphs A3.2.1 a, bi, bii, biv) shall have their contracts extended so as to allow them to receive the 52 weeks which includes paid contractual and statutory maternity pay and the remaining 13 weeks of unpaid maternity leave.

A3.10.2 Absence on maternity leave (paid or unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service.

A3.10.3 If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred the repayment provisions set out in Section A3.7.4 will not apply.

A3.10.4 Employees on fixed term contracts who do not meet the 12 months continuous service condition set out Section A3.2 above may still be entitled to SMP.

A3.11 Rotational training contracts

A3.11.1 Where an employee is on a planned rotation of appointments with one or more NHS employers as part of an agreed programme of training, they have the right to return to work in the same post or in the next planned post irrespective of whether the contract would otherwise have ended if pregnancy and child birth had not occurred. In such circumstances the employee's contract will be extended to enable the practitioner to complete the agreed programme of training.

A3.11.2 To ensure equality of access to the provisions in the Section:

- a. Where an employee changes employer because their training programme has required them to do so, and
- b. This means they do not have enough statutory continuous service with their current employer to access statutory maternity pay, but
- c. they would have had sufficient statutory continuous service to access statutory maternity pay, statutory adoption pay, or statutory shared parental pay had they not been required to change employer because of the training programme

the employee shall be paid, by their current employer, the value of statutory maternity they would have otherwise received if their statutory continuity had not been broken by their change of employer.

A3.11.3 Where an employee does not have enough statutory continuity of service to access statutory maternity /adoption / shared parental pay as a result of being required as part of their training programme to work in a Crown Dependency, and they would have had sufficient statutory continuous service to access statutory maternity pay, statutory adoption pay, or statutory shared parental pay had they not been required to work in a Crown Dependency, the employee shall be paid, by their current employer, the value of statutory pay they would have otherwise received if their statutory continuity had not been broken by working in a Crown Dependency.

A3.12 Contractual rights

A3.12.1 During maternity leave (both paid and unpaid) an employee retains all of their contractual rights except remuneration.

A3.13 Pay increments

A3.13.1 Maternity leave, whether paid or unpaid, shall count as service for annual increments and for the purposes of any service qualification period for additional annual leave. The expectation is that an employee on maternity leave would progress on the due date if concerns had not been raised about the ability to meet their performance requirements prior to maternity leave.

A3.14 Annual leave and public holidays (This also applies to medical staff)

A3.14.1 Employees on paid and unpaid maternity leave retain their right to the annual leave and public holidays provided by Section 13 of Agenda for Change (NHS Terms and Conditions of Service Handbook).

A3.14.2 *Where unused annual leave and public holidays exceed local provisions for carry over to the next leave year it may be beneficial to the employer and employee for the employee to take the unused annual leave and public holidays before and/or after the agreed (paid and unpaid) maternity leave period. The amount of annual leave and public holidays to be taken in this way, or carried over, should be discussed and agreed between the employee and employer. Payment in lieu may be considered as an option where accrual of annual leave and public holidays exceeds normal carry over provisions, providing this would not cause a breach in the Working Time Regulations 1998*

A3.14.3 Maternity leave whether paid or unpaid shall count for the purposes of any service qualification period for additional annual leave.

A3.15 Post-natal care and breast/chestfeeding mothers

A3.15.1 Employees who have recently given birth are entitled to paid time off for post-natal care.

A3.15.2 The Trust will undertake a risk assessment and provide breast/chestfeeding mothers with suitable private rest facilities. The Health and Safety Executive Guidance recommends that employers provide:

- a. a clean, healthy and safe environment for women who are breast/chest feeding;
- b. suitable access to a private room to express and store milk in an appropriate refrigerator.

A3.15.3 Breast/chestfeeding mothers who wish to work flexibly should submit a flexible working application in accordance with the Trust's Flexible Working Policy.

A3.15.4 Further information and support can be obtained from the Trust Infant Feeding Team (Maternity) and from the [Infant Feeding Policy \(C45\)](#).

A3.16 Calculating continuous service

A3.16.1 For the purposes of calculating 12 months continuous service with one or more NHS employers the following provisions shall apply:

- a. NHS employers includes health authorities, NHS Boards, NHS Trusts and the Northern Ireland Health Service
- b. A break in service of 3 months or less will be disregarded but will not count as service.

- A3.16.2 The following breaks in service will also be disregarded but not count as service:
- a. employment under the terms of an honorary contract
 - b. employment as a locum with a general practitioner for a period not exceeding 12 months.
 - c. a period of up to 12 months spent abroad as part of a definite programme of postgraduate training on the advice of the Postgraduate Dean or College or Faculty Advisor in the specialty concerned.
 - d. Absence on an employment break scheme in accordance with the Trust's Career Break policy (policy HR28) and Agenda for Change Terms and conditions.
 - e. absence on maternity leave (paid or unpaid) as provided for in this policy.
 - f. employment as a trainee with a General Medical Practitioner in accordance with the provisions of the Trainee Practitioner Scheme shall similarly be disregarded and not count as service.

A3.17 Maternity Leave Entitlement

- A3.17.1 All pregnant employees, regardless of length of service are entitled to up to 52 weeks maternity leave in total whether or not they qualify for SMP or MA. This leave is made up of 26 weeks Ordinary Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML). AML starts immediately after OML.

A3.18 Maternity Pay Entitlement

A3.18.1 12 months or more continuous NHS Service and intending to return to work with the Trust or another NHS employer

- b. Where an employee intends to return to work the amount of contractual maternity pay receivable is as follows:
 - i. Weeks 1-8 of absence– full pay, less any SMP or MA (including any dependents' allowances) receivable;
 - ii. Weeks 9-26 of absence – half of full pay plus any SMP or MA (including any dependents' allowances) receivable, providing the total receivable does not exceed full pay.
 - iii. Weeks 27-39 of absence – SMP or MA.
- c. By prior agreement occupational maternity pay may be paid in a different way, for example a combination of full pay and half pay or a fixed amount spread over the maternity leave period.

A3.18.2 12 months or more continuous NHS Service and NOT intending to return to work at the Trust or another NHS employer

- a. An employee who satisfies the eligibility criteria given in Section A3.2 except that they do not intend to work with the Trust or another NHS employer for a minimum period of 3 months after their maternity leave has ended will be entitled to
 - i. Weeks 1-6 Pay equivalent to SMP, which is paid at 90% of their average weekly earnings
 - ii. Week's 7-39 flat rate sum.

A3.18.3 Less than 12 months continuous service

- a. If an employee does not satisfy the conditions in Section A3.2 for occupational maternity pay, they may be entitled to SMP.
- b. If their earnings are too low for them to qualify for SMP, or they do not qualify for another reason, they should claim MA from their local Job Centre Plus or social security office.

A3.18.4 SMP

- a. To get SMP an employee must have been:
 - i. Have been continuously employed by the Trust for at least 26 weeks up to the qualifying week (QW), which is the 15th week before the EWC. Part weeks

- count as full weeks.
- ii. Have average weekly earnings which are equal to or above the Lower Earnings Limit for National Insurance. The average weekly earnings are usually calculated by looking at the eight weeks prior to the QW, not less than the national Insurance Contributions Lower Earnings Limit.
 - iii. Give the Trust at least 28 days' notice of their intention to cease work.
- b. The Trust will pay SMP to the employee in the same way and at the same time as normal wages.
 - c. The amount of SMP depends on how much you earn.
 - d. If the employee isn't eligible for SMP then payroll will provide them with an SMP1 form detailing why this is within 7 days of their decision.

A3.18.5 Maternity Pay Periods (MPP)

- a. The maternity pay period is the period (up to 39 weeks) in which you can be paid SMP.

A3.19 Table of Maternity Benefits

Length of Service	Maternity Leave	Maternity pay/benefits
Less than 52 weeks continuous NHS service at the beginning of the 11 th week before EWC	Up to 52 weeks	No Entitlement to occupational maternity pay. Subject to level of earnings may be entitled to SMP or if earnings are too low or does not qualify for SMP, eligible to claim for MA from Job Centre Plus or social security office.
52 weeks or more continuous NHS service at the beginning of the 11 th week before EWC and intending to return to work with the Trust or another NHS employer	Up to 52 weeks	Weeks 1 - 8 Full pay*, less any SMP or MA Weeks 9 - 26 Half of full pay plus any SMP or MA (including any dependents' allowances) receivable, providing the total receivable does not exceed full pay. Weeks 27 – 39 SMP or MA Weeks 39 – 52 Unpaid
52 weeks or more continuous NHS service at the beginning of the 11 th week before the EWC and not intending to return to work for the Trust or any other NHS Trust for a minimum of 3 months after maternity leave has finished	Up to 52 weeks	Weeks 1 – 6 Occupational maternity Pay equivalent to SMP, which is paid at 90% of average weekly earnings Weeks 7 – 39 Flat rate sum (SMP or MA). Weeks 39-52 Unpaid

A3.20 Calculation of Maternity Pay

A3.20.1 Full pay will be calculated using the average weekly earnings rules used for calculating Statutory Maternity Pay entitlements, subject to the following qualifications:

A3.20.2 In the event of a pay award or annual increment being implemented before the paid maternity leave period begins, the maternity pay should be calculated as though the pay award or annual increment had effect throughout the entire Statutory Maternity Pay calculation period. If such a pay award was agreed retrospectively, the maternity pay should be re-calculated on the same basis;

A3.20.3 In the event of a pay award or annual increment being implemented during the paid maternity leave period, the maternity pay due from the date of the pay award or annual increment should be increased accordingly. If such a pay award was agreed retrospectively, the maternity pay should be re-calculated on the same basis;

A3.20.4 In the case of an employee on unpaid sickness absence or on sickness absence attracting half pay during the whole or part of the period used for calculating average weekly earnings in accordance with the earnings rules for Statutory Maternity Pay purposes, average weekly earnings for the period of sickness absence shall be calculated on the basis of notional full sick pay.

A3.20.5 **NB** Maternity pay will be affected if the employee is on a salary sacrifice arrangement during the Statutory Maternity Pay calculation period. Further advice should be sought from the salary sacrifice provider.

A3.21 Confirming Maternity leave and pay

A3.21.1 Following discussion with an employee the manager will confirm in writing

- a. The employee's paid and unpaid maternity leave entitlements or statutory maternity entitlements;
- b. Unless an earlier return date has been given by the employee, their expected return date based on their 52 weeks maternity leave entitlement; and
- c. The length of any period of accrued annual leave which it has been agreed may be taken following the end of the formal maternity leave period (see Section A3.14)
- d. The need for the employee to give at least 28 days' notice if they wish to return to work before the expected return date.

A3.22 Keeping in touch

A3.22.1 Before going on leave, the employer and the employee should also discuss and agree any voluntary arrangements for keeping in touch during the employee's maternity leave including:

- a. Any voluntary arrangements that the employee may find helpful to help them keep in touch with developments at work, and nearer the time of their return, to help facilitate their return to work;
- b. Keeping the employer in touch with any developments that may affect their intended date of return.

A3.23 Keeping in touch days

A3.23.1 The purpose of Keeping in Touch Days (KIT days) is to facilitate a smooth return to work for employees returning from maternity leave. These cannot take place during the first two weeks of compulsory maternity leave immediately after the birth of the baby.

A3.23.2 To facilitate the process of Keeping in Touch Days (KIT days) it is important that the manager and employee have early discussions to plan and make arrangements for KIT days before the employee's maternity leave takes place.

A3.23.3 An employee may work for up to a maximum of 10 KIT days without bringing their maternity leave to an end. Any days of work will not extend the maternity leave period.

A3.23.4 An employee must not work during the first 2 weeks immediately following the birth.

A3.23.5 An employee who is breast/chest feeding must be risk assessed and facilities provided in accordance with Section A3.5. It is encouraged that employees discuss their necessary breast/chest feeding arrangements with their manager during their KIT days so that they

can be supported upon return to work.

A3.23.6 The work can be consecutive or not and can include training or other activities which enable the employee to keep in touch with the workplace. Working for part of any day will count as one KIT day.

A3.23.7 Any such work must be by agreement and neither the employer nor the employee can insist upon it.

A3.23.8 The employee will be paid at their basic daily rate, for the hours worked less appropriate maternity leave payment for KIT days worked.

A3.23.9 Where an employee takes up the opportunity to work KIT days, consideration will be given to reimbursement of reasonable childcare costs.

A3.24 Organisational change resulting in redundancy

A3.24.1 If, following an organisational change an employee's post becomes redundant whilst on maternity leave, the employee will be placed on the Trust's redeployment register and will be offered suitable alternative employment should such a vacancy arise before their contract of employment ends. If the employee unreasonably refuses this suitable alternative employment, the employee may forfeit their right to redundancy.

A3.24.2 If no suitable alternative employment arises before the end of their contract of employment, the employee will cease to receive occupational maternity pay, but will continue to receive SMP.

A3.24.3 The 'organisational change resulting in redundancy' section of this policy should be read with reference to 'Organisational Change Policy and Procedure' HR04.

A3.25 Lease cars

A3.25.1 Employees who qualify for a lease car may still pay for a lease car during paid maternity leave. The employee may also return the vehicle to the Trust with no financial penalty if their absence is in excess of 4 months.

A3.26 Pension Scheme Benefits

A3.26.1 Pension rights and contributions shall be dealt with in accordance with the provisions of the NHS superannuation regulations.

A3.26.2 Whilst on maternity leave, employees will remain in the NHS Pension Scheme. For full details of the options available to the employee please refer to the Trusts Pensions Manager, Finance Directorate.

A3.26.3 *Trust Contributions* – The Trust will continue to make contributions during the period of paid maternity leave based on the employee's pensionable salary at the date their maternity leave commences.

A3.26.4 *Members Contributions* – Employees may choose either to continue to make contributions which will be deducted from their SMP where possible, or to suspend their payment of contributions.

A3.26.5 Eligible employees choosing to take unpaid maternity leave (i.e. weeks 39-52), will need to make additional pension contributions to maintain their normal level of entitlement. In such circumstances, payroll department will calculate the pension contributions arrears and will notify the employee upon their return to work. The arrears will be taken over a

suitable timescale.

A3.26.6 Pensionable Service – on return to work, employees will be given full continuous service for pension purposes.

A3.26.7 If you intend to return to work and have already paid some contributions during your leave and then decide that you are not returning to work, NHS Pensions can accept the last day of membership as the last day that you paid pension contributions. If you do not intend to return to work you are still entitled to pay pension contributions during the period of statutory leave. When you leave, the Trust will provide you with the Leaving Early and Transferring Out Guide which gives you the necessary information about the choices available to you in respect of your pension. All members, whether they opt out of the Scheme or leave, should be aware that pensionable membership will not be extended unless contributions are paid. Entitlement to benefits will be affected by the length of Scheme membership.

A3.27 Grievances related to maternity leave and pay rights

A3.27.1 An employee who is dissatisfied with any decision made in respect of their maternity rights should instigate the Trust's formal grievance procedure.

UNIVERSITY HOSPITALS OF NORTH MIDLANDS FORM ML1

ADVANCE NOTIFICATION OF EXPECTED CHILDBIRTH

Please complete this form and forward it to payroll before **the 21st week of your pregnancy** in order that we may calculate your entitlement to Statutory Maternity Pay.

To:

Royal Stoke University Hospital
University Hospitals of North Midlands NHS Trust
Employee Services Department – Parklands
Newcastle Road
Stoke on Trent
Staffordshire
ST4 6QG

I am writing to inform you that I am expecting a baby on/about..... (date)

I undertake to inform you if I experience a change in circumstances, as specified in the “IMPORTANT STATUTORY MATERNITY PAY REGULATIONS”

Name: Personal Number:

Designation:

Ward/Department:

Directorate:

Signature:

N.B.

Please do not enclose a medical certificate with this form but forward a MatB1 form when this is made available to you, i.e. usually around the 26th week of pregnancy.

MATERNITY LEAVE/PAY FORM ML2 (NOTES)

Notes:

- Please ensure that you have read the Trust's Parental/Maternity/Surrogacy policy which explains your entitlement and tells you what you must do to qualify for maternity leave and / or maternity pay, before you complete this form.
- Return this form to your Manager as soon as possible, and in any case at least 4 weeks before your maternity leave is due to begin.
- PART ONE of the form **MUST** be completed in all cases.
- If you intend to return to work following childbirth complete PART TWO of the form.
- If you intend to resign please complete PART THREE of this form. Remember to give at least the period of notice required by your Contract of Employment.
- If possible you should attach a doctor's or midwife's certificate confirming your expected week of childbirth. If you have not received this certificate, do not delay, return in the form. Instead forward the certificate when you receive it.
- If your home address changes while you are on maternity leave please notify your Manager.

PART TWO

FOR STAFF INTENDING TO RETURN TO WORK FOLLOWING CHILDBIRTH

I intend to return to work with the Trust within 52 weeks of the commencement of my maternity leave and will remain in employment with the Trust/another NHS employer for at least 3 months.

I understand that in the event of failure to return to work for 3 months after the expiry of my maternity leave, the University Hospitals of North Midlands will reclaim all maternity payments received, other than Statutory Maternity Payments. (information on which can be found here - <https://www.gov.uk/employers-maternity-pay-leave>)

I certify that the conditions of the scheme providing for maternity leave have been explained to me and that I understand them.

I undertake to inform the University Hospitals of North Midlands of any change in personal circumstances which would affect my entitlement to Statutory Maternity Pay, as detailed in the IMPORTANT SMP REGULATIONS in the Parental/Maternity Leave Policy.

I intend to begin my Maternity Leave on:

I intend to return to work on:

I will give at least 28 days' notice of any change to these dates.

Name (please print)

Signature: Date:

HAVE YOU COMPLETED PART ONE AND ENCLOSED YOUR MATB1?

Name of Manager:

Designation:

Signature: Date:

(*Please delete as appropriate)

PART THREE

FOR STAFF WHO DO NOT INTEND TO RETURN TO WORK FOLLOWING CHILDBIRTH AND WHO WISH TO RESIGN

Resignation

I do not wish to return to my employment with University Hospitals of North Midlands after maternity leave and claim any Statutory Maternity Pay which may be due to me. I understand that the Director of Finance will advise me if no payments are due under Statutory Maternity Pay provisions.

I do not intend to return to work following childbirth.

My last working day will be:

I certify that the conditions of the scheme providing for maternity leave have been explained to me and that I understand them.

Signed Date.....

HAVE YOU COMPLETED PART ONE AND ENCLOSED YOUR MATB1?

Name of Manager (please print):

Designation:

Signature: Date:

Note to Manager:

A termination form must also be completed on EASY

MODEL LETTER ACKNOWLEDGING NOTIFICATION OF MATERNITY LEAVE

Dear [*name of employee*],

Congratulations and thank you for telling me about your pregnancy and the date that your baby is due. I am writing to you to confirm our discussions regarding your maternity leave and pay.

Entitlement to paid and unpaid leave

As discussed, you are entitled to **52 weeks' maternity leave (26 weeks' ordinary maternity leave plus 26 weeks' additional maternity leave)** and qualify for **26 weeks' Occupational Maternity Pay and 39 weeks' Statutory Maternity Pay broken down as follows:**

- i Weeks 1-8 of absence– full pay, less any SMP or MA (including any dependents' allowances) receivable;
- ii Weeks 9-26 of absence – half of full pay plus any SMP or MA (including any dependents' allowances) receivable, providing the total receivable does not exceed full pay.
- iii Weeks 27-39 of absence – SMP or MA

***/39 weeks' Statutory Maternity Pay*/are not eligible for Statutory Maternity Pay* [**delete as appropriate*].**

Your maternity pay will be £*[insert amount]* from *[insert date]* to *[insert date]* and £*[insert amount]* from *[insert date]* to *[insert date]*.

Or

The form SMP1 (enclosed) explains why you do not qualify for Statutory Maternity Pay. You may however be entitled to Maternity Allowance. If you take this form to the Job Centre Plus or Social Security Office at *[insert local details]*, they will be able to tell you more.

Commencement of maternity leave

You have chosen to start your maternity leave on *[insert date]*. If you wish to change the date your leave starts you must, if at all possible, tell me at least 28 days before your proposed new start date or 28 days before *[insert date leave starts]* (your original start date), whichever is sooner.

Return to work date

Your expected date of return based on your 52 weeks + leave will be *[insert return to work date]**/You informed me that you intend to return to work on *[insert return to work date]** [**delete as appropriate*].

If you decide to return to work before *[insert return to work date]*, you must give me at least 28 days notice.

If you decide not to return to work you must still give me proper notice in accordance with your contract of employment. Your decision will not affect your entitlement to SMP.

Or

You informed me that you were not intending to return to work at the Trust or another NHS employer following the end of your maternity leave.

As your employer I want to make sure that your health and safety as a pregnant mother are protected while you are working, and that you are not exposed to risk. I have already carried out an assessment to identify hazards in our workplace that could be a risk to any new, expectant, or breast/chest feeding mothers. Now you have told me you are pregnant I will arrange for a specific risk assessment of your job and we will discuss what actions to take if any problems are identified. If you have any further concerns, following this assessment and specifically in relation to your pregnancy, please let me know immediately.

We agreed that you would accrue the following days annual leave **[INSERT NO]**, during your maternity

leave, which may be taken at the end of the formal maternity leave period. I must inform you that if you return to work earlier than intended this will reduce the number of days annual leave accrued.

During your maternity leave we are both able to make reasonable contact with each other to help stay in touch. We are also able to agree that you can work up to 10 'Keeping in touch days' during your maternity leave without it affecting your maternity leave or your SMP. Before you begin your maternity leave, we will discuss how we will keep in touch during your maternity leave.

Mothers who are returning to work and breast/chestfeeding are encouraged to contact their manager prior to their return and can be signposted to the Infant Feeding Team (maternity) to discuss their return and appropriate arrangements made.

If you have any questions about any aspect of your maternity entitlement, please do not hesitate to get in touch with me. I wish you well.

Yours sincerely,

IMPORTANT STATUTORY MATERNITY PAY REGULATIONS

You have an obligation to notify payroll (via your Manager, if preferred) of any change in personal circumstances which may affect your entitlement to receive Statutory Maternity Pay.

Even if you are, or think you may be, excluded from payment of Statutory Maternity Pay you should notify payroll that you are pregnant. If you are excluded from payment you will then receive Form SMP1 from payroll, giving you the reason for exclusion.

If you are not eligible for Statutory Maternity Pay, you may still be entitled to receive Maternity Allowance and should contact your local Benefits Agency, who will ask you for Form SMP1.

You may NOT be entitled to receive Statutory Maternity Pay for any one of the following reasons: -

- Not employed during the qualifying week (i.e. the 15th week before the expected week of childbirth)
- 26 weeks continuous employment (as outlined by the Benefits Agency) rule not satisfied
- Earnings rule not satisfied, as your average weekly earnings are below the lower earnings level for National Insurance Contributions you are not entitled to Statutory Maternity Pay.
- If you do not give at least 28 days' notice of the date you will stop work, you will not be entitled to Statutory Maternity Pay.
- If you do not provide medical evidence of your expected week of childbirth (and of the childbirth itself if this is earlier than expected) within the time allowed
- Your baby is stillborn before the 25th week of pregnancy

If you are taken into legal custody at any time during the Maternity Pay Period, Statutory Maternity Pay will not be payable.

A4 PATERNITY LEAVE

- A4.1 This will apply to biological and adoptive fathers, nominated career's, and same sex partners. The aim of paternity leave is to allow an employee paid time off at the time of the birth, the period immediately after the birth of the child or adoption. This applies to the biological father, the mother's partner or on the formal legal adoption of the child.
- A4.2 All employees are entitled to 1 or 2 consecutive weeks maternity support leave. It is down to the employee to choose if they wish to take 1 or 2 consecutive week's paternity leave. Employees not eligible for occupational maternity support pay may still be entitled to Statutory Paternity Pay (SPP) subject to the qualifying conditions. The rate of SPP is the same as for Statutory Maternity Pay.
- A4.3 Employees should tell their manager in writing as soon as possible that they wish to take paternity leave, but no later than the end of the 15th week before the expected week of childbirth. They should say when the baby is due, if they're going to take one or two weeks off, and when they expect their paternity leave to start
- A4.4 There will be an entitlement to 2 weeks' occupational maternity support pay. Full pay will be calculated on the basis of the average weekly earnings rules used for calculating occupational maternity pay entitlements. The employee will receive full pay less any statutory paternity pay receivable. Only one period of occupational paternity pay is ordinarily available when there is a multiple birth.
- A4.5 Paternity leave cannot be taken before the birth and must end within 56 days following the birth of the child or on the formal legal adoption. In cases of premature birth, it may be more appropriate to allow paternity leave to be taken within the eight weeks following the baby's discharge from hospital. It is for the employee to choose to take either 1 week or 2 consecutive weeks leave but not take it on odd days.
- A4.6 Eligibility for occupational paid maternity support pay is 12 months' continuous NHS service at the beginning of the week in which the baby is due or adopted.
- A4.7 The entitlement is subject to the member of staff having 12 months' continuous service with one or more NHS employers at the beginning of the week the baby is due.
- A4.8 In exceptional circumstances, additional leave days may be granted. The number of days allowed, will depend upon the circumstances/needs of each individual case and the reasonableness of the request.
- A4.9 Paternity leave cannot be carried over to be taken at a later date, nor is pay in lieu given.
- A4.10 Additional unpaid leave may be granted at the discretion of the manager.
- A4.11 To receive Statutory Paternity Pay the employee must complete and submit form SC3 or SC4 if you are adopting a child at least 28 days before the date they wish the leave to start. Further information and the forms are available at <https://www.gov.uk> and detailed below (<https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-a-birth-parent-sc3> and <https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-an-adoptive-parent-sc4>)
- A4.12 Reasonable paid time off to attend antenatal classes will also be given.
- A4.13 Where an employee's baby is born dead after the 24th week of pregnancy, the employee will be

entitled to the same amount of paternity leave and pay as if their baby was born alive.

- A4.14 SC3 forms can also be filled out online at https://publiconline.hmrc.gov.uk/lc/content/xfafoms/profiles/forms.html?contentRoot=repository:///Applications/PersonalTax_iForms/1.0/SC3&template=SC3.xdp and then printed and given to your manager.
- A4.15 If an employee is not eligible for SPP then they should receive an SPP1 form from payroll detailing why they were not eligible within 28 days of their pay request.

FOI REF 270-223

MODEL LETTER ACKNOWLEDGING NOTIFICATION OF PATERNITY LEAVE

Dear [name of employee],

Congratulations and thank you for telling me about **your new baby/being matched with a child for adoption*** [*delete as appropriate] and the date **that your baby is due/of your formal legal adoption*** [*delete as appropriate]. I am writing to you to confirm our discussions regarding your paternity leave and pay.

Entitlement to paid and unpaid leave

As discussed, you are entitled to **up to two weeks' of paternity leave/pay** and qualify for **up to two weeks' Statutory Paternity Pay*/are not eligible for Statutory Paternity Pay*** [*delete as appropriate].

Your paternity pay will be £[insert amount] from [insert date] to [insert date] and £[insert amount] from [insert date] to [insert date].

Or

The form SPP1 (enclosed) explains why you do not qualify for Statutory Paternity Pay. You may however be entitled to Income Support. If you take this form to the Job Centre Plus or Social Security Office at [insert local details], they will be able to tell you more.

Commencement of paternity leave

You have chosen to start your paternity leave on [insert date]. If you wish to change the date your leave starts you must, if at all possible, tell me at least 28 days before your proposed new start date or 28 days before [insert date leave starts] (your original start date), whichever is sooner.

Return to work date

Your expected date of return based on your [insert number of weeks'] weeks paternity leave will be [insert return to work date]*/You informed me that you intend to return to work on [insert return to work date]* [*delete as appropriate].

If you decide to return to work before [insert return to work date] you must give me at least 28 days' notice.

If you decide not to return to work you must still give me proper notice in accordance with your contract of employment. Your decision will not affect your entitlement to SPP.

We agreed that you would accrue the following days annual leave [INSERT NO], during your paternity leave, which may be taken at the end of the formal paternity leave period. I must inform you that if you return to work earlier than intended this will reduce the number of days annual leave accrued

Or

You informed me that you were not intending to return to work at the Trust or another NHS employer following the end of your paternity leave.

If you have any questions about any aspect of your paternity entitlement, please do not hesitate to get in touch with me. I wish you well.

Yours sincerely,



Ordinary Statutory Paternity Pay/ ordinary paternity leave – becoming a parent

Becoming a parent

If you want to take time off work to support the mother of the baby or look after the baby you may be entitled to:

- Ordinary Statutory Paternity Pay (OSPP) – at least part of your wages will be paid for two weeks. You will get the weekly rate of OSPP current at the time of your ordinary paternity leave, or 90% of your average weekly earnings, whichever is less
- ordinary paternity leave – up to two weeks time off.

Please read through the terms and conditions below and if you think you might qualify, fill in the form opposite and complete the declaration on page 2.

Terms and conditions

OSPP and ordinary paternity leave are available to:

- a biological father
- a partner, husband or civil partner that is not the baby's biological father.

You must be able to declare that:

- you are
 - the baby's biological father, or
 - married to or in a civil partnership with the mother, or
 - living with the mother in an enduring family relationship, but are not an immediate relative, **and**
- you will be responsible for the child's upbringing, **and**
- you will take time off work to support the mother or care for the child.

You must be continuously employed by the same employer for at least 26 weeks by the end of the 15th week before the week the baby is due. You must then continue to be employed by the same employer until the date the baby is born.

To get OSPP you must also have average earnings over a set period above a set amount – your employer will work this out for you.

You cannot start your ordinary paternity leave before the child is born. You can choose to take one or two whole weeks leave, but not two separate weeks, which must end by the 56th day after the date of birth. If the baby is born early you can choose to take your leave any time between the actual date of birth and the end of an eight week period starting from the Sunday of the week the baby was originally due. You cannot take odd days off work, but the weeks can start on any day, for example, from Tuesday to Monday.

You must discuss your leave plans with your employer and tell them what time off you want by the 15th week before the week the baby is due. Your employer can tell you when this is, if you are not sure.

You can change your mind, but you must give your employer 28 days notice of the dates. If you do change your mind, you and your employer may find it helpful if you filled in a new form SC3 *Ordinary Statutory Paternity Pay/ordinary paternity leave*.

If you cannot tell your employer what time off you want in time, or the baby is born sooner or later than expected, please discuss the situation with your employer.

Personal details

Surname or family name

First name(s)

National Insurance number

Your dates for pay and leave

Give the date the baby is due.

If the baby has already been born, give the date the baby was due and the actual date of birth.

Due date DD MM YYYY

Actual date of birth (if applicable) DD MM YYYY

I would like my OSPP and/or ordinary paternity leave to start on the date the baby is born

No Yes

If 'No', I would like my OSPP to start within eight weeks of the date the baby was born starting on or around DD MM YYYY

I want to be away from work for

one week

two weeks

Please turn over

Your declaration

You must be able to tick all three boxes below to get OSPP and ordinary paternity leave.

I declare that:

- I am
 - the baby's biological father, or
 - married to or in a civil partnership with the mother, or
 - living with the mother in an enduring family relationship, but am not an immediate relative, **and**
- I will have responsibility for the child's upbringing, **and**
- I will take time off work to support the mother or care for the child.

Signature

Date DDMM YYYY

Give this form to your employer, but keep a copy of the terms and conditions for your records.

Additional Statutory Paternity Pay (ASPP)

If you are entitled to OSPP you may also be entitled to Additional Statutory Paternity Pay (ASPP).

If you would like more information about entitlement to ASPP you should ask your employer or go online at www.direct.gov.uk

Disagreements

If your employer tells you that you are not entitled to OSPP and/or ordinary paternity leave, you can challenge that decision. If you need help with this, for:

- OSPP – if you wish to register a dispute after getting further information, see *Further information and other help*, phone our Statutory Payments Disputes Team on 0191 225 5221
- ordinary paternity leave – phone the Advisory Conciliation and Arbitration Service (Acas) Helpline number 084 57 47 47 47. In Northern Ireland, phone the Labour Relations Agency on 028 9032 1442.

Penalties

Penalties may be charged where a person, either fraudulently or negligently, gives incorrect information or makes a false statement or declaration for the purpose of claiming entitlement to statutory adoption, ordinary paternity, additional paternity, maternity or sick pay.

Further information and other help

Depending on your circumstances you may not qualify for OSPP and/or ordinary paternity leave. Your employer will let you know. If this is the case you will get more advice and information at the time.

If you are not entitled to OSPP you may be entitled to other government help. Contact any Jobcentre Plus office for further information.

The Department for Work and Pensions publication NI17A *A guide to Maternity Benefits* also has details of other booklets covering social security benefits and some brief information on paternity. Go to www.dwp.gov.uk/publications/specialist-guides/technical-guidance

For further information on OSPP you can also go to:

- www.direct.gov.uk/workandfamilies
- www.acas.org.uk



Statutory Paternity Pay/ paternity leave – becoming an adoptive parent /parental order parent

Becoming an adoptive parent or a parental order parent

If you want to take time off work to support your partner who is adopting a child or planning to adopt a child as part of a 'fostering for adoption' arrangement or you are a parental order parent not taking adoption leave or pay, you may be entitled to:

- Statutory Paternity Pay (SPP) – at least part of your wages will be paid for 2 weeks. You will get the weekly rate of SPP current at the time of your paternity leave, or 90% of your average weekly earnings, whichever is less
- paternity leave – up to 2 weeks time off

A parental order parent is a person who is part of a couple and who has a child through a surrogacy arrangement and is eligible for and intends to apply for a parental order. Please read the terms and conditions below and, if you think you might qualify, fill in the form on page 2 and 3.

Terms and conditions

SPP and paternity leave are available to any employee (male or female) who is:

- married to or the civil partner of someone adopting a child on their own
- adopting a child with their spouse or partner
- a parental order parent who is not taking adoption pay and leave in relation to the child
- expecting to have the main responsibility for the upbringing of the child together with the adopter

You must be able to declare that:

- you are
 - married to or in a civil partnership with the person adopting, intending to adopt the child or the other parental order parent
 - living with the person adopting, intending to adopt the child or the other parental order parent in an enduring family relationship, but are not an immediate relative
- you will be responsible for the child's upbringing
- you will take time off work to support the person adopting, intending to adopt the child or the other parental order parent to care for the child

If you and your partner are adopting a child or intending to adopt a child together or you are a parental order parent you must also declare that you have chosen not to receive Statutory Adoption Pay.

You must be continuously employed for 26 weeks up to and including the week the person adopting the child is told by the adoption agency that they have been matched with the child, and continue to work for the same employer until the child is placed with them.

The intended parent of a child born to a surrogate mother must have worked for their employer for 26 weeks by the end of the 15th week before the week the baby is due and continue to work for the same employer at the date of the child's birth.

To get SPP you must also have average earnings over a set period above a set amount – your employer will work this out for you.

You must fill in this form and give it to your employer at least 28 days before you want to start receiving SPP. If you are a parental order parent you must complete this form and give it to your employer by the end of the 15th week before the week the baby is due. Your employer may accept this written notification late if there is good reason for delay.

You cannot start your paternity leave before the date the child is placed with you or in a parental order parent case the date the child is born. You can choose to take 1 or 2 whole weeks leave which must end by the 56th day after the date the child is placed with the person adopting or intending to adopt them or in the case of a parental order parent the date the child is born. You cannot take odd days off work, but the weeks can start on any day, for example, from Tuesday to Monday.

You must discuss your leave plans with your employer and tell them what time off you want within 7 days of the date the adoption agency told the person adopting the child that they have been matched with the child. In a parental order parent case its by the end of the 15th week before the week the baby is due. You can change your mind, but you must give your employer 28 days notice of the new date. If you do change your mind, you and your employer may find it helpful if you fill in a fresh copy of this form.

If you cannot tell your employer what time off you want in time, please discuss the situation with them. For example, sometimes a child is matched and placed very quickly.

Further information and other help

Depending on your circumstances you may not qualify for SPP and/or paternity leave. Your employer will let you know. If this is the case you will get more advice and information at the time.

If you are not entitled to SPP, go to:

- www.gov.uk/paternity-pay
- www.gov.uk/adoption-pay-leave
- www.acas.org.uk

Disagreements

If your employer tells you that you are not entitled to SPP and/or paternity leave and you have also looked for further information about SPP on the GOV.UK website, you can challenge that decision. You must do this within 6 months of the first day that you your employer gives you their decision.

- SPP – if you wish to register a dispute after obtaining further information, see 'Further information and other help', phone HMRC Statutory Payments Disputes Team on **03000 560630**
- paternity leave, phone the
 - Advisory Conciliation and Arbitration Service (Acas) on **0300 123 1100**
 - In Northern Ireland, phone the Labour Relations Agency on **028 9032 1442**

Penalties

Penalties may be charged where a person, either fraudulently or negligently, gives incorrect information or makes a false statement or declaration for the purpose of claiming entitlement to SPP.

Application for Statutory Paternity Pay/paternity leave – becoming an adoptive parent

<h3>Personal details</h3> <p>Surname <input type="text"/></p> <p>First name(s) <input type="text"/></p> <p>National Insurance number <input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/></p>	<h3>Your declaration</h3> <p>You must tick this box if you are adopting or intending to adopt a child with your partner.</p> <p>I declare that I am adopting or intending to adopt the child with my partner and I want to receive Statutory Paternity Pay and paternity leave, not Statutory Adoption Pay and adoption leave. <input type="checkbox"/></p> <p>You must be able to tick all 3 boxes below to get Statutory Paternity Pay and paternity leave.</p> <p>I declare that:</p> <ul style="list-style-type: none">• I am<ul style="list-style-type: none">– married to or in a civil partnership with the person adopting or intending to adopt the child– living with the person adopting the child in an enduring family relationship, but am not an immediate relative <input type="checkbox"/>• I will have responsibility for the child's upbringing <input type="checkbox"/>• I will take time off work to support the person adopting, intending to adopt the child or to care for the child <input type="checkbox"/> <p>Signature <input type="text"/></p> <p>Date DD MM YYYY <input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/></p> <p>Give this form to your employer, but keep a copy of the terms and conditions for your records.</p>
<h3>Your dates for pay and leave</h3> <p>Complete this section if you are adopting or intending to adopt a child</p> <p>The date the adoption agency told the person adopting that they had been matched with the child DD MM YYYY <input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/></p> <p>The child is expected to be placed on DD MM YYYY <input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/></p> <p>And, if the child has been placed, please enter the date they were placed DD MM YYYY <input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/></p> <p>I would like my SPP and/or paternity leave to start on DD MM YYYY <input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/></p> <p>I want to be away from work for</p> <p>1 week <input type="checkbox"/> 2 weeks <input type="checkbox"/></p>	

Application for Statutory Paternity Pay/paternity leave - becoming a parental order parent

Personal details

Surname

First name(s)

National Insurance number

Your dates for pay and leave

Complete this section if you are a parental order parent

The date the baby is due DD MM YYYY

If the baby has already been born, give the actual date of birth DD MM YYYY

I would like my SPP and/or paternity leave to start on DD MM YYYY

I want to be away from work for

1 week 2 weeks

Your declaration

You must tick this box if you are the parental order parent

I declare that I am one of the parental order parents of the child and want to receive Statutory Paternity Pay and paternity leave, and not Statutory Adoption Pay and adoption leave.

You must be able to tick all 3 boxes below to get Statutory Paternity Pay and paternity leave.

I declare that:

- I am
 - married to or in a civil partnership with the other parental order parent
 - living with the other parental order parent in an enduring family relationship, but am not an immediate relative
- I will have responsibility for the child's upbringing
- I will take time off work to support the other parental order parent to care for the child

Signature

Date DD MM YYYY

 2 0

Give this form to your employer, but keep a copy of the terms and conditions for your records.

A5 PARENTAL LEAVE

A5.1 Eligibility

- A5.11 A full or part-time employee will be entitled to parental leave if:
- i The employee has 12 months continuous service, with the NHS
 - ii The employee is named on the child's birth or adoption certificate or they are expected to have parental responsibility. "Parental Responsibility" is defined in the Children Act 1989 or (Scotland) Act 1995.
 - iii The child is under 18 years of age
 - iv The employee is not a foster parent

A5.12 The regulations provide the following:

- a. Total of 18 weeks **unpaid** parental leave per parent per child. This right continues until the child's 18th birthday.
- b. Total of 18 weeks **unpaid** parental leave per parent per child for parents of a disabled child. This right continues until the child's 18th birthday.
- c. Total of 18 weeks **unpaid** parental leave per parent per child for each child adopted. This right continues up to their 18th birthday or the 5th anniversary of their adoption; whichever comes first.
- d. The employee remains employed during the period of parental leave and is guaranteed the right to return to the same job as before or if that is not reasonably practical return to a similar job on the same or better status, terms and conditions.
- e. Leave can only be taken in blocks or multiples of one week (if a child is disabled it can be taken in blocks or multiples of days) where one week equals the length of time an employee normally works over 7 days. If an employee works irregular weeks the number of days in a 'week' is the total number of days they work a year divided by 52.
- f. Employees must give 21 days notice of a request for parental leave and must confirm the start and end dates in their notice.
- g. Employees can take up to a maximum of 4 weeks per year up to leave entitlement out lined in a) and b) above.
- h. The right to parental leave is subject to postponement by the manager for up to six months where the service cannot cope, unless the leave is requested for immediately after the child is born/placed for adoption.
- i. The line manager will keep a record of all periods of parental leave for the employee's personal file.

A5.13 Employees must complete for PAR1 below and forward to their manager when applying for Parental Leave.

UNIVERSITY HOSPITALS OF NORTH MIDLANDS

PARENTAL LEAVE REQUEST FORM PAR 1

This form is to be used for parental leave requests only. Separate authorisation should be completed for maternity leave applications.

PART A To be completed by the employee

Name:	Post:
Personal Number:	Department:
Base:	
Home Address:	
Amount of Time Requested:	From:
	To:
Number of Working Days:	
Date Commenced Employment with NHS:	
Date Commenced Employment with this Trust:	

PART B To be completed by Manager

Request for leave approved: *Yes/No If no, give reasons:

Signature of Manager: **Date:**
(*delete as appropriate)

Shared Parental Leave and Pay

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What is Shared Parental Leave?

Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for, and bond with, their child. All eligible employees have a statutory right to take Shared Parental Leave.

There may also be an entitlement to some Shared Parental Pay. This policy sets out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).

Who is eligible for Shared Parental Leave?

SPL can only be used by two people:

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

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

Shared parental leave and pay can be taken at any time within one year from the birth or placement for adoption, providing two weeks' compulsory maternity or adoption leave has been taken first.

An employee working full-time or part-time will be entitled to paid and unpaid shared parental leave under the NHS occupational shared parental leave and pay scheme if:

- i they have 12 months' continuous service with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth, or at the beginning of the week in which they are notified of being matched with a child for adoption, or by the 15th week before the baby's due date if applying via a surrogacy arrangement;
- ii they notify their employer of their wish to take shared parental leave and provide a minimum of eight weeks' notice, through the submission of a booking notification form which will confirm:
 - a) their intention to take shared parental leave;
 - b) the date(s) they wish to access shared parental leave (noting that two weeks compulsory maternity or adoption leave must be taken by the mother or primary adopter before they can access shared parental leave);
 - c) that they intend to return to work with the same or another NHS employer for a minimum period of three months after their shared parental leave has ended;
 - d) that the mother or primary adopter has returned to work following maternity or adoption leave, or has provided the binding notice confirming that they intend to bring their maternity or adoption leave and pay entitlements to an early end.
- iii. they confirm that the other parent meets the statutory "employment and earnings test" by being an employed or self-employed earner in the UK for a total of 26 weeks (not necessarily continuously) in the 66 weeks preceding the week the child is due to be born or matched for adoption. The individual must have earned at least an average of £30 (gross) a week in 13 of those 26 weeks (not necessarily continuously). This amount can be amended from time to time by the Secretary of State.

The Shared Parental Leave entitlement

Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.

A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

If the mother/adopter is not entitled to maternity/adoption leave 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 weeks. 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.

SPL can commence as follows:

- The mother can take SPL after they have taken the legally required two weeks of maternity leave immediately following the birth of the child
- The adopter can take SPL after taking at least two weeks of adoption leave
- The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).

Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.

SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave" below).

If the employee is eligible to receive it, Shared Parental Pay (SPP) may be paid for some, or all, of the SPL period (see "Shared Parental Pay" below).

SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

Notification of an entitlement to Shared Parental Leave

An employee entitled and intending to take SPL must give their line manager notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL.

Part of the eligibility criteria requires the employee to provide the Trust with correct notification. Notification must be in writing and requires each of the following:

- 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 or the actual date of birth or in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption;
- the amount of SPL the employee and their partner each intend to take
- a non-binding indication of when the employee expects to take the leave.

The employee must provide the Trust with a signed declaration stating:

- that they meet, or will meet, the eligibility conditions and are entitled to take SPL;
- that the information they have given is accurate;
- if they are not the mother/adopter they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter;
- that should they cease to be eligible they will immediately inform the Trust.

The employee must also provide the Trust with a signed declaration from their partner confirming:

- their name, address and national insurance number (or a declaration that they do not have a national insurance number);
- that they are the mother/adopter of the child or they are the father of the child or are the spouse, civil partner or partner of the mother/adopter
- that they satisfy the 'employment and earnings test' (see "Who is eligible for Shared Parental Leave?" above), and had at the date of the child's birth or placement for adoption the main responsibility for the child, along with the employee;
- that they consent to the amount of SPL that the employee intends to take;
- that they consent to the Trust processing the information contained in the declaration form; and
- (in the case whether the partner is the mother/adopter), that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

Requesting further evidence of eligibility

The Trust may, within 14 days of the SPL entitlement notification being given, request:

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

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

Fraudulent claims

The Trust can, where there is a suspicion that fraudulent information may have been provided or where the Trust has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual company investigation, disciplinary procedures and counter fraud involvement.

Discussions regarding Shared Parental Leave

An employee considering/taking SPL is encouraged to contact their line manager to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the Trust to support the individual.

The line manager may upon receiving a notification of entitlement to take SPL seek to arrange an informal discussion with the employee to talk about their intentions and how they currently expect to use their SPL entitlement.

Upon receiving a leave booking notice the line manager will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can without further discussion be approved in the terms stated in the employee's notice booking leave, a meeting may not be necessary.

Where a meeting is arranged it should take place in private and be arranged in advance. If the initial date is problematic then another date will be arranged if possible. If an alternative date cannot be arranged then the meeting may be held over the telephone.

At the meeting the employee may, if they wish, be accompanied by a workplace colleague, trade union

representative or even a personal friend or family member.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the Trust, and what the outcome may be if no agreement is reached.

Booking Shared Parental Leave

In addition to notifying the employer of entitlement to SPL/ShPP, an employee must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.

The employee has the statutory right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either (a) a single period of weeks of leave; or (b) two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

SPL can only be taken in complete weeks but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish 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.

The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

Continuous leave notifications

A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).

An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the employer has been given at least eight weeks' notice.

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

Discontinuous leave notifications

A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

Where there is concern over accommodating the notification, the Trust or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the Trust (see "Discussions regarding Shared Parental Leave" above).

The Trust will consider a discontinuous leave notification but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

Responding to a Shared Parental Leave notification

Once the line manager receives the leave booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th calendar day after the leave request was made.

All notices for continuous leave will be confirmed in writing.

All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the employee and to the Trust against any adverse impact to the service.

Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

The employee will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th calendar day after the leave notification was made. The request may be granted in full or in part: for example, the Trust may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight 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.

Variations to arranged Shared Parental Leave

The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the Trust in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the Trust requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the Trust.

Notification of entitlement to Statutory and Occupational Shared Parental Pay (ShPP)

Eligible employees will be entitled to claim up to 37 weeks of statutory shared parental leave pay (ShPP), less any weeks of statutory maternity pay, maternity allowance or statutory adoption pay that has already been claimed by either partner. ShPP can be claimed following the birth or placement of the child, but not at the same time as the compulsory two weeks of leave following the birth or placement of the child. ShPP is paid at a rate set by the government each year.

Where an employee intends to return to work after a period of shared parental leave, the maximum joint entitlement of an eligible couple to occupational shared parental pay will be as set out below. The maximum entitlement will only apply where either parent has not already received statutory or occupational maternity pay or statutory or occupational adoption pay in respect of the child. Where such pay (excluding pay during the compulsory two-week maternity/adoption leave period) has been received by either parent, the maximum joint entitlement set out below will reduce proportionate to the amount of maternity or adoption pay which has either been taken and paid to either parent, or notified as intending to be taken by either parent.

- i for the first six weeks of absence the employee will receive full pay. Full pay is inclusive of any ShPP. The total receivable cannot exceed full pay;
- ii for the next 18 weeks of absence the employee will receive half of full pay plus any ShPP. The total receivable cannot exceed full pay;
- iii for the next 13 weeks, the employee will receive any ShPP that they are entitled to under the statutory scheme.
- iv for the final 13 weeks, the employee will receive no pay.

An NHS employer (as defined at Annex 1) will not pay more than 26 weeks, 8 weeks' full pay (including the two weeks' compulsory leave) and 18 weeks' half pay, to employees accessing occupational maternity or adoption or shared parental pay in aggregate to an eligible couple. This is irrespective of whether one or both parents are NHS employees as shared parental leave and pay is a joint entitlement.

Terms and conditions during Shared Parental Leave

During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a company car, laptop, mobile phone and gym membership) will continue and contractual annual leave entitlement will continue to accrue.

Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the Trust's contributions will be based on the salary that the employee would have received had they not been taking SPL.

Annual Leave

SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's holiday year.

Contact during Shared Parental Leave

Before an employee's SPL begins, the line manager will discuss the arrangements for them to keep in touch during their leave. The Trust reserves the right in any event to maintain reasonable contact with the employee from time to time during their SPL. 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 simply to update them on developments at work during their absence.

Shared Parental Leave in Touch days

An employee can agree to work for the Trust (or attend training) for up to 20 days (a day is defined as an occasion i.e it could be ½ a day, a couple of hours etc.) during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave In Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

The Trust has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee's SPL. Any work undertaken is a matter for agreement between the Trust and the employee. An employee taking a SPLIT day will receive full pay for any hours worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of SPL.

An employee, with the agreement of the Trust, may use SPLIT days to work part of a week during SPL. The Trust and the employee may use SPLIT days to affect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

Returning to work after Shared Parental Leave

The employee will have been formally advised in writing by the Trust of the end date of any period of

SPL. The employee is expected to return on the next working day after this date, unless they notify the Trust otherwise. If they are unable to attend work due to sickness or injury, the Trust's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence and the Trust's disciplinary policy will apply.

If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the Trust at least eight weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the Trust does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

On returning to work after SPL, the employee is entitled to return to the same job if the employee's aggregate total statutory maternity/paternity/adoption/surrogacy leave and SPL amounts to 26 weeks or less. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is 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 favorable.

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

If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee will be 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 suitable and appropriate and on terms and conditions no less favorable.

Special Circumstances and further information

In certain situations an employee's rights and requirements regarding SPL and ShPP may change. In these circumstances the Trust will abide by any statutory obligations and an employee should refer to the documents listed below and/or clarify any issues or queries with the HR department.

Law relating to this document:

- The Shared Parental Leave Regulations 2014
- The Shared Parental Pay (General) Regulations 2014
- The Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations 2014
- Employment Rights Act 1996
- Child and Families Act 2014
- Equality Act 2010

Confirmation of Entitlement to Shared Parental Leave

Date dd/mm/yy.

Dear

Thank you for advising the Trust of your entitlement to take Shared Parental Leave.

We confirm that, based on the information you have provided the Trust, you are entitled to take Shared Parental Leave.

We can confirm that you currently have weeks of Shared Parental Leave to take. You have weeks of Statutory Shared Parental Pay.

If you and your partner wish to vary the amount of leave and/or pay that you are each entitled to then you must notify us of the change in writing and inform us:

- (a) of any Shared Parental Leave or Pay that you or your partner have already booked
- (b) the number of weeks you are adding to your entitlement from your partner's entitlement or the number of weeks you are deducting to give to your partner
- (c) when you expect to take any additional weeks of leave.

You will also need to give us a declaration signed by you and your partner both consenting to the change.

If you have any questions about any aspect of your shared parental leave and/or pay entitlement, please do not hesitate to contact me directly.

Yours sincerely

.....

Confirmation of Shared Parental Leave booking

Date dd/mm/yy

Dear

Thank you for your notice to take Shared Parental Leave commencing on dd/mm/yy.

I confirm that you are entitled to take Shared Parental Leave as set out in your notification.

I can confirm that you will be away from work on Shared Parental Leave from to **[If leave is discontinuous then please amend as needed]** You are expected to return to work on the first working day after your leave period ends.

During your leave period you will receive Statutory Shared Parental Pay from..... to..... **[If leave is discontinuous, or where no pay is applicable then please amend as needed]**

If you wish to vary or reduce the leave that you have booked, you must give at least eight weeks' notice before any amended dates occur. A notice to vary your booked leave will count as a new notice thereby reducing your entitlement to make three statutory notifications by a further one.

If you have any questions about any aspect of your Shared Parental Leave and/or pay entitlement, please do not hesitate to contact me.

Yours sincerely

Shared Parental Leave Request to Discuss Leave Booking

Date dd/mm/yy

Dear

Thank you for your notice to book a period of Shared Parental Leave that was given on dd/mm/yy. I would like to arrange a convenient time to discuss your notification with you.

I therefore suggest a meeting at **[location]** on **[date]** at **[time]**. You may, if you wish, be accompanied by a workplace colleague or trade union representative.

Please could you contact me to confirm whether you are able to attend the meeting suggested above or, if not, to suggest an alternative time and date.

Yours sincerely

Shared Parental Leave: Refusal of a Discontinuous Leave Booking

Date dd/mm/yy

Dear

Thank you for your notice booking Shared Parental Leave that was given on dd/mm/yy

Having given the proposal thorough consideration, I regret that the Trust is unable to agree to the pattern of discontinuous leave that you requested.

Unless your notice is withdrawn the total amount of leave requested in your notice, amounting to weeks, will automatically become a continuous block. Unless the Trust is informed otherwise this will begin on the date you originally requested your leave period to start dd/mm/yy.

If you would like the period to begin on a different date, please confirm this to me in no later than 7 calendar days. Please remember that the start date cannot be sooner than eight weeks from the date your original notice was given.

Alternatively you may withdraw your notification on or before dd/mm/yy. This would then not count as one of your notifications.

If you have any questions about any aspect of your Shared Parental Leave and/or pay entitlement, please do not hesitate to speak to me.

Yours sincerely

ABBREVIATIONS/DEFINITION OF TERMS

AML – Additional maternity Leave, which immediately follows Ordinary Maternity Leave (OML). All employees irrespective of length of service are entitled to this leave of 26 weeks.

SPP1- The form used by managers to give to the employee applying for SPP that explains why they were not eligible for the payments.

EWC – The Expected Week of Childbirth is the week in which the baby is due to be born as certified by the employee's doctor or midwife on the maternity certificate (MATB1).

KIT days – Keeping in touch Days

SAP – Statutory adoption pay. To get SAP the employee must have average weekly earnings of at least the Lower Earnings Limit which applies on the Saturday of the week in which they were matched with a child or, for adoptions from abroad, the week in which pay will be extended to 39 week. SAP is intended to help employees take time off work to be with their new family by providing a measure of earnings replacement. It was introduced for qualifying employees who are adopting a child who:

- was placed with the adopter under UK law, or
- entered UK from abroad to live with the adopter

SMP – Statutory maternity pay is payable to eligible employees who take maternity leave or cease employment because of pregnancy or childbirth. SMP, less tax and National Insurance Contributions, if applicable, will be paid on a monthly/weekly basis dependent upon an individual's contractual arrangements. SMP is payable only for complete weeks.

QW – The Qualifying Week is the 15th week before the EWC.

MPP – Maternity pay period. The period up to 39 weeks in which SMP can be paid. It may start at any time from the 11th week before the EWC, if employed for 26 weeks by the 15th week before the EWC.

MATB1 – Certificate issued by a doctor or midwife showing the date on which the baby is due.

Maternity Leave - Maternity Leave is the period of time away from work due to pregnancy. All employees are entitled to 52 weeks annual leave.

OML – Ordinary Maternity Leave. All employees irrespective of length of service are entitled to this leave of 26 weeks.

SPL – Shared Parental Leave.

SPLIT – Shared Parental Leave in Touch Days.

SSPP – Statutory Shared Parental Leave

SMP1 – The form used by managers to give the employee applying for SMP that explains why they were not eligible for the payment

SAP1 – The form used by managers to give the employee applying for SAP that explains why they were not eligible for the payment

Further information

There are occasions when employees are entitled to other statutory benefits/allowances and information about all statutory maternity/adoption and paternity rights can be found using the following links

http://www.dwp.gov.uk/lifeevent/benefits/statutory_maternity_pay.asp

http://jobcentreplus.gov.uk/JCP/Customers/WorkingAgeBenefits/Dev_008115.xml.html

Review Form / Equality Impact Assessment (EIA)

The Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. The Equality Impact Analysis Form is designed to help consider the needs and assess the impact of each policy. To this end, EIAs will be undertaken for all policies.

Policy Reference, Title and Version Number	HR11 Leave for Parents and Guardians V15
Summary of changes made on this review	<ul style="list-style-type: none"> • Changes to policy title • 'Foster to Adopt' included • Terminology changed to gender neutral • 'Breastfeeding' replaced with 'breast/chest feeding' • Included Equality, Diversity and Inclusion Policy (HR12) and Special Leave Policy (HR61) to be read in conjunction with this policy • Point A1.1.5 and shared parental leave scheme added to adoption and surrogacy leave section • Points A3.11.2 and A3.11.3 added to A3.11 Rotational training contracts
Please list which service users, staff or other groups have been consulted with, in relation to this	Trade Unions / Staff Side / TJNCC
Were any amendments made as a result? If yes, please specify	
Does this policy involve the administration or control of medicines? If yes, have the Safe Meds Group been consulted with?	N/A
Which Executive Director has been consulted on?	Chief People Officer
Does this policy have the potential to affect any of the groups listed below differently - please complete the below. Prompts for consideration are provided, but are not an exhaustive list	

Group	Is there a potential to impact on the group? (Yes/No/Unsure)	Please explain and give examples	Actions taken to mitigate negative impact
Age (e.g. are specific age groups excluded? Would the same process affect age groups in different ways?)	No		
Gender (e.g. is gender neutral language used in the way the policy or information leaflet is written?)	No		
Race (e.g. any specific needs identified for certain groups such as dress, diet, individual care needs? Are	No		

Group	Is there a potential to impact on the group? (Yes/No/Unsure)	Please explain and give examples	Actions taken to mitigate negative impact
interpretation and translation services required and do staff know how to book these?)			
Religion & Belief (e.g. Jehovah Witness stance on blood transfusions; dietary needs that may conflict with medication offered)	No		
Sexual orientation (e.g. is inclusive language used? Are there different access/prevalence rates?)	No		
Pregnancy & Maternity (e.g. are procedures suitable for pregnant and/or breastfeeding women?)	No		
Marital status/civil partnership (e.g. would there be any difference because the individual is/is not married/in a civil partnership?)	No		
Gender Reassignment (e.g. are there particular tests related to gender? Is confidentiality of the patient or staff member maintained?)	No		
Human Rights (e.g. Does it uphold the principles of Fairness, Respect, Equality, Dignity and Autonomy?)	No		
Carers (e.g. is sufficient notice built in so can take time off work to attend appointment?)	No		
Socio/economic (e.g. would there be any requirement or expectation that may not be able to be met by those on low or limited income, such as costs incurred?)	No		
Disability (e.g. are information/questionnaires/consent forms available in different formats upon request? Are waiting areas suitable?) Includes hearing and/or visual impairments, physical disability, neurodevelopmental impairments e.g. autism, mental health conditions, and long term conditions e.g. cancer.	No		
Are there any adjustments that need to be made to ensure that people with disabilities have the same access to and outcomes from the Service or employment activities as those without disabilities?			No
Will this policy require a full impact assessment and action plan?			No

Policy approval

Staff Side Approval

I have reviewed and approve this policy in line with the Trust's formal governance process on the basis that this was ratified at the Trust Joint Negotiating & Consultative Committee (TJNCC) date:

Signatures

Signed (Staff side representative)
Name printed
Role
Date

Signed (Management side representative)
Name printed
Role
Date

FOI REF 270-223