

Overarching Maternity, Paternity, Adoption (including Fostering) and Shared Parental Leave Policy for University Hospitals of Derby and Burton NHS Foundation Trust

Policy name: Maternity, Paternity, Adoption (including Fostering) and Shared Parental Leave

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To be read in conjunction with:	Flexible Working Policy, Equality, Diversity & Human Rights Policy, Health and Attendance Policy.
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REVIEW AND AMENDMENT LOG

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MATERNITY, PATERNITY, ADOPTION
(INCLUDING FOSTERING) AND SHARED
PARENTAL LEAVE POLICY

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	1	September 2001	Director of Workforce Management	Original Policy
	2	April 2007	Director of Workforce Management	Major Amendments
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	3.1	Jan 2012	Head of Human Resources	Minor Amendment
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	4	Nov 2016	Deputy Director of Workforce	Major Amendments
	4.1	July 2018	Deputy Director of Workforce	No change – Derby Policy unified for UHDB
	4.2	September 2020	Director of Operational HR and Workforce Integration	Technical update
Intended Recipients: This policy applies to all employees of the Trust, including Medical and Dental staff. It does not, however, apply to agency workers.				
Training and Dissemination: Policy is launched and available through Flo.				
To be read in conjunction with: Flexible Working Policy, Equality, Diversity and Human Rights Policy, Health and Attendance Policy, Health and Safety Policy.				

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TRUST POLICY FOR MATERNITY, PATERNITY, ADOPTION (INCLUDING FOSTERING) AND SHARED PARENTAL LEAVE

1. Introduction

The Trust has a duty to ensure that all employees are advised of their statutory rights in relation to maternity, paternity, adoption and fostering and shared parental leave.

The Trust aims to take all reasonable steps to enable such employees to understand their rights so they can make informed decisions regarding their individual parenting circumstances and impact on their employment.

Entitlements to maternity, paternity, adoption and fostering and shared parental leave will be dependent on an employee's individual circumstances and the relevant terms of the policy in question.

The Trust will seek to treat all people equally and fairly. No employee will receive less favourable treatment on the grounds of sex, disability, marital status, creed, colour, race, ethnic or national origin, sexual orientation, age, social status, their trade union activities or religion, or be disadvantaged by conditions or requirements which cannot be shown to be justifiable.

2. Purpose and Outcomes

The purpose of this policy is to ensure that the Trust complies with the letter and spirit of current maternity/paternity/adoption and fostering and shared parental leave legislation, and allows employees to make informed decisions about their parenting leave choices.

This policy details the duties and responsibilities of employees and managers during the process of managing arrangements up to, during and following the birth, adoption or fostering of child/children.

It outlines the eligibility criteria to determine an expectant parents' leave and pay entitlement.

3. Definitions

Expected Date of Childbirth (EDC) means the date on which the baby is expected to be born.

Childbirth means the live birth of a child, or a still birth after a pregnancy lasting at least 24 weeks.

Qualifying Week - This is the 15th week before the expected week of childbirth.

Keep in Touch (KIT) Days are formal arrangements to allow employees to undertake work or training during maternity or adoption leave. An employee cannot be required to take up Keeping in Touch days – participation is not

compulsory. The statutory provision allows for up to 10 Keeping in Touch days in any period of maternity or adoption leave. The number of days and the activity to be undertaken must be agreed between the employer and employee, taking account of the wishes of both parties. Further information can be found in Section 5.1.4.1.

4. **Key Responsibilities/Duties**

Executive Director of Workforce is to oversee the introduction, operation and monitoring of the policy and report to the Trust Board as required.

Managers are responsible for ensuring policy implementation and compliance in their area of responsibility. Managers should also complete E-change forms to notify Pay Services when an employee both commences and returns from maternity leave.

Employees have a responsibility to adhere to the procedure outlined in this policy and to comply with any requests to attend Occupational Health.

Professionally registered employees are expected to maintain clinical practice and ensure professional registration is maintained.

Pay Services are to process any maternity applications promptly and to provide support and guidance.

The Employee Relations Team is to provide support, advice and guidance on all matters relating to the operation of this policy.

Trade Unions/Professional Associations are to provide advice and support to individuals who may have any queries with this policy.

5. **Policy Details**

5.1 **Maternity Leave**

An employee must inform their manager that they are pregnant as soon as possible, so that the manager is able to -:

ensure that they undertake a Pregnancy Risk Assessment in accordance with Appendix 5 as soon as reasonably practicable in order to ensure that the employee's work does not put the health of either the employee or their baby at risk. The risk assessment should be reviewed at intervals as the pregnancy develops by both the manager and employee.

5.1.1 **Eligibility to Maternity Leave**

All employees irrespective of length of service are entitled to 52 weeks Maternity Leave.

Maternity leave is made up of 26 weeks Occupational Maternity Leave (OML) and 26 weeks Additional Maternity Leave (AML)

Additional Maternity Leave will start immediately after Occupational Maternity Leave.

In order to qualify for ordinary maternity leave, the employee must notify the Trust using the Application for Maternity Leave form, Appendix 1, of:

- Her intention to take Maternity Leave
- The expected date of childbirth
- The date on which she intends her ordinary maternity leave to start

The Maternity Leave form should be submitted to the employee's manager, along with the **Maternity Certificate (Form MAT B1)**. The MATB1 is the certificate completed by the doctor or midwife at approximately 20 weeks of pregnancy and it confirms the date on which the baby is due.

This information should be provided to the Trust no later than the end of the 15th week before the Expected Date of Childbirth (EDC) or if that is not practical, as soon as is reasonably practicable thereafter.

Maternity Leave can commence at any time from the start of the 11th week before the expected date of childbirth (EDC) and up to as late as the day the baby is born. The employee does not need to provide a medical certificate to work up to their EDC.

If the employee subsequently wants to change the date from which they wish their leave to start they should notify the manager at least 28 days beforehand (or, if this is not possible, as soon as is reasonably practicable).

If the baby is born before the date when maternity leave is due to start, then the maternity leave start date will change to the day after the birth.

5.1.2 Entitlements to Maternity Pay

Maternity pay is made up of Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP) and paid according to the employee's length of service and return to work options.

5.1.2.1 Statutory Maternity Pay

Standard Rate Statutory Maternity Pay (SMP) is calculated at the current rate of SMP or 90% of the employee's average weekly earnings (this depends on whichever is the least).

To qualify for SMP the employee must:

- Have continuous employment with the Trust for at least 26 weeks prior to the 15th week (the qualifying week) before the EWC.
- Have average weekly earnings in the qualifying week of not less than the lower earnings limit for the payment of National Insurance.
- Still be pregnant at the 11th week before the week the baby is due or have had the baby by that time.

- Provide a MATB1 form from her midwife or GP before the 15th week of the EDC.
- Have stopped work.

Workers on bank schemes are not entitled to Occupational Maternity Pay but may be entitled to Statutory Maternity Pay, providing all of the statutory qualifying criteria have been met in full. Workers should seek advice from Pay Services as required.

When the employee is not entitled to SMP, the employee will be advised to claim Maternity Allowance from Job Centre Plus. Maternity Allowance is a benefit payable to women who do not satisfy the qualifying conditions for SMP

5.1.2.2 Occupational Maternity Pay (OMP)

An employee may be entitled to Occupational Maternity Pay. To qualify for OMP the employee must-:

- Have twelve months' continuous service with one or more NHS employers at the beginning of the eleventh week before the expected week of childbirth.
- Notify their employer in writing before the end of the 15th week before the expected date of childbirth or if this is not possible, as soon as is reasonably practicable thereafter.
- Notify their intention to take Maternity Leave.
- State that they intend to return to work with the same or another NHS employer for a minimum period of three months after their Maternity Leave has ended.
- Provide a MATB1 form from their midwife or GP giving the expected date of childbirth.

Where an employee intends to return to work the amount of Occupational Maternity Pay is as follows -:

- For the first 8 weeks of absence, the employee will receive full pay, inclusive of any Statutory Maternity Pay receivable.
- For the next 18 weeks, the employee will receive half pay plus any Statutory Maternity Pay receivable, providing the total receivable does not exceed full pay.
- For the next 13 weeks, the employee will receive any Statutory Maternity Pay that they are entitled to under the statutory scheme.

Employees are also entitled to take a further 13 weeks as unpaid leave to bring the total of leave to 52 weeks.

5.1.2.3 Calculation of Occupational Maternity Pay

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

- 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 recalculated on the same basis;
- 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 recalculated on the same basis;
- In the case of an employee on unpaid sick absence or on sick 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 sick absence shall be calculated on the basis of notional full pay.

By prior agreement with the employer, Occupational Maternity Pay may be paid in a different way. The payment can only spread over the first 39 weeks, and these spread payments are not strictly equal. For further advice on this, employees are advised to contact Pay Services.

SMP is paid for a maximum of 39 weeks. The first 6 weeks are at the higher rate i.e. 90% of an employee's average earnings based on the 2 months or 8 weeks paid prior to the end of the qualifying week. The remaining 33 weeks are paid at a lower rate.

SMP is payable from any day of the week, however, payment will start on a Sunday after the employee's finishes work to commence maternity leave, unless the employee:-

- Gives birth before the start of their Maternity Leave or works up to the birth in which case SMP will start on the day after the birth;
- Is unable to attend work because of a pregnancy related illness during the last four weeks before the EDC, their maternity leave will normally commence automatically at the beginning of the fourth week before the EDC or the beginning of the next week after the employee last worked, whichever is the latter.
- Is absent because of a pregnancy related sickness in the four weeks before the EDC, in which case SMP will start on the day after the first day of absence
- Has given notice to start their Maternity Leave on any other day other than a Sunday.

SMP ceases to be payable if the employee is taken into legal custody; or the employee goes abroad to work outside the EU, or if during the maternity pay period the employee starts work for another employer. Employees should not work on the Flexible Staffing Bank whilst on maternity leave.

Employees must inform their manager of any changes in circumstances during Maternity Leave, which may affect their SMP entitlements.

5.1.2.4 Increments

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.

5.1.2.5 Continuous Service

For the purposes of calculating whether the employee meets the twelve months' continuous service with one or more NHS employers the following provisions shall apply:

- NHS employers include health authorities, NHS Boards, NHS Trusts, Primary Care Trusts and the Northern Ireland Health Service;
- A break in service of three months or less will be disregarded (though not counted as service).
- Bank Service does not count

The following breaks in service will also be disregarded (though not counted as service):

- employment under the terms of an honorary contract;
- employment as a locum with a general practitioner for a period not exceeding twelve months
- a period of up to twelve 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 speciality concerned
- a period of voluntary service overseas with recognised international relief organisation for a period of twelve months which may exceptionally be extended for twelve months at the discretion of the employer which recruits the employee on her return;
- absence on an employment break scheme in accordance with the provisions of Section 36 of the AFC Handbook;
- (absence on Maternity Leave (paid or unpaid) as provided under this agreement.

Employment as a trainee with a General Medical Practitioner in accordance with the provisions of the Trainee Practitioner Scheme shall similarly be disregarded and count as service.

The Trust has discretion to count other service in line with Agenda for Change

5.1.2.6 Employees planning not to return to NHS Employment

An employee who does not intend to work with the same or another NHS Employer for a minimum period of three months after their maternity leave has ended, will be entitled to pay equivalent to Statutory Maternity Pay only, which is paid at 90% of average weekly earnings for the first six weeks of Maternity Leave, and to a lower flat rate sum for the following 33 weeks.

5.1.3 Before Commencement of Maternity Leave

5.1.3.1 Notification to Manager

An employee should inform their manager of their pregnancy as soon as possible, to enable the manager to put appropriate health and safety measures in place as may be required, and to also encourage early discussion between the employee and manager in planning ahead for the maternity leave period.

These discussions between employee and manager should include:-

- the manager ensuring that they undertake a Pregnancy Risk Assessment in accordance with Appendix 8 as soon as reasonably practicable in order to ensure that the employee's work does not put the health of either the employee or their baby at risk. The risk assessment should be reviewed at intervals as the pregnancy develops by both the manager and employee. If the employee has any queries or concerns with regards to their health and safety during their pregnancy they should contact their line manager in the first instance. If required, further advice is available from the Health and Safety Manager or Occupational Health.
- Paid time off arrangements for the employee to attend ante-natal appointments and classes which are advised to them by their Midwife or Medical Practitioner. These may include relaxation and parent craft classes also which must be agreed by the manager. The manager may ask for evidence of appointments from the second appointment onwards.
- Discussing options around whether the employee will be returning to work or requiring flexible working arrangements. Although there is no need to agree anything at this stage. For further guidance, please read the Trust's Flexible Working Policy and Guidelines.
- If the employee is returning to work after their maternity leave, the manager must hold their job open where the manager will need to consider options for covering the job on a temporary basis e.g. redistribution of work, internal secondment opportunity or a temporary appointment.
- Discussing annual leave entitlement for the remaining leave year and any plans or arrangements to take this leave. Where possible, employees will be required to take as much annual leave as possible prior to commencing maternity leave.

5.1.3.2 15 weeks before Expected Date of Childbirth (EDC) - The Qualifying Week

The employee will need to ensure that they have Maternity Leave and Pay Application form (Appendix 1)

The employee will need to give this to their manager who should sign and forward the completed form along with the original Maternity Certificate (MATB1) to Pay Services. The manager must also submit an E-change form at the same time to notify Pay Services of the pending maternity leave start date.

If the EDC changes from the original MATB1, the employee must submit a revised MATB1 which can be obtained from their Midwife, which should then be given to the line manager, which the line manager can then send to Pay Services.

If the employee has more than one employer they can get SMP from each employer if they satisfy all the qualifying conditions. They can also choose to take different time off from each employer.

If the employee is unable to produce a MATB1 because they have given the original to another employer, they will need to obtain a letter from their GP or midwife confirming the EDC date.. (An employee is unable to obtain multiple copies of a MATB1 if the EDC has remained the same).

5.1.3.2 Agree Methods for Keeping in Contact

Prior to commencing Maternity Leave, the employee needs to agree with the manager about maintaining contact whilst they are on leave. This may include: -

- How the employee will let the manager know about any changes happening at home that may affect their date of return to work or any personal circumstances if any that may affect their working pattern on their return to work
- Whether or not the employee would like to consider undertaking any Keeping in Touch (KIT) days during their maternity leave.

5.1.3.3 Maternity Leave Commencement

The employee can commence maternity leave from 11 weeks before the EDC. The manager will need to complete an E-change form confirming the start date of maternity leave.

If the employee wishes to continue to work and they are concerned about their health, they can ask the manager to refer them to the Occupational Health Department. The employee needs to ensure that they discuss their reasons for the Occupational Health referral through with the manager.

5.1.3.4 Changing the Maternity Leave Commencement Date

If the employee wishes to change the date of their maternity leave commencement (after they have submitted their application) the employee should notify the manager in writing at least 28 days beforehand (or if this is not possible as soon as is reasonably practicable beforehand). The manager must also submit a new E-form to Pay Services, confirming the revised dates.

5.1.3.5 Illness during Pregnancy

If the employee is unable to attend work because of a pregnancy related illness during the last four weeks before the EDC, their maternity leave will normally commence automatically at the beginning of the fourth week before the EDC or the beginning of the next week after the employee last worked, whichever is the latter.

If there are odd days of pregnancy related illness during this period, these may be disregarded if the employee wishes to continue to work until the maternity leave start date previously notified in writing to the manager.

If the employee is absent from work due to illness unrelated to the pregnancy, the employee's maternity leave will start on the date contained within the employee's application for maternity leave.

5.1.3.6 Premature birth

Where a baby is born alive prematurely, the employee is entitled to the same amount of maternity leave and pay as if the baby was born full term.

If the baby is born before the 11th week before the EDC and the employee has worked during the actual week of childbirth, maternity leave will start on the day after the birth.

If the baby is born before the 11th week before the EDC and the employee has been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start at the beginning of the actual week of childbirth.

If the employee's baby is born before the 11th week before the EDC and the baby remains in hospital the employee may split the maternity leave entitlement taking a minimum period of two weeks leave immediately after childbirth and the rest of their leave following the baby's discharge from hospital. The employee should contact the Employee Relations (HR) Team if this applies.

5.1.4 During Maternity Leave

5.1.4.1 Keeping in Touch Days

The employee is not obliged to do any work or attend any events during maternity leave and this will not bring their maternity leave to an end or jeopardise their maternity pay if they choose not to. However, if the employee and the manager both agree, the employee can do up to 10 days' work during that time, these are known as 'Keeping in Touch Days' (KIT Days). Any days agreed/taken will not extend the maternity leave period. KIT days are designed to help ease an employee's eventual return to work and to make it easier for them to keep in touch with the manager during leave from work.

KIT days may not be taken during the first two weeks of compulsory maternity leave immediately after the birth of the baby.

KIT days can be used by the employee to:-

- Attend mandatory or other training courses that the employee may find helpful in order to keep in touch with developments at work and nearer the time of return to work, to help facilitate this return.
- Maintain the employee's skill level and competency
- Keep abreast of work related issues
- Attend meetings or other events
- Ease the employee's return to work

The manager is not obliged to offer the employee KIT days. Should the employee wish to use their KIT days, it is important that the employee and the manager have an early discussion to plan and make arrangements for these KIT days before the maternity leave takes place in order to facilitate such request.

The following would need to be mutually agreed:-

- That KIT days will be undertaken
- What the KIT days will be used for which may include training or activities which will enable the employee to keep in touch with the workplace
- How the KIT days will be taken (may be used consecutively, singly or in blocks)
- The manager should consider the scope for reimbursement of reasonable childcare costs or the provision of childcare facilities

Payment for KIT days

An employee on maternity leave should be paid for anything classed as work under their contract of employment as well as mandatory training. Attendance at work for meetings when they have the option of whether to attend should be regarded as voluntary. The employee should be aware that payment for keeping in touch days will not affect maternity pay so if they work whilst they are still on paid leave, they will only be paid the difference between maternity pay and full pay (i.e. basic pay plus enhancements, if applicable). The employee should also be aware that any work done on any day counts as a whole keeping in touch day even if they may not be in for the whole day (even if it was as little as an hour). They would, however, only be paid for hours worked.

For further advice on payments, please contact Pay Services.

Undertaking more than 10 KIT days

If the employee does more than ten days work for the Trust within the SMP pay period they cannot be paid SMP for any week in which they do such work. To be clear, if a week in the SMP pay period contains only KIT days, SMP should not be paid.

If a week in the SMP pay period contains the last of the KIT days and also another day or days of work, or the employee has used up all of their KIT days, they will not be paid SMP for each week in which such work is done.

Once the employee has used up all of their 10 KIT days, they will lose one week's SMP for each week or part week in which they have worked. The SMP pay period is not extended to take account of any such weeks. Any SMP lost in this way is always at the standard rate first, or 90% of the average weekly earnings if this is lower than the standard rate.

5.1.4.2 Stillbirth

If the employee's baby is stillborn after the 24th week of pregnancy, the entitlement to maternity leave and pay will not be affected. Parents will be entitled to two weeks' child bereavement leave. For further guidance and information on entitlement to child bereavement leave, please refer to the section 5.1.4.4 below.

If a baby is stillborn before the 24th week of pregnancy, the manager is expected to be sympathetic to a request for compassionate leave as maternity pay and benefits would not be available under these circumstances.

5.1.4.3 If a baby dies following birth

If a baby is born alive and dies during the maternity leave, maternity leave and pay should continue as normal. Parents will be entitled to two weeks' child bereavement leave. For further guidance and information on entitlement to child bereavement leave, please refer to section 5.1.4.4 below.

5.1.4.4 Child Bereavement Leave

The Trust will show compassion, sensitivity and support in circumstances where employees, who are parents, experience the death of a child.

A parent is the 'primary carer', whose relationship with the child is 'parental' in nature and will include adoptive parents, foster parents, legal guardians and any other parent/child relationship that is deemed to be reasonable.

For example, this may include grandparents who have had caring responsibilities for a child, or instances where someone other than the biological parent is the primary carer (this could be the case where the parents of the child have separated).

Bereavement leave and pay is extended to employees in the circumstances where they were hoping to become parents under surrogacy arrangements.

Any Trust employee(s) who suffers the tragic loss of a child will be entitled to two weeks child bereavement leave. There is no requirement for the child to be under 18 years of age. A bereaved parent will not be required to demonstrate any eligibility criteria in order to access bereavement leave or pay, nor be required to produce the child's Death Certificate, or any other official documents, in order to access child bereavement leave or pay.

Parents who experience a still birth from the 24th week of pregnancy will also be eligible for child bereavement leave.

All bereaved parents will be entitled to two weeks' occupational child bereavement pay which will include any entitlement to statutory child bereavement pay. If both parents are employees of the Trust they will both be entitled to these provisions. Employees should contact Pay Services for information/guidance on how their child bereavement pay will be calculated.

Bereaved parents do not have to take the two weeks as a continuous block and are able to request to take child bereavement leave at any point up to 56 weeks following the death of a child. Employees can request child bereavement leave through their line manager and should agree with their line manager the leave they wish to take.

Taking child bereavement leave is an individual choice, it is not compulsory for the employee to take child bereavement leave.

Managers are therefore expected to manage requests for child bereavement leave sensitively and need to be flexible, for example managers should allow leave to be taken immediately following the death of a child without prior notice.

Should an employee request child bereavement leave at another time, after the initial period following the death, they should give the line manager reasonable notice of their intention to take leave at this time.

Managers should notify Pay Services of all child bereavement leave by completing an E-change form.

5.1.5 Returning to Work

The employee's manager should submit an E-form to Pay Services, confirming the return to work date, once agreed. If an employee is on maternity leave and is taking the full statutory maternity leave from their employment, no notice of their return to work with the Trust is required legally.

However if an employee does not want to take the full statutory maternity leave, if at all possible they should inform the manager in writing at least 28 days before the proposed start date. Please see the Shared Parental Leave section for further information.

If an employee decides to return to work before or after the agreed date, they must give the manager eight weeks' notice of when they intend to return to work.

If an employee wants to take Annual Leave between the end of the Maternity Leave and starting back to work, they should apply for this at the same time.

An employee maintains the right to return to work on the same contract that they were on when they commenced their maternity leave. If an employee wants to change their contracted hours or working pattern upon return to work, they should complete an Application for Flexible Working form which is contained in the Trust's Flexible Working Policy, and send it to the manager at the same time as the letter giving their date of return.

There is no automatic right to return to work on re-scheduled or reduced hours, but a manager should try to meet the employees' needs where possible within the requirements of the service. If this cannot be done, the manager must explain why and discuss any other alternatives or options with the employee.

If an employee's job has been temporarily filled, it is the responsibility of the manager to make sure that whoever is covering the post is aware that it is coming to an end.

5.1.5.1 Planning Return to Work Arrangements

It is important for the employee and manager to discuss any plans, or support that needs to be put into place to help facilitate this. These may include:-

- Arrangements for necessary retraining and familiarisation including mandatory training, return to work local induction and any other appropriate training
- Any change of hours, working pattern or flexible working requests
- If the employee intends to continue to breastfeed upon return to work, discuss a risk assessment and if there is a need to put any arrangements in place
- If the employee is using any annual leave to ease them back into work
- Whether the employee may require any additional support to help facilitate their return into the workplace e.g. 'work buddy', catch up meetings with any individuals

5.1.5.2 Employment Breaks Following Maternity Leave

Following a period of maternity leave, the employee may take a subsequent employment break. However, the conditions for occupational maternity pay require an employee to return to their substantive post for a minimum period of three months.

Therefore, an employee who commences an employment break following maternity leave, will be required to return for three months at the end of the employment break, otherwise they will be required to repay the occupational maternity pay.

Submissions for employment breaks must be made in accordance with the Trust's Flexible Working Policy. Further information on employment breaks, including eligibility and the application process, are also contained within the Trust's Flexible Working Policy.

5.1.5.3 Resignation at the end of Maternity Leave

If the employee does not wish to return to work following their maternity leave, they will need to submit their resignation to the manager in line with their contractual notice period outlined within the terms and conditions of their employment.

In the event the employee has taken the option of maternity leave with occupational maternity pay, said that they are returning to work but they then change their mind, they will be required to pay back the Occupational Maternity Pay (OMP) and any annual leave and bank holidays taken in excess of their entitlement. The employee would retain any Statutory Maternity Pay monies received. Arrangements should be made for this to be recovered without causing any undue financial hardship.

If the employee is not returning following maternity leave and is in receipt of occupational maternity pay, the manager will need to complete a termination form stating the resignation date confirmed by the employee. A copy of the employees' resignation letter should be attached.

5.1.5.4 Sickness following end of Maternity Leave

If the employee has written to the manager with a date for their return but they are unable to do so because they are too ill, they should be treated as being off sick as long as they have a certified note from their GP ('fit note'). The manager will then manage the absence in accordance with the Trust's Health and Attendance Policy.

5.1.5.5 At the end of Maternity Leave

If the employee is coming back to work they must return for a minimum of one shift per week for a minimum of three months. Failure to do so will result in the employee having to pay back their Occupational Maternity Pay.

E-change Form

The manager will need to complete an e-change form, indicating date of return and whether the employee has requested a change to their contracted hours.

5.1.5.6 Breastfeeding/Expressing breastmilk at Work

Prior to returning to work, an employee who is breast-feeding/breastmilk feeding their child, should inform their manager. The employee may wish to express milk at the time of day when they would usually be breastfeeding or expressing milk for their child at home. The manager must assess and discuss the practicalities for the employee to have access to private, safe and secure area of work. This discussion should include storage facilities and additional break times to express including suitable interim flexible working that would support ongoing breastfeeding at work.

Further information about expressing and storing milk is available:

<http://www.derbyhospitals.nhs.uk/easysiteweb/getresource.axd?assetid=2815&type=0&servicetype=1&filename=/0673v7.pdf>

5.1.6 IVF/Fertility Treatment and Time Off for Medical Appointments

The Trust recognises that a flexible and sensitive approach is required for employees undergoing fertility treatment. The manager is encouraged to exercise sensitivity in regards to the employee's requests for time off on a case by case basis. For example during treatment, agreeing interim flexible working arrangements, or using planned leave such as annual leave, TOIL (already accrued at the time of request), or unpaid leave.

Time off for medical appointments related to fertility treatment will be treated in the same way as any other medical appointments and time off because the treatment makes the employee feel unwell will be treated as sickness under the Health and Attendance policy.

If fertilised eggs are implanted as part of IVF treatment the employee should notify her manager in accordance with the maternity leave guidance above.

5.1.7 Surrogacy Arrangements

Birth Mothers under a surrogacy arrangement are protected from sex and pregnancy & maternity discrimination and are entitled to the full range of statutory maternity rights (including mothers who are Trust employees) irrespective of whatever happens to the child after birth. These rights to pay and leave are explained in sections 5.1 and 5.4.

Same sex partners are entitled to the same leave and pay as opposite sex partners having a child through surrogacy.

As each case will have its own unique circumstances, employees and managers are advised to speak to their line manager and the Employee Relations (HR) Team to determine eligibility and entitlements.

5.1.8 Additional Information

Annual Leave and Bank Holidays

Employees on maternity leave will accrue annual leave and bank holidays whilst on maternity leave. Employees will be expected to take as much accrued leave entitlement as is possible and/or practicable before the commencement of their maternity leave period.

Fixed Term Contracts

Employees on fixed term or training contracts which expire after the 11th week before the EWC shall have their contract extended to enable them to take the 52 weeks which includes both paid and unpaid leave.

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

Organisational Change

If there are any organisational changes (whilst the employee is on maternity leave) that have an impact on their role or the department they work in the manager should keep the employee informed and invite them along to any consultation meetings that may take place.

Pension

During unpaid maternity leave, pension contributions will be accrued based on pensionable earnings immediately prior to unpaid maternity leave. These will be recovered once the employee returns to work and contributions will be automatically recovered when normal pay resumes.. Please contact the Pensions Department for further information.

Lease/Pool Cars

If an employee has a lease car, payments must continue during any paid and unpaid maternity/paternity/adoption/fostering/shared parental leave. The employee should contact GMP DriverCare on 0330 1004910. If an employee has access to a pool car, this will discontinue while they are on maternity/paternity/adoption/fostering/shared parental leave.

Employees on any other Trust Salary Sacrifice Scheme are advised to contact the Trusts' Staff Benefits Advisor for guidance on how their pending maternity/paternity/adoption/fostering/shared parental leave might impact on their individual arrangements.

Car Parking

An employee may either suspend or continue payment of car parking fees whilst they are on maternity leave. If they suspend payment, they may, depending on availability, go onto a waiting list when they come back to work. For more details, the employee should contact the appropriate car parking administrator at the Royal Derby Hospital, London Road Community Hospital, Queens Hospital Burton, Samuel Johnson Community Hospital or Sir Robert Peel Community Hospital.

Childcare Arrangements

Trust employees have access to a number of facilities around childcare information which is a way of saving money on the costs of childcare.

For further information please see the 'Employee Benefits' section on Flo.

5.2 Paternity Leave

5.2.1 Eligibility to Paternity Leave

All employees have the right to request Paternity Leave. Employees should discuss paternity leave plans with the manager, as soon as they are aware of them.

Ordinary paternity leave is an entitlement of up to two weeks leave to support the mother/co-adopter of the child, and is to be taken immediately after birth/adoption. It applies to biological and adoptive fathers, nominated carers and same sex partners.

Those who elect to, and who are eligible to, take paternity leave can take either one or two consecutive weeks' paternity leave. This amount of leave is the same even if the employee has more than one child. Leave cannot be taken in odd days.

Leave can be taken anytime from the actual day of birth/adoption but must be completed **within 56 days of the actual birth of the child or when the child starts living with the employee**. If the child is born early, then leave must be taken within the period from the actual date of birth.

If the employee disagrees with the Trusts decision on their application for paternity leave, the employee may speak to the relevant Divisional HR Team for further advice or follow the Trusts' Appeals policy.

5.2.2 Entitlement Paternity Pay

5.2.2.1 Statutory Paternity Pay

Whether the employee is working full or part time, they will be entitled to statutory paternity pay if:

- they have 26 weeks service ending in the 15th week before the baby is due, and
- they work from the 15th week before the baby is due up to the date of birth or adoption, and
- their average weekly earnings are at or above the lower earnings limit for National Insurance.

Statutory paternity pay will be paid for either one or two consecutive weeks, depending on how an employee decides to take their leave.

Statutory paternity pay will be paid at the same rate as statutory maternity pay or 90% of the employee's normal weekly earnings. The lowest amount of the two will be paid.

If the employee has less than 26 weeks continuous service they will not be entitled to statutory paternity pay but may still take the paternity leave as unpaid.

5.2.2.2 Occupational Paternity Pay

Whether the employee is working full or part time, they will be entitled to Occupational Paternity Pay if:

- they have 12 months' continuous service with one or more NHS employers/organisations at the beginning of the week in which the baby is due/child is to be adopted. Bank Workers are not entitled to

Occupational Paternity Pay. Further information on continuous service is available from Pay Services/Divisional Human Resources Teams.

If the employee is eligible to occupational paternity pay, they will receive full pay inclusive of statutory pay receivable. Full pay will be calculated on the basis of average weekly earnings used for calculating occupational maternity pay entitlements. Only one period of occupational paternity pay is ordinarily available, even when there is a multiple birth.

5.2.3 Before Commencing Paternity Leave

5.2.3.1 Managing an application for Paternity Leave

An employee must inform the manager that they wish to take paternity leave, at least 28 days before they wish to take leave, using the Application For Paternity Leave Form (Appendix 2). The manager should sign and forward the completed form on Pay Services as soon as possible.

This form must be completed by the employee indicating:-

- The date of the expected week of childbirth or the week the child is expected to be placed for adoption
- The date of when the employee would like to start their paternity leave
- That the employee has, or be expected to have, responsibility for the baby's upbringing
- That the employee is the baby's biological/adoptive father or the mother's husband/partner (including same-sex partner or civil partner).
- That the employee is taking the paternity leave entitlement to support the partner and/or care for the child.

If requested, the employee may also be required to provide a copy of the mother's Maternity Certificate (MATB1 form) form or matching certificate as documentary evidence of when the child is expected.

If the employee changes their mind about when they wish to start paternity leave, then the employee must inform the manager as soon as reasonably practical.

As part of the planning process for the paternity leave period, it is expected that managers and employees should:

- meet to discuss the upcoming paternity leave procedure and the option of Shared Parental Leave and flexible working arrangements. At this stage the manager may want to encourage the employee to read the Paternity Leave and Pay Policy in addition to the Shared Parental Leave and Pay policy.
- discuss any annual leave that the employee may wish to take in addition to paternity leave and whether this should be taken prior to or following paternity leave. The manager will need to consider the amount of annual

leave that the employee has left in the leave year before the employee commences on paternity leave.

- The manager must allow the employee to have unpaid time off so that the employee can attend two ante-natal appointments with the pregnant woman if the employee requesting unpaid time off is the baby's father, the expectant mother's spouse or civil partner, in a long-term relationship with the expectant mother or the intended parent (if you are having the baby through a surrogacy arrangement).

The employee can take up to six and a half hours per appointment. The manager can choose whether to give an employee longer.

5.2.3.2 Premature Birth

If the baby is born alive prematurely, then the employee is still entitled to the same amount of paternity leave and pay as if the baby was born full term, provided they the employee had already provided at least 28 days' notice of their intention to take paternity leave. If applications for leave had not already been submitted at the time of the premature birth, then the employee is required to complete the Application for Paternity Leave Entitlement form as soon as possible.

5.2.4 During Paternity Leave

5.2.4.1 Stillbirth or if the Child Dies During Paternity Leave

In the event of a stillbirth, if the birth takes place after the beginning of the 25th week, or the child dies during paternity leave, paternity leave and pay should continue as normal. Parents will be entitled to two weeks' child bereavement leave. For further guidance and information on entitlement to child bereavement leave, please refer to the section 5.1.4.4.

If a still birth takes place before the 24th week of pregnancy, the manager is expected to be sympathetic to a request for compassionate leave as paternity pay and benefits would not be available in these circumstances.

5.2.5 Returning To Work

The employee has the right to return to work in the same contract they were on when they started their leave. The employee should be kept informed by the manager of any significant changes impacting on their role, whilst they are on paternity leave.

If the employee wants to change their contracted hours or working pattern on their return to work, they should complete an Application for Flexible Working form which is contained in the Trusts Flexible Working policy which should then be given to the manager for consideration. The employee should bear in mind that they have no automatic right to return to work on re-scheduled or reduced hours, but the manager is expected to try to meet the employee's needs where possible, within the requirements of the service. If this cannot be done, the manager is expected to explain why and may explore alternatives with the employee.

5.2.5.1 Planning Return to Work Arrangements

Depending on the employee's length of paternity leave, it is important for the employee and manager to have a discussion with regards to any plans or support that the employee may require in order to facilitate their return to work. These may include discussing:-

- Arrangements for necessary re-training and familiarisation including mandatory training, return to work local induction and any other appropriate training
- Any change of hours, working pattern or flexible working requests
- If the employee is using any annual leave to ease back into work
- Whether the employee requires any additional support to help facilitate their return into the workplace, e.g work buddy, catch up meetings with any individuals

If the manager has temporarily filled the job of the employee, it is the manager's responsibility to ensure that whoever is covering the post is aware that this arrangement is coming to an end. The manager can give notice if necessary and can contact the relevant Divisional Human Resources Team for further advice.

5.2.5.2 At the end of Paternity Leave

If the employee is coming back to work they must return for a minimum of one shift per week for a minimum of three months. Failure to do so will result in the employee having to pay back their Occupational Paternity Pay.

5.2.6 Other Useful Information

Annual Leave

Annual leave and public holidays continue to accrue during paid and unpaid paternity leave.

Contractual Rights

During paternity leave, an employee retains all of their contractual rights except remuneration.

Organisational Change

If there are any organisational changes (whilst the employee is on paternity leave) that have an impact on the employee's role or the department that the employee works in, the manager should keep the employee informed and invite them along to any consultation meetings that may take place.

Pension

Pension contributions continue as normal during paid paternity leave. In the event of unpaid paternity leave, pension contributions will be accrued based on pensionable earnings immediately prior to the unpaid paternity leave

period. These will be recovered once the employee returns to work and these contributions will be automatically recovered when normal pay resumes. . Please contact the Pensions Department for further information.

Lease/Pool Cars

If an employee has a lease car, payments must continue during any paid and unpaid paternity leave. The employee should contact GMP DriverCare on 03301 004910. If an employee has access to a pool car, this will discontinue while they are on paternity leave.

Employees on any other Trust Salary Sacrifice Scheme are advised to contact the Trusts' Staff Benefits Advisor for guidance on how their pending paternity leave might impact on their individual arrangements.

Car Parking

An employee may either suspend or continue payment of car parking fees whilst they are on paternity leave. If they suspend payment, they may, depending on availability, go onto a waiting list when they come back to work. For more details, the employee should contact the appropriate car parking administrator at the Royal Derby Hospital, London Road Community Hospital, Queens Hospital Burton, Samuel Johnson Community Hospital or Sir Robert Peel Community Hospital.

Childcare Arrangements

Trust employees have access to a number of facilities around childcare information posting to a childcare voucher scheme which is a way of saving money on the costs of childcare.

For further information please see the 'Employee Benefits' section on Flo.

Employee is taken into legal custody

The manager must inform the Divisional Human Resources Team if they have an employee who is taken into legal custody. The employee is in legal custody if they are detained, usually this means if they are arrested or in prison.

It is the employee's responsibility to tell the manager if they are taken into legal custody.

5.3 Adoption Leave (incorporating Fostering Leave)

5.3.1 Eligibility

All employees irrespective of length of service are entitled to 52 weeks Statutory Adoption Leave. This is made up of:-

26 weeks Ordinary Adoption Leave (OAL)

and
26 weeks Additional Adoption Leave (AAL)

AAL will start immediately after OAL and continue for 26 weeks.

To qualify for Adoption leave, an employee must:

- Be newly matched with a child for adoption by an adoption agency,
- Have worked continuously for their employer for 26 weeks ending with the week in which they are notified of being matched with a child for adoption.

Matched; is where the adoption agency has decided that the person would be a suitable adoptive parent for the child, either individually or with another person.

Adoption Leave is available to the adopter. The adopter can be a single person who is adopting a child or one partner of a couple who jointly adopt a child (the couple may choose which partner takes the Adoption Leave), under the age of 18.

The partner who elects not to take Adoption Leave may be entitled to Paternity Leave and Pay. See Section 5.2 above.

Adoption Leave can be taken from a **maximum of 14 days** before the expected date of placement. 'Placement' is when a child goes to live with the adopter with a view to being adopted by them in the future. The date of adoption should be given to the manager as soon as it is known.

Although current UK legislation (Paternity and Adoption Leave Regulations 2002) states that employees will not be entitled to Statutory Adoption Leave or Pay in the following circumstances, the Trust may consider granting adoption leave and pay, based upon individual circumstances:

- Arrange a private adoption
- Become a special guardian
- Adopt a step-child
- Have a child through surrogacy

In any of these circumstances an employee is advised to contact their Divisional HR Team for further guidance and discussion about their individual circumstances.

5.3.2 Entitlement to Adoption Pay

Adoption pay is paid in line with Section 5.1.2 where the mother should be replaced with adopter and expected week of child birth should read adoption leave start date.

5.3.3 Before Commencement of Adoption Leave

5.3.3.1 Applying for Adoption Leave and Pay

At least 28 days before the date that the employee intend to start adoption leave the employee must provide the manager with a completed Adoption Application Form confirming:

- The agency's name and address
- The name and date of birth of the child to be placed
- The date of notification – the date on which the adopter receives notification of the agency's decision that they have been matched with a child
- The expected date of placement
- The date the employee intends to commence adoption leave
- That the employee intends to take Statutory Adoption Pay and not Statutory Paternity Pay

A Matching Certificate from the adoption agency must also be provided, as evidence for the purpose of Statutory Adoption Leave and Pay, confirming that the adoptive parent has been matched with a child.

Please refer to Appendix 3 for the Adoption Leave and Pay Application Form.

5.3.3.2 Confirmation of Adoption Leave and Pay

Following discussion with the employee, the manager should confirm in writing:

- The employee's paid and unpaid entitlements;
- The expected date of return of return to work following Adoption leave;
- The length of any period of accrued annual leave, which it has been agreed, may be taken following the end of the formal adoption leave;
- The need for the employee to give **at least 28** days' notice if they wish to return to work before the expected return date.

5.3.4 During Adoption Leave

5.3.4.1 Keeping in Touch Days

See Section 5.1.4

5.3.4.2 Disrupted Placement

A disrupted placement occurs where the employee's ordinary adoption leave period has begun and;

- The adoption agency notifies the employee that the child will not be placed with him or her, or
- The child dies, or
- The child's placement ends.

If any of the above circumstances occurs the adoption leave will normally end 8 weeks after the end of the week in which the disruption occurs.

Payment of Statutory Adoption Pay (SAP) continues for 8 weeks after the end of the week in which the disruption took place or the end of the adopters' 26 week SAP period if that is sooner.

If the placement is delayed and the employee has already begun their adoption leave, they cannot stop leave and start again at a later date. In exceptional circumstances the employee may approach their manager regarding this.

5.3.5 Returning to Work

See section 5.1.5

5.3.6 Additional Information

Please see Section 5.1.8.

5.3.7 Permanent Fostering

Parental responsibilities are not transferred to the foster carers as is the case with adoption. There is no statutory entitlement currently to Fostering Leave with pay. However, the Trust will support periods of unpaid leave to assist employees who have made the decision to permanently foster a child/children as an alternative to permanent adoption.

5.3.7.1 Eligibility

Fostering leave is available to an employee who is fostering a child or children on a long term, permanent, basis, i.e. until the child is ready to move to independence. Such placements would normally involve matching, planning and introductions.

To be eligible for fostering leave an employee must be newly matched with a child and have **at least** 26 weeks continuous NHS service ending with the week in which they are notified of being matched with a child.

Applications for leave for short term fostering should be made under the Trust's Flexible Working policy.

5.3.7.2 Entitlements

Employees are entitled to take a **maximum** of 52 weeks unpaid Fostering Leave. Pay and effects on Terms and Conditions of employment will be considered on a case by case basis.

5.3.7.3 Applying for Fostering Leave

Fostering Leave can be taken from a **maximum** of 14 days before the expected date of placement. The date the fostering arrangement is due to begin should be given the manager as soon as it is known.

At least 28 days before the date that the employee intends to start Fostering leave they must provide the manager with a completed Fostering Application Form (Appendix 4) along with the matching certificate/letter, confirming the following:-

- The name and date of birth of the child to be placed
- The date of notification
- The expected date of placement

Please refer to Appendix 4 for the Fostering Leave Application Form.

5.3.7.4 Returning to work following Fostering Leave

An employee, who intends to return to work at the end of the full Fostering Leave period, or on the original date notified prior to commencing fostering leave, will not be required to give any further notification to the manager. However, if they wish to return early they must give **at least** 28 days' notice.

An employee has the right to return to their job under their original contract and on no less favourable terms and conditions. If the employees post is removed from the structure as a result of organisational change whilst they are on fostering leave, they will be treated as at risk and dealt with as if they had been at work.

5.4 Shared Parental Leave

The right to Shared Parental Leave (SPL) is available to eligible working mothers, fathers, nominated carers and same sex partners. It applies in cases of:

- Birth
- Adoption
- Surrogacy

Shared Parental Leave entitles a mother or adopter to share some of their leave with their partner or nominated carer.

Shared Parental Leave enables mothers and adopters to commit to ending their maternity/adoption leave and pay at a future date and to share the untaken balance of leave and pay as shared parental leave with their partner or nominated carer.

Shared parental leave can be used to take leave in blocks with periods of work in between, rather than to take this in one go.

For the purposes of this section, the term:

- mother should also be read as adopter
- maternity leave should be read as adoption leave
- partner should be read as one of the following: the father of the child (in the case of birth); the spouse; civil partner; partner of the child's mother where applicable.

5.4.1 Eligibility

Shared Parental Leave can be used by two people only, the mother **and** the partner. For employees to be eligible to take shared parental leave, both parents/adopters must meet certain eligibility requirements.

5.4.1.1 Mother's Eligibility for Shared Parental Leave

A mother is eligible for shared parental leave if she:

- Has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the Trust until the week before any period of shared parental leave;
- Has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- Is entitled to statutory maternity leave in respect of the child; and
- Complies with the relevant maternity leave curtail requirements (or has returned to work before the end of statutory maternity leave) and shared parental leave notice and evidence requirements.

In addition, for the mother to be eligible for shared parental leave, the partner must:

- Have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- Have average weekly earnings of at least the maternity allowance threshold for any of those 66 weeks; and
- Have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child.

5.4.1.2 Partner's eligibility for Shared Parental Leave

A partner is eligible for shared parental leave if he/she

- Has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with the Trust until the week before any period of shared parental leave that he/she takes
- Has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- Complies with the relevant shared parental leave notice and evidence requirements.
- In addition, for the partner to be eligible for shared parental leave, the mother must
- Have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- Have average weekly earnings of at least the maternity allowance threshold for any of those 66 weeks;
- Have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- Be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child; and
- Comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave).

5.4.1.3 Notice requirements

In order to qualify for shared parental leave, the mother/partner, must provide the Trust with the following:

- A "maternity leave curtailment notice" from the mother setting out when she proposes to end her maternity leave
- A "notice of entitlement and intention" from the employee giving an initial, non-binding indication of each period of shared parental leave that he/she is requesting;
- A "period of leave notice" from the employee setting out the start and end dates of each period of shared parental leave that he/she is requesting.

5.4.1.4 Mother's notice curtailing maternity leave

Before the mother or partner can take shared parental leave, the mother must either return to work before the end of her maternity leave (by giving the required eight weeks' notice of her planned return) or provide her Trust with a maternity leave curtailment notice. The maternity leave curtailment notice must be in writing and state the date on which the maternity leave is to end. That date must be;

- After the compulsory maternity leave period, which is two weeks after birth;

- At least eight weeks after the date on which the mother gave the maternity leave curtailment notice to her Trust; and
- At least one week before what would be the end of the additional maternity leave period.

5.4.1.5 Revocation of Maternity Leave Curtailment Notice

A maternity leave curtailment notice can be revoked in the following circumstances;

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

5.4.1.6 Employee's notice of entitlement and intention

The employee, whether the mother or the partner, must provide the Trust with a non-binding notice of entitlement and intention. The employee's notice of entitlement and intention, which must be in writing and provided at least eight weeks before the start date of the first period of shared parental leave to be taken by the employee, must set out the following information.

If the employee is the **mother**, the notice of entitlement and intention must set out:

- the mother's name;
- the partner's name;
- the start and end dates of any statutory maternity leave taken or to be taken by the mother;
- the total amount of shared parental leave available;
- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the mother);
- how much shared parental leave the mother and partner each intend to take; and
- a non-binding indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave).

The mother's notice of entitlement and intention must include a declaration signed by her that:

- she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;

- the information she gives in the notice of entitlement and intention is accurate; and
- she will immediately inform the Trust if she ceases to care for the child.

In addition, the mother's notice of entitlement and intention must include a declaration signed by her partner:

- specifying the partner's name, address, and national insurance number (or declaring that the partner does not have a national insurance number);
- declaring that the partner satisfies, or will satisfy, the conditions set out above (section 5.4.1.1/2);
- declaring that the partner is the father of the child, or is married to, the civil partner of, or the partner of, the mother;
- declaring that the partner consents to the amount of leave that the mother intends to take; and
- declaring that the partner consents to the mother's Trust processing the information in the partner's declaration.

If the employee is the **partner**, the partner's notice of entitlement and intention must set out:

- the partner's name;
- the mother's name;
- the start and end dates of any periods of statutory maternity leave, statutory maternity pay or maternity allowance taken or to be taken by the mother;
- the total amount of shared parental leave available;
- the child's expected week of birth and the child's date of birth (although, if the child has not yet been born, the date of birth can be provided as soon as reasonably practicable after birth, and before the first period of shared parental leave to be taken by the partner);
- how much shared parental leave the partner and mother each intend to take; and
- a non-binding indication as to when the partner intends to take shared parental leave (including the start and end dates for each period of leave).

The partner's notice of entitlement and intention must include a declaration signed by the partner that:

- he/she satisfies, or will satisfy, the eligibility requirements to take shared parental leave;
- the information given by the partner in the notice of entitlement and intention is accurate; and
- he/she will immediately inform the Trust if he/she ceases to care for the child or if the mother informs him/her that she no longer meets the requirement to have curtailed her maternity leave or pay period.

In addition, the partner's notice of entitlement and intention must include a declaration signed by the mother:

- specifying the mother's name, address, and national insurance number (or declaring that the mother does not have a national insurance number);
- declaring that the mother satisfies, or will satisfy, the conditions set out above (section 5.4.1.1/2) and she will notify the partner if she no longer qualifies for maternity leave, statutory maternity pay or maternity allowance;
- declaring that the mother consents to the amount of leave that the partner intends to take;
- declaring that she will immediately inform the employee if she no longer meets the requirement to have curtailed her maternity leave or pay period; and
- declaring that the mother consents to the partner's Trust processing the information in the mother's declaration.

Within 14 days of receiving a notice of entitlement and intention from the employee, whether the mother or partner, the Trust can request from the employee:

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

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

5.4.1.7 Variation or cancellation of notice of entitlement and intention

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a notice of entitlement and intention, provided that he/she provides the Trust with a written notice. The written notice must contain:

- an indication as to when the employee intends to take shared parental leave (including the start and end dates for each period of leave);
- details of any periods of shared parental leave that have been notified through a period of leave notice;
- details of any periods of statutory shared parental pay that have been notified in relation to periods where shared parental leave was not to be taken; and
- a declaration signed by the mother and the partner that they agree to the variation.

Any indication of leave intended to be taken that the employee provides in a variation of notice of entitlement and intention is non-binding until he/she provides a period of leave notice in relation to that period of leave. There is no limit on the number of variations of notice of entitlement and intention that the employee can make.

5.4.1.8 Employee's period of leave notice

To take a period of shared parental leave, the employee must provide the Trust with a written notice setting out the start and end dates of each period of shared parental leave requested in that notice.

A period of leave notice must be given not less than eight weeks before the start date of the first period of shared parental leave requested in the notice. The notice may be given at the same time as a notice of entitlement and intention and can be a request for a continuous period of leave or discontinuous periods of leave.

5.4.1.9 Variation or cancellation of period of leave notice

The employee can vary or cancel his/her proposed shared parental leave dates following the submission of a period of leave notice, provided that he/she provides his/her Trust with a written notice not less than eight weeks before any period of leave varied or cancelled by the notice is due to commence. The written notice can:

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

5.4.1.10 Limit on number of requests for leave

The employee can provide a combined total of up to three period of leave notices or variations of period of leave notices per pregnancy, although the Trust may waive this limit in some circumstances.

5.4.1.11 Continuous period of shared parental leave

If the employee submits a period of leave notice requesting one continuous period of leave, he/she will be entitled to take that period of leave.

5.4.1.12 Discontinuous periods of shared parental leave

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

If the employee submits a period of leave notice requesting discontinuous periods of leave, the Trust, in the two weeks beginning with the date the period of leave notice was given, can:

- consent to the pattern of leave requested;
- propose an alternative pattern of leave; or
- refuse the pattern of leave requested.

If agreement is reached within those two weeks, the employee is entitled to take the leave on the dates agreed.

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

Alternatively, if the Trust has refused the request or no agreement has been reached during the two-week discussion period, the employee may withdraw a period of leave notice requesting discontinuous periods of leave. The employee can withdraw a period of leave notice at any time on or before the 15th day after the period of leave notice was given. A notice for discontinuous leave that has been withdrawn before it is agreed does not count towards the total number of requests for leave that an employee can make.

5.4.2 Shared Parental Pay

Statutory shared parental pay is available for eligible parents to share between them while on shared parental leave.

The number of weeks' statutory shared parental pay available to the parents will depend on how much statutory maternity pay or maternity allowance the mother has been paid when her maternity leave or pay period ends.

Any statutory shared parental pay due during shared parental leave will be paid at a rate set by the Government for the relevant tax year, or at 90% of the employee's average weekly earnings, if this figure is lower than the Government's set weekly rate.

It is up to the parents as to who is paid the statutory shared parental pay and how it is apportioned between them.

Application forms for Shared Parental Leave & Pay are available via Flo. Employees seeking guidance regarding eligibility and the calculation of shared parental pay, should contact the Employee Relations (HR) Team and/or the Pay Services department respectively.

5.4.2.1 Eligibility for statutory shared parental pay

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

5.4.2.2 Mother's eligibility for statutory shared parental pay

The mother is eligible for statutory shared parental pay if she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with her Trust until the week before any period of shared parental pay that she gets;
- has normal weekly earnings for a period of eight weeks ending with the 15th week before the expected week of childbirth of at least the lower earnings limit for national insurance contribution purposes;
- has, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child;
- is absent from work and intends to care for the child during each week in which she receives statutory shared parental pay; and
- is entitled to statutory maternity pay in respect of the child, but the maternity pay period has been reduced.

In addition, for the mother to be eligible for statutory shared parental pay, the partner must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks.

5.4.2.3 Partner's eligibility for statutory shared parental pay

The partner is eligible for statutory shared parental pay if he/she:

- has at least 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and remains in continuous employment with his/her Trust until the week before any period of shared parental pay that he/she gets;
- has normal weekly earnings for eight weeks ending with the 15th week before the expected week of childbirth of at least the lower earnings limit for national insurance contribution purposes;
- has, at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child; and
- is absent from work and intends to care for the child during each week in which he/she receives statutory shared parental pay.

In addition, for the partner to be eligible, the mother must:

- have been employed or been a self-employed earner during at least 26 of the 66 weeks immediately preceding the expected week of childbirth;
- have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks;
- have, at the date of the child's birth, the main responsibility, apart from the partner, for the care of the child; and

- be entitled to statutory maternity pay or maternity allowance in respect of the child, but the maternity pay period or maternity allowance period has been reduced.

5.4.3 During Shared Parental Leave

5.4.3.1 Contact during shared parental leave

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

An employee can agree to work for the Trust (or to attend training) for up to 20 days during shared parental leave without that work bringing the period of his/her shared parental leave and pay to an end. These are known as "shared-parental-leave-in-touch" (SPLIT) days.

The Trust has no right to require employees to carry out any work and employees have no right to undertake any work during their shared parental leave. Any work undertaken on SPLIT days, is entirely a matter for agreement between employees and the Trust.

5.4.3.2 Rights during shared parental leave

During shared parental leave, all terms and conditions of the employee's contract except normal pay will continue.

5.4.4 Returning To Work

The employee has the right to resume working in the same job when returning to work from shared parental leave if the period of leave, when added to any other period of shared parental leave, statutory maternity leave or statutory paternity leave taken by the employee in relation to the same child, is 26 weeks or less.

If the employee is returning to work from shared parental leave and the period of leave taken is more than 26 weeks, when added to any other period of shared parental leave, statutory maternity or paternity leave taken in relation to the same child, or was the last of two or more consecutive periods of statutory leave that included a period of ordinary parental leave of more than four weeks, or a period of additional maternity leave, the employee has the right to return to the same job unless this is not reasonably practicable. In these circumstances, if it is not reasonably practicable for the Trust to permit a return to the same job, the employee has the right to return to another job that is suitable and appropriate for him/her.

6. **Monitoring Compliance and Effectiveness**

The key requirements will be monitored in a composite report presented on the Trusts Monitoring Report Template:

Monitoring Requirement :	<ul style="list-style-type: none">• The process for analysing maternity/ paternity/adoption and fostering/ and shared parental leave and pay data.• The arrangements for the organisational overview of maternity/paternity/adoption and fostering/ and shared parental leave and pay.
Monitoring Method:	<ul style="list-style-type: none">• Analysis of employees who take Maternity/paternity/adoption/fostering/shared parental leave by grade, role, hours worked, protected characteristics.• Compliance with the analysis and overview of absence data
Report Prepared by:	Deputy Director of Workforce
Monitoring Report presented to:	The workforce committee in place at the time.
Frequency of Report	Annually

7. **References**

Employment Rights Act 1996

Employment Act 2002

Work and Families Act 2006

NHS Employers; NHS Terms and Conditions of Service Handbook.

National Health Service Hospital Medical and Dental Staff and Doctors in Public Health Medicine and Community Health Service (England and Wales) Terms and Conditions Handbook

8. **Appendices**

Appendix 1 Maternity Leave Application Form

Appendix 2 Paternity Leave Application Form

Appendix 3 Adoption Leave Application Form

Appendix 4 Fostering Leave Application Form

Appendix 5 Pregnancy Risk Assessment Form

APPLICATION FOR MATERNITY LEAVE AND PAY

This form must be completed and authorised by your manager before your Qualifying Week (15 weeks before your Expected Week of Childbirth) whether you are returning to work or not. Please complete this form and submit to your manager along with your original Maternity Certificate (MATB1). Your application cannot be processed without your MATB1.

Part 1 – To be completed by the employee:

Full name	
Home address	
Home Telephone No.	
Job Title	
Contracted hours	
Fixed term expiry date (if applicable)	
Division / Ward / Department	
NHS start date	
Expected Week of Childbirth	
Start date of Maternity Leave	
Do you intend to return to work?	YES / NO (delete as applicable)
Date of planned return, if known	

Would you like your OMP spread in equal amounts over the 39 week period?	YES / NO (delete as applicable)
Are you part of any Salary Sacrifice Schemes?	YES/NO if Yes, Please List: <hr/> <hr/> <hr/>

Please complete this if you are not returning to work:

I certify that the above details are correct.

Signed:		Date:	
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Please complete this if you are returning to work:

I agree to abide by the regulations as outlined in the Trusts' Maternity/Paternity/Adoption/Fostering/Shared Parental Leave Policy. I undertake to return to paid employment within the NHS for a minimum of one shift per week and a minimum period of three calendar months after the expiry of my maternity leave, in accordance with the requirements of the above Policy. Trust Maternity/Paternity/Adoption/Fostering/Shared Parental Leave Policy. If I fail to return to duty for the period of three calendar months, I agree to repay the Occupational Maternity Pay received by me in respect of my maternity leave.

I certify that the above details are correct.

Signed:		Date:	
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Part 2 – To be completed by the employee's manager:

I certify that, to the best of my knowledge, the above details are correct.

Name (Print)	
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Job Title	
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If the employee is not returning, has a termination form been completed?	YES/NO
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Signed:

Date:

Part 3 – For Pay Services Use

APPLICATION FOR PATERNITY LEAVE ENTITLEMENT

This form must be completed and authorised by your manager, and forwarded to Pay Services **at least 28 days** before the start date of your paternity leave. Please note the Trust reserves the right to request a copy of the mother's Maternity Certificate (MATB1 form) or matching certificate as documentary evidence of when the child is expected.

Part 1 – To be completed by the employee:

Full Name	
Home address	
Home Telephone No.	
Job Title	
Contracted hours	
Fixed term expiry date (if applicable)	
Division / Ward / Dept.	
NHS start date	
Expected week of childbirth/adoption	
Expected start date of Paternity Leave	
No. of weeks leave requested	One/Two (delete as appropriate)

I declare that:

- I am
 - the biological father of the baby, or
 - married to the mother/co-adopter or in a civil partnership with the mother/co-adopter.
 - a partner living with the mother in an enduring 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 mother or care for the child.

(You must fulfil all three conditions to get ordinary paternity leave and statutory paternity pay)

Signed:		Date:	
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Part 2 – To be completed by the employee's manager:

I certify that, to the best of my knowledge, the above details are correct.

Name (Print)			
Job Title			
Signed:		Date:	

Part 3 – For Pay Services Use

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APPLICATION FOR ADOPTION LEAVE ENTITLEMENT

This form must be completed and authorised by your manager **at least 28 days** before the date the adoption leave is due to start. Please pass the form onto your manager with your original Adoption Certificate. Your application cannot be processed without this.

Part 1 – To be completed by the employee:

Full Name	
Home address	
Home Telephone No.	
Job Title	
Contracted hours	
Fixed term expiry date (if applicable)	
Division / Ward / Dept.	
NHS start date	
Agency Name & Address	
Name and Date of Birth of Child/Children to be placed	
Date of Notification (date on which the Agency notifies the adopter they have been matched with a child/children)	
Expected date of adoption placement	
Date Employee intends to commence Adoption Leave	
Do you intend to return to work?	YES/NO (delete as applicable)

Date of planned return, if known			
Would you like your OAP spread in equal amounts over the 26 week period?	YES/NO (delete as applicable)		
Please complete this if you are <u>not</u> returning to work:			
I certify that the above details are correct.			
Signed:		Date:	
Please complete this if you are returning to work:			
I agree to abide by the regulations as outlines in the Trusts' Maternity/Paternity/Adoption/Fostering/Shared Parental Leave Policy.			
I intend to take Statutory Adoption Pay and not Statutory Paternity Pay.			
I undertake to return to paid employment within the NHS for a minimum of one shift per week and a minimum period of three calendar months after the expiry of my Adoption leave, in accordance with the requirements of the above Policy. If I fail to return to duty for the period of three calendar months, I agree to repay the Occupational Adoption Pay receive by me in respect of my Adoption leave.			
I certify that the above details are correct			
Signed:		Date:	

Part 2 – To be completed by the <u>employee's manager</u>:			
I certify that, to the best of my knowledge, the above details are correct.			
Name (Print)			
Job Title			
If the employee is not returning, has a termination form been completed?	YES/NO		
Signed:		Date:	

Part 3 – For Pay Services use:

Appendix 4:

APPLICATION FOR FOSTERING LEAVE (Long Term, Permanent basis)

This form must be completed and authorised by your manager at **least 28 days** before the date the fostering leave is due to start. Please pass the form onto your manager with your original Matching Certificate/Letter. Your application cannot be processed without this.

Part 1 – To be completed by the employee:

Full Name	
Home address	
Home Telephone No.	
Job Title	
Contracted hours	
Fixed term expiry date (if applicable)	
Division / Ward / Dept.	
NHS start date	
Agency Name & Address	
Name & Date of Birth of Child/Children to be placed	
Date of Notification (date on which the Agency notifies the Foster carer they have been matched with a child/children)	
Expected date of fostering placement	
Date employee intends to commence Fostering Leave	
Do you intend to return to work?	YES/NO (delete as applicable)

Date of planned return, if known

Please complete this if you are not returning to work:

I certify that the above details are correct.

Signed:

Date:

Please complete this if you are returning to work:

I agree to abide by the regulations as outlined in the Trust Fostering Policy. I certify that the above details are correct.

Signed:

Date:

Part 2 – To be completed by the employee's manager:

I certify that, to the best of my knowledge, the above details are correct.

Name (Print)

Home address

Job Title

If the employee is not returning, has a termination form been completed?

YES/NO

Signed:

Date:

Part 3 – For Pay Services Use

PROTECTION OF NEW AND EXPECTANT MOTHERS CHECKLIST

(Reference No: HS-C-2016/001)

EMPLOYEE'S NAME:			
JOB TITLE:			
DEPARTMENT:			
MANAGER'S NAME:			
Hazard	Yes/No	Recommended Control measures	Comments/ Agreed Control Measures
<p>1.Does the employees role involve:</p> <p>Reaching? Stretching? Repetitive Twisting? Lifting/carrying loads?</p>		<ul style="list-style-type: none"> • <i>Can a mechanical aid be used?</i> • <i>Can the task be adapted or automated?</i> • <i>Avoid task/reduce time spent doing it.</i> • <i>Can colleagues offer help with loads?</i> • <i>Consider redeployment.</i> 	
<p>2. Does the job involve:</p> <p>Standing for long periods? Static Postures?</p>		<ul style="list-style-type: none"> • <i>Rotate the individual into other tasks and roles.</i> • <i>Can employee switch from standing & sitting?</i> • <i>Can the frequency of breaks be increased?</i> • <i>Reduce time spent undertaking the task.</i> • <i>Consider redeployment.</i> 	
<p>3. Is Non - ionising radiation or Ionising radiation present in any of the work processes that the worker may be exposed to?</p>		<ul style="list-style-type: none"> • <i>Avoid/redeploy employee away from process.</i> 	

<p>4. Do the work processes involve working with/in extremes of temperature? (i.e. hot environments or cold environments)</p>		<ul style="list-style-type: none"> • <i>Avoid prolonged exposure to temp extremes.</i> • <i>Additional warm clothing for cold temperatures,</i> • <i>Provide rest facilities & access to refreshments.</i> • <i>Consider redeployment.</i> 	
<p>5. Is the worker exposed to high volumes of noise e.g. 85dB (A) or more?</p>		<ul style="list-style-type: none"> • <i>Avoid prolonged exposure to noise,</i> • <i>Use PPE & noise reduction methods as recommended by Noise at Work Regulations.</i> • <i>Provide quiet rest facilities.</i> • <i>It is best to avoid high volumes of noise in pregnant staff completely, therefore consider temporary redeployment as best option.</i> 	
<p>6. Is the worker exposed to shocks and vibration?</p> <p>Low frequency vibration Whole body vibration Single shocks (e.g. blow to stomach from attack or assault)</p>		<ul style="list-style-type: none"> • <i>A separate risk assessment should be undertaken for staff at risk from assault.</i> • <i>Avoid exposure to shocks and vibration. Consider redeployment as best option.</i> 	
<p>7. Is the employee working at heights/ confined spaces</p>		<ul style="list-style-type: none"> • <i>Avoid working at heights/confined spaces in later stages of pregnancy</i> • <i>Consider redeployment as best option.</i> 	

<p>8. Is the employee working with Chemical Agents?</p>		<ul style="list-style-type: none"> • <i>Refer to local guidance and COSHH Assessments.</i> • <i>It is best to eliminate the hazard all together, for the benefit of all workers. Where this is not possible each substance is subject to risk assessment. The control measure will depend on the risk assessment recommendations.</i> • <i>Consider reducing the length of exposure, redeployment, and mechanical processes to reduce human exposure/ adapting the task.</i> • <i>If in doubt avoid exposure.</i> 	
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<p>9. Is the employee working with biological agents? e.g. Micro-organisms Bacteria and Viruses</p>		<ul style="list-style-type: none"> • <i>Refer to local guidance and COSHH Assessments.</i> • <i>Each substance is subject to risk assessment. The control measure will depend on the risk assessment recommendations.</i> • <i>If in doubt avoid exposure</i> • <i>Consider reducing the length of exposure, personal protective equipment, redeployment and mechanical processes to reduce human exposure/ adapting the task for pregnant.</i> 	
<p>10. Does the employee work hours that are causing her to feel fatigued?</p>		<ul style="list-style-type: none"> • <i>Adjust working hours temporarily. Adjust/alter shift patterns</i> • <i>Increase frequency of rest breaks. Avoid night shifts (however staff may prefer to continue working at nights if this is 'normal').</i> 	
<p>12. Does the employee undertake travelling or driving for large parts of her working day?</p>		<ul style="list-style-type: none"> • <i>Adjust working hours temporarily. Adjust/alter shift patterns</i> • <i>Increase frequency of rest breaks. Avoid night shifts. Encourage the employee to discuss the issues with her line manager to find resolution.</i> 	

ASSESSOR:	
ASSESSOR SIGNATURE:	
EMPLOYEE:	
EMPLOYEE'S SIGNATURE	
DATE:	

NB: Completed checklists are recorded in employee's personal file. For further advice contact the Health Health and Safety Department or the Health and Safety Department or the Occupational Health Service.