

## TRUST GUIDANCE FOR FAMILY LEAVE (Including Maternity, Paternity, Adoption, Fostering, Shared Parental Leave and Parental Leave)

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## **FAMILY LEAVE GUIDANCE**

### **(Including Maternity, Paternity, Adoption, Fostering and Shared Parental Leave)**

#### **SECTION 1 – GENERAL INFORMATION**

##### **1.0. Introduction**

The University Hospitals of Derby and Burton NHS Foundation Trust (UHDB) is committed to ensuring that all their employees are informed and able to access entitlement to maternity, paternity/maternity support, adoption, and shared parental leave and pay.

UHDB and their leaders have a duty to ensure that all their employees are advised and informed of their statutory rights in relation to maternity, paternity, adoption and fostering and shared parental leave.

UHDB aims to take all reasonable steps to enable employees to understand their rights to enable them to make informed decisions regarding their individual parenting circumstances and the impact this may have 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.

UHDB 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.

This document recognises the importance of providing inclusive, respectful advice to all pregnant women and people. This includes trans and non-binary people as birthing parents and co-parents. This document utilises the terms

'woman' and 'father' or 'mother' and mothers', but these terms will also apply to people who do not identify as women but are pregnant or have given birth.

### 1.1. Purpose and Outcomes

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

This policy details the duties and responsibilities of both employees and their line managers throughout the process of managing arrangements up to; birth, during and following birth; adoption or fostering of a child or children.

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

### 1.2. Definitions Used

<b>AML - Additional Maternity Leave</b>	Last 26 weeks of the Statutory Maternity Leave entitlement
<b>Childbirth</b>	Means the live birth of a child, or a still birth after a pregnancy lasting at least 24 weeks.
<b>Curtailing</b>	Where maternity or adoption leave and pay comes to an end early. This is sometimes referred to as reducing the maternity/adoption leave period to then opt into the Shared Parental Leave scheme.
<b>Expected Date of Childbirth (EDC)</b>	Means the date on which the baby is expected to be born.
<b>Expected Week of Childbirth (EWC)</b>	Means the week in which the baby is expected to be born. (Monday being the first day of the week)
<b>OML - Ordinary Maternity Leave</b>	First 26 weeks of the Statutory Maternity Leave entitlement
<b>OMP – Occupational Maternity Pay</b>	The enhanced level of entitlement, under NHS terms and conditions, to those who have the required length of NHS service
<b>Partner</b>	A 'partner' could be the baby's father, or the mother's spouse, civil partner, or partner in an enduring

	relationship (same sex partners). It could also be the parents of a child in a surrogacy arrangement.
<b>Qualifying Week</b>	This is the 15th week before the expected week of childbirth.
<b>SML - Statutory Maternity Leave</b>	Statutory Maternity Leave is split into Ordinary (OML) and Additional (AML)
<b>SMP - Statutory Maternity Pay</b>	The statutory amount of maternity pay to which employees are legally entitled to, subject to meeting the qualification criteria. They are entitled to this regardless of whether they intend to return to work or not.
<b>ShPP – Shared Parental Pay</b>	Statutory amount of shared parental pay an employee could be entitled to provided they have met the eligibility criteria.
<b>SPL – Shared Parental Leave</b>	Shared Parental Leave is a scheme where an employee if eligible can opt into if curtailing their maternity/adoption leave and pay.
<b>Keep in Touch (KIT) Days</b>	<p>There are formal arrangements to allow employees to undertake work or training during maternity or adoption leave.</p> <p>An employee may wish 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.</p> <p>The number of days and the activity to be undertaken will be agreed between the employee and their line manager , taking account the wishes of both parties.</p> <p>Further information can be found in Section 8.1</p>

### 1.3. 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.

**UHDB Line Managers** are responsible for ensuring policy implementation and compliance in their area of responsibility.



**UHDB Line Managers** should also make all necessary changes on UHDB ESR system. complete E-change forms to notify Pay Services when an employee both commences and returns from maternity/paternity/adoption/shared parental leave.

**UHDB 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.

**People Services Advisory Team (HR)** 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 employees who may have any queries with this policy.

## **SECTION 2 – MATERNITY LEAVE AND PAY PROVISIONS**

### **2.0. General Principles For Maternity Leave**

Regardless of length of service, all employees are entitled to 52 weeks of Statutory Maternity Leave. This is made up of:

- 26 weeks Ordinary Maternity Leave; and
- 26 weeks of Additional Maternity Leave

2.0.1. It is up to the employee how much of the Occupational / Statutory Maternity Leave (dependent on eligibility) they take, but there is a Compulsory Maternity Leave period of two weeks after the baby is born. This is part of the Ordinary Maternity Leave period; not additional to it.

2.0.2. Employees wishing to return to work before the end of the 52 weeks must give their Line Manager 8 weeks' notice in writing of their intention to return to work early.

2.0.3. Employees can commence their maternity leave/pay on any day of the week, which cannot be any earlier than the 11<sup>th</sup> week before the expected week of childbirth. To calculate these dates, you can use the Maternity calculator on Gov.uk (<https://www.gov.uk/pay-leave-for-parents>)

### **2.1. Maternity Leave and Pay And Eligibility**

Whilst maternity leave is a right from day one, maternity pay is subject to length of continuous of NHS service and may be entitled to one of the following categories of maternity pay:

- Contractual or Occupational Maternity Pay (OMP)
- Statutory Maternity Pay (SMP)
- Maternity Allowance

\* Refer to table 1 below.

2.1.1. The type of pay entitlement will depend on the length of continuous service with the NHS and this Trust at specific time periods before the expected date of childbirth

## **2.2. Statutory Maternity Pay (SMP)**

SMP is based on length of service with the Trust at the 15th week before the Expected Week of Childbirth (EWC). To qualify for SMP the employee must:

- Have continuous employment with UHDB 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 their midwife or GP before the 15th week of the EDC
- Have stopped work

For further information on the length of time SMP is paid and unpaid, and how much you may be eligible for, please see the following link: <https://www.acas.org.uk/your-maternity-leave-pay-and-other-rights/working-out-maternity-pay>

## **2.3. NHS Contractual or Occupational Maternity Pay (OMP)**

OMP is based on length of continuous NHS service at the beginning of the 11<sup>th</sup> week before the EWC. To qualify for OMP the employee must:-

- Have twelve months' continuous service with one or more NHS employer 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.

	<b>12 months or more</b> Continuous NHS service at the beginning of the <b>11<sup>th</sup> week before EWC*</b>	<b>26 weeks to 12 months</b> continuous service with the Trust at the <b>15<sup>th</sup> week before EWC</b>	<b>Less than 26 weeks</b> continuous service with the Trust at the <b>15<sup>th</sup> week before EWC</b>
OMP - Full Pay	8 weeks	n/a	n/a
OMP - Half Pay plus SMP**	18 weeks	n/a	n/a
SMP at higher rate (i.e. 90% of full pay)	n/a	6 weeks	n/a
SMP at the lower fixed rate***	13 weeks	33 weeks	n/a
<b>Total Unpaid leave</b>	<b>13 weeks</b>	<b>13 weeks</b>	<b>52 weeks</b>
<b>Total paid leave</b>	<b>39 weeks</b>	<b>39 weeks</b>	<b>n/a</b>

**Table 1: Entitlement to Maternity Pay**

*\*\* If half pay plus SMP exceeds full pay then only payment up to full pay will be made. Please note SMP is paid at the lower fixed rate.*

*\*\*\*SMP at the lower fixed rate is set by the Government.*

- 2.3.1. If the employee does not satisfy the eligibility criteria in either Occupational or Statutory Maternity Provisions, they may qualify for Maternity Allowance if they have been employed and paid enough Standard Rate National Insurance Contributions in the reference period. For further information please contact UHDB Trust Pay Services.

Maternity Allowance is paid by the Job Centre Plus / Social Security Office for 39 weeks.

**The maternity planner on the following website link <https://www.gov.uk/pay-leave-for-parents> will help work out the earliest date that maternity leave can start and category of maternity pay entitlement.**

- 2.3.2. All maternity pay will be paid directly into the nominated bank account on the normal Trust pay day. There is no requirement for you to complete a timesheet whilst on maternity leave.

Should the employee wish to take the option of having their maternity pay entitlement spread equally over the period of their paid maternity leave,

they must, together with their line manager, indicate on the Application for Maternity Leave and Pay (appendix 1). **The employee should note that they can only spread their occupational maternity pay and not their statutory maternity pay element.**

### 2.3.3. 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 Occupational Maternity Pay purposes, average weekly earnings for the period of sick absence shall be calculated on the basis of notional full pay.

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. In this case, their maternity leave will normally commence automatically at the beginning of the fourth week before the EDC OR 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 EWC, 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.

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

#### **2.4. Health And Safety and Risk Of Pregnant/Expectant, New And Breastfeeding Mothers**

On being notified of pregnancy, the Line Manager is responsible for undertaking a compulsory joint risk assessment with the member of staff of their working environment and activities. This will continue to be regularly reviewed together with the employee throughout their pregnancy. The purpose of this is to ensure the health, safety and welfare of the employee as an expectant mother and their unborn child.

If necessary, the pregnant employee's duties will be suitably amended to ensure their safety is always a priority. In some circumstances a referral to Occupational Health may be required to if further medical advice is necessary in relation to any specific risk identified. **This risk assessment can be located on the Health and Safety Pages ([The Workplace - Health and safety | z UHDB Intranet](#))**

2.4.1. Where a risk to health is identified through either the risk assessment or via Occupational health physician, the Line Manager should take appropriate actions to ensure that the expectant mother and their child are not put at risk.

Actions may include:-

- Reasonable adjustments to the working arrangements;
- Temporary redeployment to suitable alternative work (on the individual's normal rate of pay); or
- Medical exclusion on full pay where no suitable alternative work can be offered.

This must be kept under review by the Line Manager, as the pregnancy progresses to ensure risks are minimal and managed

2.4.2. These provisions also apply to new mothers who have given birth in the last 6 months and/or are breastfeeding and it is found that carrying out their normal duties would prevent them from being able to successfully breastfeed their child.

2.4.3. The employee should inform their manager in writing if they are planning to breastfeed on their return to work. It is encouraged that an employee notifies their line manager as soon as possible so that their manager has time to plan. 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

The new mother/breasting feeding mother is responsible for their own personal hygiene and for the safe cleaning and storage of equipment in addition to the clear labelling, storage and collection of milk.

Breast Milk stored in the fridge must always be removed by the employee/breastfeeding mother to whom it belongs.

The Trust accepts no responsibility for the incorrect storage, handling or labelling of expressed milk.

## **2.5. Antenatal and Post Natal Appointments**

All employees as soon as they have notified the Trust of their pregnancy are entitled to reasonable paid time off to attend appointment for antenatal care at the normal rate of pay, on producing proof of the appointment.

- 2.5.1. UHDB Trust acknowledges that the antenatal care can vary dependent upon the pregnant employee's medical condition and general state of health. For the purposes of these provisions, antenatal care refers to clinic visits, which normally begin between the eighth and twelfth week of pregnancy.
- 2.5.2. If you require further time off with pay to attend classes for example relaxation, parent craft or aqua-natal classes, you should demonstrate that attendance has been advised by your GP, Midwife or Health Visitor and you must produce evidence of the appointment
- 2.5.3. It is unlawful for the Trust to refuse to give reasonable time off; however the Trust is entitled to ask for evidence of the appointments from the second appointment onwards. This could be in the form of an appointment card/letter or proof of pregnancy such as a MATB1 Form. (Section 55 of the Employment Rights Act 1996)
- 2.5.4. The father or pregnant woman's partner has the right to unpaid time off work to attend up to 2 antenatal appointments lasting no more than 6.5 hours each which includes travelling and waiting time. (A partner could be the baby's mother's partner, spouse, civil partner or partner in an enduring relationship). Please see section 3 for further information on Paternity Leave
- 2.5.5. New mothers who have recently given birth and returned to work are also entitled to paid time off for post-natal care e.g. attendance at health clinics. However the Trust is entitled to ask for evidence of the appointments from the second appointment onwards. This could be in the form of an appointment card/letter or proof of pregnancy such as a MATB1 Form.

## 2.6. Notification Requirements for Maternity Leave

The employee is expected to inform their manager as soon as possible of their pregnancy, to complete the necessary forms (Application for Maternity Pay and Leave – appendix 1) with the employee and submit to the Pay Services together with the original Certificate of Confinement form (MATB1 form). This is usually available from the GP or Midwife by the 26<sup>th</sup> week of the employee's pregnancy. The manager is expected to retain copies of these documents in the employee's personal file.

\* Please refer to section 2.1.4 above should the employee wish to have their pay entitlement spread equally over the period of their maternity leave.

In addition, the following is recommended to be discussed with the employee:

- Paid time off arrangements for the employee to attend ante-natal appointment (see section 2.3 Antenatal and Postnatal appointments)
- Discuss option for flexible working – Although there is no requirement to confirm any flexible working arrangements at this stage, early discussions may be beneficial
- Discussion 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 their maternity leave.

2.6.1. The MatB1 above paperwork must be forwarded to the Pay Services Department as soon as possible but no later than 8 weeks prior to the start of the employee's maternity leave to ensure that payroll deadlines are met.

2.6.2. The line manager will make necessary changes via ESR Self Service and at the same time will notify Pay Services of the pending maternity leave start date.

2.6.3. 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 their line manager whom will forward to Pay Services.

2.6.4. As soon as the employee has informed their manager of their pregnancy, the manager will be expected to make appropriate arrangements for a risk assessment to be completed (Please see section 2.4)

2.6.5. Prior to commencing Maternity Leave, contact between employee and line manager should be agreed.

This may include: -

- How the employee will inform their line manager regarding any changes happening at home that may affect their date of return to work or any personal circumstances 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.

## **2.7. Commencement of Maternity Leave**

The employee can commence maternity leave from 11 weeks before the EDC. The manager will need to make the changes on ESR Self Service to confirm the start date of maternity leave.

OR

A day after the baby is born if the baby is born before the date the mother intended to start their maternity leave.

- 2.7.1. The employee is able to change the proposed date for the commencement of your Maternity leave provided you give at least 28 days' notice to your line manager and Pay Services, or if this is not possible, as soon as is practicable thereafter. The manager must confirm the revised dates via ESR Self-Service

\* **The maternity planner found on the following website link <https://www.gov.uk/pay-leave-for-parents> can be a useful tool to work out the earliest date maternity leave can start.**

## **2.8. Automatic Commencement of Maternity Leave**

The maternity leave period will commence immediately when:

- Childbirth occurs before the maternity leave period would otherwise commence.
- The employee is absent from work wholly or partly because of pregnancy or childbirth after the beginning of the 4th week (Sunday to Saturday) before the expected week of childbirth (from week 36 of pregnancy).

- 2.8.1. In such circumstances, the Trust will not require the notice of commencement of maternity leave referred to above. However, the employee should notify their manager, as soon as is reasonably practicable, that they are absent wholly or partly because of pregnancy or they have given birth.

## **2.9. 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. See section 2.9 Interrupted Maternity Leave

## **2.10. 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, maternity leave will commence automatically at the beginning of the fourth week before EDC date or the beginning of the week after, the employee last worked, (whichever is the latter.)

Adhoc days of pregnancy related illness during the last four weeks before EDC, may be disregarded, if the employee wishes to continue to work until the maternity leave start date (as previously notified in writing to their line manager).

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

## **2.11. Interrupted Maternity Leave**

Maternity leave will normally be a period of consecutive weeks.

2.11.1. Exceptionally, where the baby is born prior to the 11th week before the expected week of childbirth and the baby is in hospital, the employee may split their maternity leave entitlement. They may take a minimum period of two week's leave immediately after childbirth and the rest of their leave following their baby's discharge from hospital

2.11.2. Whilst each case may be different and should be treated on its merits, interrupted maternity leave shall normally imply taking a short period of leave after the birth, then returning to work whilst the baby is hospitalised, and finally, resuming maternity leave upon the baby's discharge.

The employee must notify their line manager as soon as it is reasonably practicable. A copy of the amended MATB1 and/or birth certificate will need to be submitted to the Pay Services Department to enable the issuing of an amended maternity leave letter.

The employee should be aware that if this occurs their maternity pay will stop for the period they are not on maternity leave and will resume once they go back on maternity leave.

- 2.11.3. If an employee does more than ten days work for the Trust in their Statutory Maternity Pay period, the pay cannot be paid for any week in which they do such work and their maternity leave will come to an end.

**Further information regarding this matter can be found at:**  
<http://hmrc.gov.uk/helpsheets/e15.pdf>

## **2.12. Returning To Work**

- 2.12.1. Following supportive discussions between parent/s and UHDB leaders, arrangements will be made for return to work. The relevant changes (including any changed to contracted hours) on ESR Self-Service will be completed, confirming the return to work date. If an employee is on maternity leave and is taking the full statutory maternity leave from their employment, there is no legal requirement to give notice of their return to work.
- 2.12.2. Employees on maternity leave are not permitted to return to work for the first two weeks after the birth.
- 2.12.3. An employee who intends to return to work at the end of their full maternity leave will not be required to give any further notification to the employer, although if they wish to return earlier than the date specified, they must give at least 8 weeks' notice to their line manager.
- 2.12.4. An employee has the right to return to their job, under their original contract and on no less favourable terms and conditions. However they may negotiate and agree with their manager a return to work on a flexible basis. The employee should write to their line manager giving them 8 weeks' notice of their request. Please refer to the Trust's Flexible Working Policy and Procedure
- 2.12.5. The Trust has a duty to consider opportunities for pregnant colleagues who wish to return to a flexible working arrangement on different hours in the same job, following maternity leave. If this is not possible the Trust will provide written, objectively justifiable reasons for this. Please refer to the Trust's Flexible Working Policy and Procedure
- 2.12.6. If an employee plans to take a period of annual leave following their maternity leave, they should request for this at the same time.
- 2.12.7. Where the employee chooses to return to a post at a lower grade, they will not be entitled to any protection of pay
- 2.12.8. 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.

2.12.9. Return to work discussion should include:

- Arrangements for any necessary updated training (including mandatory 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 intends to continue to breastfeed upon return to work, discuss 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

### **2.13. Unsure If Returning To Work**

If the employee is unsure whether they will be returning to work with the same or another NHS Organisation for a minimum period of 3 calendar months after their maternity leave has ended, their Occupational Maternity Pay will be deferred, should they be eligible.

If they then return to work, they will receive any outstanding balance upon the completion of the first 3 calendar months.

The line manager should notify the Pay Services Department to confirm that the employee has completed the first 3 calendar months and is therefore entitled to receive Occupational Maternity Pay

### **2.14. Not Returning to Work**

2.14.1. If employee does not intend to return to work following maternity leave, and they are aware of this beforehand, they should indicate this on the Application for Maternity Leave and Pay (Appendix 1)

2.14.2. \* Payment of Occupational Maternity Pay (if eligible) is subject to the employee returning to work with the NHS for a minimum period of 3 calendar months after their maternity leave has ended

2.14.3. The employee should ensure that they give appropriate written notice to their line manager of their intention to leave the Trust as normal. The employee's contractual notice period will be detailed in their most recent Contract of Employment with the Trust

2.14.4. 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 should inform their line manager as soon as

possible. 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.

- 2.14.5. 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

#### **2.15. Failure To Return to Work**

If the employee has notified the Trust of their intention to return to work for the same or a different NHS employer, and then fail to do so within 15 months of the beginning of their maternity leave they will be liable to refund the whole of their Contractual Occupational Maternity Pay, less **any SMP or Maternity Allowance received**

#### **2.16. 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 Wellbeing policy

#### **2.17. 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 Special Leave Guidance. Further information on employment breaks, including eligibility and the application process, are also contained within the Trust's Special Leave Guidance

#### **2.18. 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 regard 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.

## **2.19. Sensitive Arrangements Following Loss of A Baby**

- 2.19.1. The Trust is committed to supporting all employees who suffer the loss of a pregnancy, whether it happens directly to them, their partner or their baby's surrogate, regardless of the nature of their loss, or their length of service.
- 2.19.2. Pregnancy loss includes but is not limited to: miscarriage, stillbirth, abortion, ectopic pregnancy, molar pregnancy and neonatal loss.
- 2.19.3. The employee carrying the child who sadly experiences a pregnancy loss, which occurs any time before the start of the 25<sup>th</sup> week of pregnancy, are entitled to 10 days leave on full pay (pro-rata for part-time staff) to support them through the traumatic time of both the physical and the emotional loss. There is no service length requirement for this entitlement. Please see the Special Leave Guidance for more information on this.
- 2.19.4. In the sad event of a pregnancy loss occurring after the end of the 24<sup>th</sup> week of pregnancy, the employee carrying the child will be entitled to all the relevant maternity pay and leave entitlements, according to length of service. Parents will be entitled to two weeks' child bereavement leave. For further guidance and information on entitlement to child bereavement leave, please refer to UHDB Trust Special Leave Guidance

## **SECTION 3 – PATERNITY LEAVE AND PAY PROVISIONS**

### **3.0. General Principles For Paternity Leave**

- 3.0.1. The Trust recognises that a father or partner (A partner could be the baby's mother's partner, spouse, civil partner, or partner in an enduring relationship) of the baby's mother (or adopter) may need time to provide support to the mother following childbirth. It can also be taken for adoption where the partner is not considered to be the main carer
- 3.0.2. Legislation provides the following minimum criteria for the employee, irrespective of hours or length of service worked:
  - Ordinary Paternity leave applies to the biological father of the child, the husband or partner of the mother (or adopter), the child's adopter, intended parent (if having a baby through a surrogacy arrangement) and

same sex partners. NB. Paternity leave may also be claimed by a woman in cases of adoption where she is not the main carer.

- All employees considered as the baby's father or mother's partner, have the right to take up to 2 weeks of Ordinary Paternity Leave from the start of their employment with UHDB trust
- In the event of sickness during the ordinary paternity leave period, sick leave is not payable.
- Ordinary Paternity leave counts as continuous service.
- Bank workers (zero hour contracts) may be entitled to Statutory Paternity Pay if they meet the qualifying conditions (i.e. if they have accrued enough NI contributions). There is no entitlement to NHS Occupational Paternity Pay.
- Employee's taking Shared Parental Leave or Shared Parental Pay (subject to eligibility criteria section 3.1 above) will not be entitled to then take Paternity Leave. Employees may however, choose to exhaust Paternity Leave entitlement before taking Shared Parental Leave. For further details for eligibility criteria for Shared Parental Leave and Pay refer to Section 6 below.

### **3.1. Paternity Entitlement to Attend Antenatal Appointment**

Subject to eligibility criteria (see section 3.1 above), employees can take \*unpaid leave to accompany a pregnant woman to antenatal appointments, official meetings and training (in the case of adoption or surrogacy arrangements) regardless of length of service.

The Trust will not refuse to give reasonable unpaid time off, however it is entitled to ask for evidence of the appointments or official meetings/training courses. This could be in the form of an appointment card or letter. In exceptional circumstances, the request for time off can be refused, however they will be given a clear explanation of the reasons why

\* Unpaid leave to accompany the woman will be up for a maximum of two appointments of up to 6.5 hours each which includes travelling and waiting time

If the father or pregnant woman's partner is an employee of the Trust, they will be entitled to take time off without requiring any qualifying service. However it is expected that they will be required to produce a evidence of appointments.

UHDB endeavours to encourage partners to support and attend antenatal appointments, however, should there be circumstances that the appointment times may cause significant impact on service delivery, this

needs to be discussed with the employee to identify a resolution prior to refusing any request.

### **3.2. Eligibility for Paternity Leave**

Paternity leave applies to biological and adoptive fathers, nominated carers, same sex partners and intended parent (if having a baby through a surrogacy arrangement).

\* NB. Paternity leave may also be claimed by a woman in cases of adoption where she is not the main carer.

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.

### **3.3. Entitlement for Paternity Pay**

#### **3.3.1. 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

#### **3.3.2. 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.

\*\* The maternity-paternity calculator on the following website link <https://www.gov.uk/maternity-paternity-calculator> to help to work out eligibility to new parent support (paternity) pay eligibility

### **3.4. When Paternity Leave Can Be Taken**

3.4.1. Leave can start on any day of the week and can be taken either as a single week or as two weeks consecutively, but not before the baby is born or a child's placement (in terms of adoption).

If an employee chooses to take only one week paternity leave, there is no entitlement to take the remaining week at a later date.

Paternity leave cannot be taken in odd days and must be taken as working weeks.

3.4.2. Employees can choose to start their leave:

- from the actual date of the child's birth (whether this is earlier or later than expected)

Or

- from a chosen date after the date of the child's birth (whether this is earlier or later than expected)
- from any date after the first day of the expected week of childbirth

3.4.3. In the case of an adopted child the paternity leave can start:

- from the date of the child's placement (whether this is earlier or later than expected),

Or

- from a chosen date after the date of the child's placement (whether this is earlier or later than expected),

Or

- from any date after the expected date of placement

### **3.5. Timescales For When Paternity Leave Can Be Taken**



- 3.5.1. Paternity leave must be completed within 56 days (8 weeks) of the actual date of birth of the child or within 56 days (8 weeks) after the first day of the expected week of childbirth whichever is later
- 3.5.2. In the case of an adopted child the paternity leave must be completed within 56 days (8 weeks) of the child's placement
- 3.5.3. Only one period of leave is available to employees irrespective of whether more than one child is born as the result of the same pregnancy. And in the case of an adopted child irrespective of the number of children adopted simultaneously

### **3.6. Notice Of Intention to Take Paternity Leave**

- 3.6.1. Employees must inform their line manager in writing of their wish to take paternity leave as soon as possible using the application for paternity leave form (Appendix 2). This will need to be submitted at least 28 days before they wish to take the leave (including in surrogacy arrangements).

In the case of adoption, Paternity leave application should be submitted within 7 days of being notified of the matching, unless this is not practicable.

The manager should sign and forward the completed form to Services as soon as possible and make the necessary change on ESR.

- 3.6.2. Upon requesting paternity leave the following information should be included within the application form:
  - The expected week of childbirth (in the case of an adopted child, the date on which the adopter was notified of having been matched with their child and when the child is expected to be placed).
  - 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.
  - Whether they wish to take one or both weeks' leave, and
  - When they intend their leave to start
- 3.6.3. 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.
- 3.6.4. For any subsequent changes to paternity leave, 28 days notice should be given to their line manager, or as soon as is reasonably practical if this is not possible

3.6.5. As part of the planning process for the paternity leave period, it is expected that line 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 line manager should encourage the employee to read the Paternity Leave (section 3) in addition to the Shared Parental Leave section of this policy (section 6)

- 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 line manager needs to take into consideration the amount of annual leave that the employee has left within that leave year, before the employee commences on paternity leave

- The line 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. It is at the line managers discretion to decide whether to give an employee longer time for these appointments.

### **3.7. Sensitive Arrangements Following Loss of a Baby**

3.7.1. The Trust is committed to supporting all employees who suffer the loss of a pregnancy, whether it happens directly to them, their partner or their baby's surrogate, regardless of the nature of their loss, or their length of service.

3.7.2. Pregnancy loss includes but is not limited to: miscarriage, stillbirth, abortion, ectopic pregnancy, molar pregnancy and neonatal loss.

3.7.3. Partners of those who experience pregnancy loss which occurs any time before the start of the 25<sup>th</sup> week of pregnancy are entitled to 10 days leave on full pay (pro-rata for part-time staff) to support them through the traumatic time and the emotional loss. There is no service length requirement for this entitlement. Please see the Special Leave Guidance for more information on this.

3.7.4. In the sad event of a pregnancy loss occurring after the end of the 24<sup>th</sup> week of pregnancy, the partner of the employee carrying the child will be entitled to all the relevant paternity pay and leave entitlements, according to length of service (please see section 3.1 above). Parents will be entitled to two weeks' child bereavement leave. For further guidance and

information on entitlement to child bereavement leave, please refer to UHDB Trust Special Leave Guidance

### **3.8. Paternity Leave and Shared Parental Leave And Pay**

3.8.1. Employees, as outlined in section 3.1 (father/partner/spouse), who wishes to take Shared Parental Leave may first choose to exhaust any paternity leave entitlements

3.8.2. Paternity Leave cannot be taken after any Shared Parental Leave or Pay is taken

For more information on Shared Parental leave please see section 6

3.8.3. If the aggregate total of leave for Paternity leave and Shared Parental Leave amounts to 26 weeks or less, the employee is entitled to return to the same job they held before commencing this leave.

The same job is defined as the one they occupied immediately before commencing paternity/adoption and the most recent period of Shared Parental Leave, on the same terms and conditions of employment as if they had not been absent

If the employee's aggregate total for their paternity leave and Shared Parental Leave amounts to 26 weeks or more, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable

## **SECTION 4 – ADOPTION LEAVE AND PAY PROVISIONS**

### **4.0. General Principles for Adoption Leave**

4.0.1. Adoption leave is available to all employees who are wishing to adopt a new matched child and legally adopting that child under the age of 18 or has a child through a surrogacy arrangement

4.0.2. Regardless of length of service, entitlement to adoption leave, all employees are entitled to 52 weeks of statutory adoption leave. This is made up of:

- 26 weeks Ordinary Adoption Leave; and
- 26 weeks of Additional Adoption Leave

4.0.3. If both adoptive parents\* are employed by the Trust, the parent who is identified as the primary carer (primary adopter) should be entitled to adoption leave. The other parent may be entitled to paternity leave and paternity pay. (Please refer to section 3 above).

Note - \*Adoptive parents could be a partner of the child being adopted, married couples, civil partners, unmarried couples (same sex and different sex) living as partners in a stable family relationship.

- 4.0.4. The primary adoption will be entitled to two weeks compulsory adoption leave from the date of placement of the child for adoption
- 4.0.5. Reasonable time off for official meetings (see section 4.3)
- 4.0.6. Employees wishing to return to work before the end of the 52 weeks must give their Line Manager 8 weeks' notice in writing of their intention to return to work early
- 4.0.7. Bank workers (zero hours contract) may be entitled to Statutory Adoption Pay if they meet the qualifying conditions. There is no entitlement to NHS Occupational Adoption Pay
- 4.0.8. If an employee has a visa that allows them to live and work in the UK, but includes the condition "no recourse to public funds" they may still qualify for Statutory Adoption Pay, as this does not constitute public funds.

#### **4.1. Adoption Leave and Pay Eligibility**

- 4.1.1. All Trust employees have an entitlement to Adoption Leave; however, the level of pay is dependent upon their NHS Service
- 4.1.2. 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 listed below:
  - Arranging a private adoption
  - Becoming a special guardian
  - Adopting a stepchild
  - Having a child through surrogacy
- 4.1.3. When applying for Adoption Leave (using appendix 3 - Application for Adoption Leave) the employee will be expected to:
  - Inform their line manager in writing within 7 days of being notified of the match (or, if this is not possible, as soon as is practicable thereafter) by the adoption agency confirming of:
    - a) their intention to take adoption leave
    - b) that they have been matched with a child for adoption
    - c) the date that you intend to commence Adoption Leave and when the child is expected to be placed with them.

- Provide their line manager with documentary evidence from their adoption agency as proof of adoption. This may be provided in the form of a matching certificate including basic information on matching and expected placement dates from their adoption agency. The adoption Agency must be recognised in the UK.

4.1.4. The following briefly lays out adoption pay entitlements for employees whilst they are employed by UHDB. Entitlements will depend upon the employee's length of service and whether they intend to return to work within the NHS.

Occupational Adoption Pay

- Employees must have 12 months continuous NHS service\* ending with the week in which they are notified of being matched\*\* with the child for adoption. This will cover the circumstances where employees are newly matched with the child by an adoption agency

**NOTE** – \* NHS service refers to employment with this or any other NHS employer.

\*\* Adoption leave is not routinely available in circumstances where a child is not newly matched for adoption for example when a stepparent is adopting a partner's child/children. (However this is listed as a consideration of adoption leave and pay in section 4.1.2)

- Occupational Adoption pay and leave will be made up of:

<b>8 weeks</b>	Full Pay
<b>18 weeks</b>	Half Pay plus SAP**
<b>13 weeks</b>	Statutory Adoption Pay (at the lower fixed rate***)
<b>Remaining 13 weeks</b>	Unpaid leave

\*\* If half pay plus SAP exceeds full pay then only payment up to full pay will be made. Please note SAP is paid at the lower fixed rate.

\*\*\*SAP at the lower fixed rate is set by the Government.

Statutory Adoption Pay

- Employees must have worked continuously for the Trust for at least 26 weeks at the beginning of the week in which you have been notified of being matched with a child / children from an adoption agency (the 'matching week').
- Statutory Adoption pay (SAP), and leave will be made up of:

<b>6 weeks</b>	90% of average weekly earnings.
<b>33 weeks</b>	Flat rate SAP or 90% of average weekly earnings if this is less than the standard rate of SAP
<b>13 weeks</b>	Unpaid leave

Should the employee wish to take the option of having their adoption pay entitlement spread equally over the period of their paid adoption leave, they must inform their line manager and indicate on the Application for Adoption Leave).

The employee should note that they can only spread their occupational adoption pay and not their statutory adoption pay element.

If an employee is not eligible for either Occupational or Statutory Adoption pay If the employee does not have the service to qualify for either the Occupational or Statutory Adoption Pay, unpaid leave may be granted up to a maximum of 26 weeks (provided the employee meets the criteria detailed in section 4.1.3 above).

Adopters who have average weekly earnings below the Lower Earnings Limit for National Insurance Contributions will not qualify for SAP. For further information please contact Pay Services.

## **4.2. Adoption From Overseas**

4.2.1. For an employee to qualify for adoption leave and or pay resulting from an overseas adoption, they must:

- Inform their line manager of the date of the official notification (permission from AN B authority the UK for an adoption abroad) and the estimated date that the child will arrive in the UK. This must be done within 28 days of receipt of the official notification.
- Inform their line manager the actual date the child arrives in the UK within 28 days of this date.
- provide their employer with a minimum of 28 days' notice of when they wish to commence their adoption leave and pay (noting that adoption leave can only commence after the child has entered the UK and must start no later than 28 days after the child has entered the UK)
- Provide appropriate documentation and proof of the adoption to the employer including but not limited to the official notification and evidence that the child has entered the UK.

## **4.3. Time Off For Official Meetings**

- 4.3.1. Upon informing the trust that the employee is adopting, reasonable time off\* is permitted, to attend official meetings and training, regardless of length of service
- 4.3.2. The Trust will not refuse to give reasonable time off; however, it is entitled to ask for evidence of the appointments and training courses. This could be in the form of an appointment card or letter.

\*Reasonable paid/unpaid time off to attend adoption appointments in the period between being notified of a match and the child/children being placed with the family for adoption is interpreted as follows:

- Single adopters are entitled to paid time off to attend up to 5 adoption appointments after they have been matched with a child
- In the case of joint adoptions (i.e., a couple who have been jointly matched to adopt the child) one of the adopters will be entitled to paid time off to attend up to 5 adoption appointments. The other adopter may be entitled to unpaid time off work to attend up to 2 adoption appointments no more than 6.5 hours is allowed for each appointment.
- Where there are joint adopters, the adopter who took paid time off to attend adoption appointments cannot claim paternity leave and pay.

#### **4.4. Notification Requirements For Adoption Leave**

- 4.4.1. The employee is expected to inform their manager as soon as possible of their intention to adopt and take adoption leave, and together with their manager complete the necessary forms - Application for Adoption Leave (Appendix 3) for submission to the Pay Services together with the necessary documentary evidence in the form of a 'matching certificate'. The manager is expected to retain copies of these documents in the employee's personal file.
- 4.4.2. The employee must return their completed application for Adoption Leave form together with their original Matching Certificate to the Pay Services Department no later than 8 weeks prior to the employee starting their adoption leave to ensure that payroll deadlines are met

The latest date for receipt for the matching certificate is 28 days before adoption leave / adoption pay starts.

The employee and/or their line manager may contact the Peoples Services Department (HR) if either require any clarification regarding the correct process to follow

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

- The employee's paid and unpaid entitlements.

- The expected employee's date of return of their return-to-work following Adoption leave.
- The length of any agreed 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.

#### **4.5. Commencement Of Adoption Leave**

4.5.1. Adoption Leave can start either:

- From the date of the child's placement (whether this is earlier or later than expected). (That is, from the date the child starts living with you)

Or

- From a fixed date which can be up to 14 days before the expected date of placement

4.5.2. Leave can start on any day of the week

4.5.3. The employee can change the proposed date for the commencement of their adoption leave provided they give 28 days' notice (or, if this is not possible, as soon as is practicable thereafter).

#### **4.6. Adoption Disruption**

4.6.1. 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;

Ordinary adoption leave will normally end 8 weeks after the end of the week in which the disruption occurs. Payment of SAP will continue for 8 weeks after the end of the week in which the disruption took place or the end of the employee's SAP period if that is sooner, unless entitlement to leave and / or pay would have ended earlier in the normal course of events.

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 line manager regarding this.

#### **4.7. Expected Return Date**



- 4.7.1. An employee who intends to return to work at the end of their full adoption leave will not be required to give any further notification to the employer, however, if they wish to return earlier than the date specified, they must give at least 8 weeks' notice to their line manager. In circumstances where this is not possible, notice should be as soon as is reasonably practical.

The line manager is then expected to make the necessary change on ESR to confirm the date your adoption leave is finishing, at least 8 weeks before they are due to return, to ensure that payroll deadlines can be met

- 4.7.2. Should the employee wish to return to work on a flexible basis, then they should write to their line manager giving them 8 weeks' notice of their request. Please refer to the [Trust Flexible Working Policy and Procedure](#). The Trust has a duty to consider opportunities for employees to return to flexible working arrangements on different hours in the same job, following adoption leave. If this is not possible the Trust will provide written, objectively justifiable reasons for this
- 4.7.3. If an employee plans to take a period of annual leave following their adoption leave, this should be requested, discussed, and agreed with their line manager. Once agreed, the line manager will make the necessary changes on ESR. Annual leave will then commence on the employees first planned return to work date

#### **4.8. Unsure If Returning To Work**

If the employee is unsure whether they will be returning to work with the same or another NHS Organisation for a minimum period of 3 calendar months after their Adoption leave has ended, their Occupational Adoption Pay will be deferred, should they be eligible.

If they then return to work, they will receive any outstanding balance upon the completion of the first 3 calendar months.

#### **4.9. Not Returning To Work**

- 4.9.1. If employee does not wish to return to work following adoption leave and they are aware of this beforehand, they should indicate this on the Application for Adoption Leave (Appendix 3)

**\* Payment of Occupational Adoption Pay (if eligible) is subject to the employee returning to work with the NHS for a minimum period of 3 calendar months after their adoption leave has ended**

- 4.9.2. The employee should ensure that they give appropriate written notice to their line manager of their intention to leave the Trust as normal. The employee's contractual notice period will be detailed in their most recent Contract of Employment with the Trust
- 4.9.3. If the employee had indicated that they were going to return to work and then subsequently changed their mind, they should inform their line

manager as soon as possible. The manager will be responsible for contacting Pay Services so the repayment of any Occupational Adoption Pay can be organised, if appropriate

#### **4.10. Failure To Return To Work**

If the employee has notified the Trust of their intention to return to work for the same or a different NHS employer, and then fail to do so within 15 months of the beginning of their adoption leave they will be liable to refund the whole of their Contractual Occupational Adoption Pay, less any SAP or Adoption Allowance received.

#### **4.11. Curtailing Of Adoption Leave**

Provided the employee meets the eligibility criteria, they can choose to end or “curtail” their adoption leave (after the 2 weeks compulsory adoption leave) and then opt into the Shared Parental Leave and Pay (SPL) scheme. See Section 6 below for details and process to follow for applying for SPL

### **SECTION 5 – SURROGACY ARRANGEMENTS /FOSTERING TO ADOPT**

#### **5.0. What Is Surrogacy?**

Surrogacy is the practice whereby one woman (the surrogate mother) carries a child for another person (the intended parent/s)) as a result of an agreement prior to conception that the child should be handed over to the intended parent/s) after birth.

#### **5.1. Rights For The Surrogate Mother (Birth Mother)**

The surrogate mother will have the same rights as any other pregnant employee subject to meeting the eligibility criteria detailed in the maternity section of this policy and procedure (Section 2 above).

Entitlement to statutory and occupational maternity leave/pay depending on eligibility exists irrespective of whether the employee plans to hand their baby over to a different parent/s (as result of an agreement)

#### **5.2. Rights For The Intended Parents**

Intended parents (employed by this Trust) in a surrogacy arrangement whom have applied for a Parental Order under the Human Embryology and Fertilisation Act 2008 are able to take adoption leave and pay / paternity leave and pay / shared parental leave and pay provided that they meet the eligibility criteria detailed within this policy and procedure.

The intended parents may also be entitled to take unpaid parental leave if eligibility criteria is met (See Section 7 below).

Intended parents in a surrogacy case who meet the conditions set out under the Human Embryology and Fertilisation Act 2008 will also have the right to unpaid leave to attend up to two antenatal appointments with the woman carrying the child.

There is no entitlement to statutory/occupational maternity leave or maternity pay, as these benefits are only available to the (surrogate mother)

### **5.3. Surrogacy Arrangement For Children Born Outside Of The UK**

Using a surrogate abroad can be complicated as different countries have different rules and regulations. The employee may wish to access legal advice or contact the Human Fertilisation and Embryo Authority for more information.

Further details can be found on [www.gov.uk](http://www.gov.uk) website.

### **5.4. Proof Of Surrogacy**

The intended parents (employed by the Trust) will be expected to provide a 'Parental Statutory Declaration' which states that they intend to apply for Parental Order under the Human Fertilisation and Embryology Act 2008 and that they expect the court to grant it on the grounds that they are eligible\*.

The employee will need to provide this information before the end of the 15th week before the expected week of childbirth (EWC) (or if this is not possible, as soon as is reasonably practicable thereafter).

In addition, they must also apply for Parental Order within 6 months following the child's birth.

Further details can be found on [www.gov.uk](http://www.gov.uk) website.

### **5.5. Fostering For Adoption**

Employees who are in a "current" or "foster to adopt" arrangement are entitled to take paternity leave and pay, adoption leave and pay and shared parental leave and pay, provided that they meet the eligibility criteria (refer to section 4 above). Appendix 4 Application for Fostering Leave should be used.

Only one set of adoption leave is payable per placement. Receipt of fostering allowances and payments during the fostering phase of placement will not affect any adoption pay payable under this agreement.

## **SECTION 6 – SHARED PARENTAL LEAVE AND PAY PROVISIONS**

### **6.0. What Is Shared Parental Leave And Pay Provisions**

- 6.0.1. Shared Parental Leave (SPL) is a form of leave available to working parents following the birth of or adoption of a child. It provides more flexibility in considering how best to care for, and bond with a child in the first year of birth or adoption
- 6.0.2. Opting in to take SPL means that eligible working parents may elect to share up to 50 weeks' SPL within the first year of the child's life. This is provided that the mother/ principal adopter has reduced or agreed to reduce their entitlement to Maternity / Adoption Leave and Pay. The mother/principal adopter can share their leave with only one other person
- 6.0.3. Employees who are eligible can therefore choose to end or "curtail" their Maternity (after the 2 weeks compulsory maternity leave or Adoption Leave to then opt into the SPL scheme).
- 6.0.4. SPL is different from Parental Leave which is unpaid leave (See section 7 below).
- 6.0.5. SPL is optional for the employee but is not optional for the employer

## **6.1. Eligibility Criteria For Shared Parental Leave And Pay**

- 6.1.1. Shared parental Leave can only be used by two people:
  - The mother / adopter and
  - One of the following:
    - The father of the child (in the case of birth) or
    - The spouse, civil partner or partner of the child's mother/adopter.
- 6.1.2. Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption
- 6.1.3. 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 their 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

These forms can be found on ACAS website: [Shared Parental Leave forms and templates for parents | Acas](#)

6.1.4. Additionally, an employee seeking to take SPL must satisfy each of the following criteria:

- the mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave

OR

- if not entitled to statutory maternity/adoption leave they must be/have been entitled to statutory maternity/adoption pay

OR

- maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements
- the employee must still be working for the Trust at the start of each period of SPL
- the employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date
- the employee's partner must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned a set amount

For current rates please refer to [www.gov.co.uk](http://www.gov.co.uk) website at the time of applying to opt into the Shared Parental Leave and Pay scheme) a week in any 13 of those weeks.

- the employee must correctly notify the Trust of their entitlement and intention to take SPL and provide evidence as required (forms can be found on the ACAS website: [Shared Parental Leave forms and templates for parents | Acas](#))

## **6.2. Shared Parental Leave Entitlement**

6.2.1. Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year of birth/adoption (after the two weeks of compulsory maternity/adoption leave immediately following the birth of the child/placement of child).

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

If mother/adopter reduces their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks\* as SPL.

*\* The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave.*

- 6.2.2. The father/partner/spouse can take SPL immediately following the birth (after the two weeks compulsory maternity leave) /placement of child but first may choose to exhaust any paternity leave entitlements (as paternity leave or pay cannot be taken once any SPL or shared parental pay has been taken).
- 6.2.3. SPL must end no later than one year after the birth/ placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.
- 6.2.4. The employee has the right to submit three notifications specifying the periods of leave, either continuous leave or discontinuous leave. Each notification may contain either a) a single period of leave – continuous leave; or b) two or more weeks of discontinuous leave where the employee intends to return to work between periods of leave.

The employee is required to give at least 8 weeks' notice before each period of leave begins.

The employee has a right to take a continuous block of leave notified in a single notification so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the Trust has been given at least 8 weeks' notice before the leave begins.

The Trust will consider a discontinuous leave notification but has the right to refuse it however this will only happen following joint discussions with the employee and their line manager

### **6.3. Shared Parental Pay Entitlements**

- 6.3.1. All Trust employees have an entitlement to SPL Leave; however the level of shared parental pay is dependent upon their length of continuous NHS Service.

The following briefly lays out shared parental pay entitlements for employees whilst they are employed by this Trust. Entitlements will depend upon the employee's length of service and whether they intend to return to work within the NHS.

When applying for SPL, the employee will be expected to give their line manager 8 week' written notice of their intention to opt for SPL

#### Occupational Shared Parental Pay

- Employees must have 12 months continuous NHS service\*:
- at the beginning of the 11th week before the expected week of confinement;

Or

- at the beginning of the week in which they are notified of being matched with a child for adoption;

Or

- by the 15<sup>th</sup> week before the baby's due date if applying via a surrogacy arrangement
- Occupational Shared Parental Pay and leave will be as follows if applying for SPL and which falls within these periods:

<b>SPL which falls within the first 8 weeks of maternity /adoption leave*</b>	Full Pay
<b>SPL which falls within the 18 weeks of maternity /adoption leave</b>	Half Pay
<b>SPL which falls within the 13 weeks of maternity /adoption leave</b>	Statutory Shared Parental Pay
<b>SPL which falls within the remaining 13 weeks</b>	Unpaid leave

\*the 8 weeks includes the two weeks of compulsory maternity/adoption leave immediately following the birth of the child/placement of child.

#### Statutory Shared Parental Pay

- Have worked continuously for the Trust for at least 26 weeks at the beginning of the week in which you have been notified of being matched with a child / children from an adoption agency (the 'matching week').
- Statutory Shared Parental Pay (SShPP) and leave will be made up of:

<b>SPL which falls within the first 6 weeks of maternity /adoption leave*</b>	90% of average weekly earnings.
<b>SPL which falls within the 33 weeks of maternity /adoption leave</b>	Flat rate SShPP or 90% of average weekly earnings if this is less than the standard rate of SShPP
<b>SPL which falls within the remaining 13 weeks</b>	Unpaid leave

\*the 8 weeks includes the two weeks of compulsory maternity/adoption leave immediately following the birth of the child/placement of child.

Employees will not be eligible for Occupational Shared Parental or Statutory Shared Parental Pay if they do not have the service to qualify. In these circumstances, unpaid leave may be granted up to a maximum of 26 weeks provided the employee meets the criteria detailed in paragraphs 5.1.3 above

6.3.2. The employee will not be entitled to Occupational or Statutory Shared Parental Leave or Pay if they:

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

Parental Leave can be considered in the above situations, please see section 7.

#### **6.4. Discussions Regarding Shared Parental Leave**

6.4.1. The employee considering/taking SPL should contact their line manager to arrange an informal discussion as early as possible regarding their potential entitlement and to talk about their plans.

6.4.2. Upon receipt of notification to take SPL the line manager may request an informal discussion with the employee to talk about their intentions and how they propose to use their SPL entitlement

6.4.3. Upon receipt of SPL leave booking request the line manager will usually arrange an informal meeting to the request. A meeting may not be necessary if the SPL leave (either a single period of continuous leave or periods of discontinuous leave) has already been requested and agreed. It is however advisable for the line manager to hold the meeting, to ensure meaningful discussions have been held regarding the leave requested. This helps with planning work and subsequent appropriate cover.

6.4.4. Where a meeting is arranged by the line manager, this should take place in private and notice for the meeting given. If the initial date is problematic then another date will be arranged, if possible within the next 7 calendar days. If an alternative face to face meeting date cannot be arranged then the meeting may be held via telephone or via MS Teams.

6.4.5. At the meeting the employee may, if they wish, be accompanied by a workplace colleague or staff side representative

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

#### **6.5. Booking Shared Parental Leave**

6.5.1. Before taking leave, a notice of entitlement and intention to take shared parental leave, must be submitted. This may be submitted at the same



time as the maternity/adoption curtailment notice or at a later date but it cannot be later than 8 weeks before the date of the first period of shared parental leave

- 6.5.2. The employee has the right to submit three notifications specifying leave periods they are intending to take for consideration. This is to enable the employee to take up to 3 separate blocks of SPL.

Each notification may contain either:

- a) a single period of weeks of leave; or
- b) two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

- 6.5.3. SPL can only be taken in complete weeks but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week

- 6.5.4. Continuous and Discontinuous Leave

**Continuous leave** is a single, unbroken period of leave. An employee has the right to take a continuous block of leave provided that it does not exceed the total number of SPL available to them (specified in the notice of entitlement) and the request has been received at least 8 weeks prior to the start of the leave.

A single notification may also contain a request for two or more periods (maximum 3 notifications) of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

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

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

- 6.5.5. Responding to a shared parental leave notification

Once the manager receives the SPL application form (Appendix 4), it will be dealt with as soon as possible, but a response will be provided within 14 calendar days.

All notices for **continuous leave** will be granted and confirmed in writing.

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

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

The request may be granted in full or in part: for example, the manager may propose a modified version of the request (see “Discussions Regarding Shared Parental Leave” above).

If a **discontinuous leave** pattern is refused then the employee may withdraw the request without detriment on or before the 15<sup>th</sup> day after the notification was given; or may take the total number of weeks in the notice in a single **continuous block**. If the employee chooses to take the leave in a single **continuous block**, the employee has until the 19<sup>th</sup> day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification. This would count as one of the employee’s allowance of the three notifications

#### 6.5.6. Variations to arranged SPL

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

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

#### 6.5.7. Contact during SPL

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. Please see section 8.1 for further information.

## **SECTION 7 – PARENTAL LEAVE PROVISIONS**

### **7.0. What Is Parental Leave?**

Parental leave is defined as time taken to look after the child/children to strike a better balance between their work and family commitments. This leave is planned leave rather than leave in response to an immediate care need. Please refer to the Trust's Special Leave Policy for other types of leave.

### **7.1. General Principles Of Parental Leave**

Parental leave is applicable to any employee of the Trust who has nominated caring responsibility for a child under age 18 and can choose to take this leave any time until the child's/children's 18th birthday.

Parental leave must be taken in periods of not less than one working week. If an employee wishes to take less than one working week a full week will still be deducted from their total entitlement.

Parental leave is an individual right and, therefore, if both parents are employed by the Trust, both parents may apply and take parental leave

Employees are eligible to carry over parental leave over from a previous job. Parental leave applies to each child not to an individual's jobs.

Parental Leave is a separate provision from maternity, paternity, adoption or shared parental leave.

### **7.2. Eligibility For Parental Leave**

7.2.1. All Employees can request Parental Leave from day one of their employment, irrespective of hours worked and may be entitled to a maximum of 18 weeks unpaid parental leave, in respect of any individual child/children.

Parental leave is for a maximum of 18 weeks unpaid leave, for each child born or adopted child.

7.2.2. An employee who is a foster parent for the child would not be entitled to parental leave unless they have secured parental responsibility through the courts. The employer would be entitled to see proof of this.

### **7.3. Conditions**

7.3.1. Employees can choose to take unpaid parental leave any time until the child's/ children's 18th birthday.

- 7.3.2. Parental leave is unpaid.
- 7.3.3. Parental leave must be taken in periods of not less than one working week. If an employee wishes to take less than one working week, a full week will still be deducted from their total entitlement.
- 7.3.4. Parental Leave can be added at the end of a period of Maternity, Paternity, Adoption or Shared Parental Leave.
- 7.3.5. The employee must give their manager a minimum of 21 days (3 weeks) written notice of their intention to take parental leave by completing the parental leave form (Appendix 6) – a copy of which must be placed on the employee's personnel file.
- 7.3.6. It is the Manager's and the employee's responsibility to monitor time taken.
- 7.3.7. It is the Manager's responsibility to make the appropriate and prompt changes on ESR detailing the employee's parental leave period, to ensure there is no overpayment of salaries occurred.
- 7.3.8. It is the employee's responsibility to provide a copy of the birth certificate alongside their completed Parental Leave Form (Appendix 6) to verify the birth dates of the child/children
- 7.3.9. During unpaid parental leave the employee retains all their contractual rights, except for remuneration.
- 7.3.10. Parental leave is an individual right and, therefore, if both parents are employed by the Trust, both parents may apply and take parental leave.
- 7.3.11. Period of Parental Leave counts as continuous service.
- 7.3.12. Employers have the right to maintain 'reasonable contact' (within agreed protocols) with employees while they are on unpaid parental leave.
- 7.3.13. Parental leave is for each child, so if twins are born each parent will get 18 weeks leave for each child born or adopted children.

#### **7.4. Postponement Of Parental Leave**

- 7.4.1. The manager may not postpone parental leave unreasonably. However, where such leave coincides with major events and/or where adequate cover is not available, management reserves the right to postpone the leave.
- 7.4.2. If a manager considers that the employee's absence would unduly disrupt the service then the manager can postpone the leave.
- 7.4.3. Postponement will not be for more than six months from the date on which the employee originally wished to start parental leave.

- 7.4.4. Where postponement is necessary, the manager should discuss the matter with the employee and confirm the alternative arrangements in writing no later than seven days after the employee's notice to take leave. The confirmation letter should state the reason for the postponement and set out the new agreed dates of parental leave. The length of the leave should be equivalent to the employee's original request. The alternative period of leave will take into account the combined needs of the individual and the service. If this means that the leave is postponed beyond the child's age limit the parent will still be entitled to the leave.
- 7.4.5. Employees may also postpone or cancel parental leave they have booked provided they have given reasonable notice.
- 7.4.6. Where two or more employees from a particular department wish to take parental leave at the same time, it will be for the Service Manager to determine the order and length of leave to be granted having considered in full the circumstances of each case

## **7.5. Taking Parental Leave After Maternity, Paternity, Adoption Leave Or Shared Parental Leave**

- 7.5.1. Parental leave doesn't have to follow straight after maternity, paternity, adoption or shared parental leave. The employee can take parental leave at a later time, after they they have returned to work
- 7.5.2. The employee, subject to eligibility criteria, can take their unpaid parental leave of up to four weeks at the end of their maternity, paternity, adoption or shared parental leave. Provided the aggregate total taken for maternity, paternity, adoption or shared parental leave amounts to 26 weeks or less the employee is entitled to return to the same job\* they held before becoming their leave.

If however the total number of unpaid parental leave weeks taken exceeds four weeks together with their aggregate total for their maternity, paternity, adoption or shared parental leave is 26 weeks or more, the employee is entitled to return to the same job\* they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable. In this instance the employee must receive written objectively justifiable reasons for this.

In this instance, written objectively justifiable reasons will be given for this and the employee will be able to return to the same band and work of a similar nature and status to that which they held prior to their leave.

\*The same job is the one they occupied immediately before commencing their unpaid parental leave, on the same terms and conditions of employment as if they had not been absent.

## **SECTION 8 – FURTHER PROVISIONS PERTAINING TO ANY LEAVE WITHIN THE SCOPE OF THIS POLICY**

### **8.0. Continuous NHS Service**

For the purposes of calculating whether you meet the twelve months continuous service\* with one or more NHS employers, the following provisions shall apply:

- NHS employers includes Strategic 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 count as reckonable service).

The following breaks in service will also be disregarded (though not count as reckonable 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 a 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 their return;
- absence on an employment break scheme in accordance with the provisions of Section 34 of Agenda for Change Term and Conditions.

Absence on any leave within the scope of this policy and procedure (paid or unpaid) will be disregarded and count as continuous service.

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.

In line with NHS Terms and Conditions, UHDB Trust has the discretion to count other previous NHS service or service with other employers.

\* 12 months continuous service – the employee should have 12 months continuous service with the NHS at the beginning of the 11<sup>th</sup> week before the expected week of childbirth (calculated from the Sunday). You can also go onto [www.gov.uk](http://www.gov.uk) website which will also help you calculate your 11th week before your expected date of confinement.

## **8.1. Keeping In Touch During Maternity, Adoption Or Shared Parental Leave Period**

Before going on maternity / adoption / shared parental leave, the line manager and the employee should also discuss and agree any voluntary arrangements for keeping in touch during the relevant leave applied for within the scope of this policy and procedure, including:

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

To facilitate the process of keeping in touch, an employee may work for up to a maximum of 10 keeping in touch without bringing their leave to an end. If an employee wishes to undertake further KIT days in excess of 10days, this may impact upon Pay.

Please contact Pay Services to further discuss

For maternity / adoption leave, the right to keeping in touch days ('KiT' days) is a maximum of 10 days without bringing their maternity / adoption leave to an end (working for part of any day will count as one KiT day). Any KiT days of work will not extend the maternity / adoption leave period and cannot be taken within the compulsory maternity / adoption leave period.

For shared parental leave, the right to keeping in touch ('SPLiT' days) is a maximum of up to 20 days. This is in addition to any KiT days that the employee may have taken during their maternity / adoption leave. SPLiT days are not compulsory and must be discussed with the line manager.

KiT / SPLiT days are intended to facilitate a smooth return to work for employees returning from maternity / adoption / shared parental leave. The work can consecutive or not and can include training, specific project work, or other activities which enable the employee to keep in touch with the workplace

The employee is neither obliged/required nor penalised for refusing to take up the KiT / SPLiT days, nor is the manager obliged to offer or agree to the employee working a KIT / SPLiT day

Working for part of any KiT / SPLiT day will count as one KiT / SPLiT day but remuneration is only made for the actual hours worked. The employee will be paid at their basic hourly rate for the hours worked and the appropriate occupational maternity / adoption / shared parental leave payment will be deducted for KiT / SPLiT days worked. A KiT/SPLiT Pay form will need to be completed by the employee for sign off by the line manager to arrange for payment to be made for any hours worked, this

will be paid one month in arrears. This form can be found on Net-I or alternatively contact Pay Services.

All KiT / SPLiT days should be recorded on HealthRoster; for further information on this please liaise with the eRostering Team.

If the employee is breastfeeding during Kit / SPLiT periods a discussion needs to take place to and facilities provided for them to breastfeed.

## **8.2. Annual Leave And General Public Holidays**

Annual Leave and general public holidays to which the employee is normally entitled will continue to accrue both during both paid and unpaid periods of leave within the scope of this policy and procedure

Employees on maternity/adoption leave, will continue to accrue annual leave and bank holidays whilst on maternity leave. If an employee is unable to take their annual leave, due to being on maternity/adoption leave, they will only be able to carry over up to 5.6 weeks of unused days/(pro rata for part time), into the next annual leave year.

It is recommended that managers are proactive in getting any carry over annual leave approved and actioned on HealthRoster prior to the employee returning from Maternity/Adoption leave

## **8.3. Sickness Absence During Any Period Of Leave Within The Scope Of This Policy And Procedure**

Statutory sick pay is not payable if the employee who is on any period of leave within the scope of this policy and procedure because statutory maternity / adoption/ shared parental leave / paternity pay supersedes the rate of Statutory Sick Pay

Any employee when due to return from any leave within the scope of this policy and procedure has reported themselves as sick, should follow the normal reporting processes in line with the Trust's Health and Wellbeing policy.

## **8.4. Pay Progression**

Maternity / adoption / shared parental leave, whether paid or unpaid, counts as service for annual increments (pay-step) and for the purposes of any service qualification period for additional annual leave. During Maternity / adoption / shared parental leave, should you be due a pay step progression, this will be calculated upon your return to work and any arrears owed will be paid

## **8.5. Pension Rights**

Pension rights and contributions will be dealt with in accordance with the provisions of the NHS Pension Scheme Regulations. Employees who are



members of the NHS Pension Scheme are advised to seek advice from the Pensions Department

Whilst on paid maternity / adoption / shared parental leave / paternity leave pension contributions will continue to be deducted based on the amount of occupational/statutory maternity / adoption / shared parental leave / paternity pay that is being paid

When taking unpaid maternity /adoption/ shared parental leave / paternity leave / parental leave, the employee will accrue pension contributions arrears. This is then recovered upon the employee returns to paid employment over the same number of months (or weeks) it has been accrued over

#### **8.6. 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

#### **8.7. Professional Registration**

Whilst on periods of leave outlined in this policy, it remains the employees responsibility to ensure their professional registration /revalidation is maintained, as part of their contractual obligation. Failure to do so may be seen as a breach of the employees contract of employment, which may lead to more formal action being taken

#### **8.8. Lease/Pool Cars**

If an employee has a lease car, payments must continue during any paid and unpaid maternity / adoption / shared parental leave / paternity 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 / adoption / shared parental leave / paternity leave.

Employees on any other Trust Salary Sacrifice Scheme are advised to contact the Trusts' Staff Benefits Team Advisor for guidance on how their pending maternity / adoption / shared parental leave / paternity leave might impact on their individual arrangements. ([uhdb.staffbenefits@nhs.net](mailto:uhdb.staffbenefits@nhs.net))

#### **8.9. 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.

#### **8.10. Employees On Fixed Term Or Training Contracts**

The following provisions apply only to employees who are on fixed term or training contracts

Employees subject to fixed-term or training contracts which expire after the 11th week before the expected week of childbirth, or the date of matching, or the 15th week before the baby's due date if applying via a surrogacy arrangement, and who satisfy the relevant conditions for pay and leave (set out in the relevant sections of this policy) shall have their contracts extended so as to allow them to receive the 52 weeks, which includes paid occupational and statutory maternity / adoption / shared parental pay, and the remaining 13 weeks of unpaid maternity / adoption / shared parental leave.

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

Employees on fixed term contracts who do not meet the 12 months continuous service condition, set out in section, may still be entitled to Statutory Maternity / Adoption / Shared Parental Pay.

If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth / adoption had not occurred, the employee will not have to repay any monies normally payable because of a failure to return to work.

#### **8.11. Staff On Rotational Training Contracts**

Employees on a planned rotation of appointments, with one or more NHS employer as part of an agreed programme of training, will have the right to return to work in the same post or in the next planned post. This is irrespective of whether the contract would otherwise have ended if pregnancy and childbirth / adoption / Shared parental leave had not occurred. In such circumstances the employees contract will be extended to enable them to complete the agreed programme of training

#### **8.12. Bank Workers**

Bank workers may still be eligible for Statutory maternity / adoption / shared parental pay, provided that they meet the qualifying conditions. The worker will need to complete the appropriate appendices attached to this policy, together with their manager, and submit this with the necessary documentary evidence to Pay Services. No later than 8 weeks prior to them starting their maternity / adoption / shared Parental leave.

#### **8.13. Other Childcare Information**

Derbyshire County Council and Staffordshire County Council Family information services can provide information on a number of schemes such as child minders, playgroups, day nurseries, out of school clubs, holiday pay schemes. Information below:

<b>Derbyshire County Council Family information services</b>	<b>Staffordshire County Council Family information services</b>
<p><b>Website:</b> <a href="#">Childcare Choices   30 Hours Free Childcare, Tax-Free Childcare and More   Help with Costs   GOV.UK</a></p> <p><b>Email:</b> info.fis@derbyshire.gov.uk</p> <p><b>Tel:</b> 01629 535793</p>	<p><b>Website:</b> <a href="#">Childcare and early education - Search Results   Staffordshire Connects</a></p> <p><b>Email:</b> eeac@staffordshire.gov.uk</p>

#### **8.14. Fraudulent Claims**

The Trust can, where there is a suspicion that fraudulent information may have been provided or where the organisation has been informed by the HMRC that a fraudulent claim was made, investigate the matter in line with the Trusts' Disciplinary Policy and Procedure. Depending on the nature of the breach, this may be reported to the Trust's Local Counter Fraud Specialist and lead to criminal proceedings and civil recovery of monies owed to the Trust.

#### **8.15. Grievances In Relation to The Application Of The Policy**

Any issues relating to management decisions on Application for Maternity Paternity, Adoption, Parental or Shared Parental Leave responsibilities should be raised with or by the immediate Manager in the first instance.

Failure to achieve a resolution, the employee may wish to raise the concerns through the Trust Concerns Resolution policy.