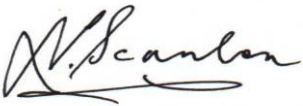


Policy Document Control Sheet

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Title	Parental Policy			
Version number	2.1			
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Date of Issue	Version Number	Status
2.9.16	1.0	New Policy
25.5.18	1.1	Superseded
24.3.20	2.0	Superseded
22.9.20	2.1	Approved

Table of Revisions

Date	Section	Revision	Author
2.9.16	New Policy	Merge of number of policies into one document: Maternity Leave, Parental Leave, Adoption/Surrogacy Leave, Shared Parental leave, Maternity Support/Paternity Leave	HR Business Partner
25.5.18		Updated to reflect the requirements of GDPR	HR Business Partner
24.3.20	9 All	New Section – Child Bereavement Leave General Housekeeping – 4.11, 4.16, 4.20	Joanne Benzies, HR Manager
22.9.20		Inclusion of entitlements under SCL Terms & Conditions	Joanne Benzies, HR Manager

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1 Introduction

County Durham & Darlington NHS Foundation Trust (herein after referred to as “the Trust” or “we”) have produced this policy to ensure all employees are aware of their entitlements in relation to all parental rights.

This policy sets out the provisions covered by the following legislation, Employment Relations Act 1999, Employment Act 2002, The Work and Families Act 2006, Children & Families Act 2014, Equality Act 2010 and National NHS (Agenda for Change) Terms and Conditions of Service

2 Purpose

To ensure there are policies in place for Maternity, Maternity leave, Paternity, Adoption/Surrogacy, Parental and Shared Parental Leave to enable all employees to properly balance their work and home lives.

The Trust aims to provide a fair, consistent and effective application of its parental provisions by ensuring that staff have the opportunity to integrate the development of a career with family responsibilities and are informed of their rights regarding maternity, paternity, adoption, surrogacy, parental and leave and pay.

3 Scope

This policy applies to all employees of the CDDFT Group.

The Trust Group includes County Durham & Darlington NHS Foundation Trust and its wholly owned subsidiaries, Synchronicity Care Limited (trading as CDD Services).

Any reference to the ‘Trust’ shall be interpreted as a reference to the Trust Group.

This policy/procedure also applies to persons who, although not employed by The Trust, have authorised access to the Internet through the computers owned or managed by The Trust. This includes staff working for any affiliated organisations.

This policy establishes a framework for the effective implementation of all parental rights in relation to leave and pay.

This policy provides guidance for managers and staff, the options available and the calculation of individual entitlements relating to the different types of leave as listed below:

- Maternity – Section 6.2
- Maternity Support/Paternity Leave– Section 6.3
- Adoption/Surrogacy Leave – Section 6.4
- Parental Leave – Section 6.5
- Shared Parental Leave – Section 6.6
- Child Bereavement Leave – Section 6.7

4 Definitions

Maternity Support/Paternity Leave – allows eligible employees to take leave to care for their baby or to support the mother following birth

Parental Leave – the right to take time off work to look after a child or make arrangements for the child's welfare.

Shared Parental Leave – enables those eligible to choose how to share the care of their child during the first year of birth or adoption

Child Bereavement Leave – enables employees who have experience the death of a child to take paid leave.

5 Duties

Line Managers:

- Responsible to actively manage situation of pregnant employee and consider any health & safety issues – undertake a risk assessment
- Ensure that all application forms for leave and pay under this policy are submitted in accordance with notification deadlines and completed correctly with all required supporting evidence
- Agree with the employee the arrangements for keeping in touch whilst on maternity/adoption leave

Payroll Team:

- To provide written confirmation of leave and payment entitlements for those employees taking maternity or adoption leave, or Shared Parental Leave

Employee:

- Comply with the notification requirements when applying for leave or pay under this policy
- Agree with their manager the arrangements for keeping in touch whilst on maternity/adoption leave
- Comply with the notice periods for notification of return to work and discuss with their manager in advance any requests to change their leave arrangements

6 Main Content of Policy

6.1 Entitlements

6.1.1 Trust Employees

Length of Employment	NHS Contractual Entitlements (Agenda for Change)		Statutory Entitlements
	<i>Returning for a minimum 3 months</i>	<i>Not intending to return to work</i>	
Maternity/Adoption			
Less than 26 weeks' Trust employment as the 15 th week before the EWC	As per statutory entitlements	As per statutory entitlements	Maternity; 52 weeks unpaid leave. Adoption; No Entitlement – employee could apply for annual leave, unpaid leave or unpaid parental leave
More than 26 weeks' Trust employment but less than 12 months NHS employment as at 15 th week before the EWC	As per statutory entitlements	As per Statutory entitlements	52 weeks leave, comprised as follows: 39 weeks paid leave <ul style="list-style-type: none"> • 6 weeks at 90% of average weekly earnings • 33 weeks at standard rate SMP 13 weeks unpaid
More than 12 months' NHS employment as at 11 th week before EWC	8 weeks full pay + 18 weeks half pay (plus SMP where eligible) + 13 weeks at SMP + 13 weeks unpaid	As per Statutory entitlements	52 weeks leave, comprised as follows: 39 weeks paid leave: <ul style="list-style-type: none"> • 6 weeks at 90% of average weekly earnings • 33 weeks at standard rate SMP 13 weeks unpaid
Ordinary Maternity Support /Paternity Leave			
Less than 26 weeks' Trust employment as at the qualifying week*	One weeks' unpaid leave or annual leave		NIL
More than 26 weeks' Trust employment as at the qualifying week*	As per Statutory Entitlements		Two consecutive weeks leave at the rate of Statutory Pay (SPP)

More than 12 months' continuous NHS employment as at the beginning of the week in which the baby is due/adopted child is placed	Two weeks leave at the rate of full pay (Full Pay is calculated using the average weekly earnings rule – the Trust will average the gross earnings over a period of eight weeks up to and including the last pay day before the end of the qualifying week.)	Two consecutive weeks leave at the rate of SPP
Additional Maternity Support /Paternity Leave		
26 weeks continuous Trust service by qualifying week	As per statutory entitlements	Maximum of 26 weeks to be taken between 20 weeks and one year after child born or placed for adoption, provided partner has returned to work. Paid at rate of Statutory Pay (SPP) until 39 th week of Maternity Allowance or Statutory Adoption Allowance

6.1.2 Synchronicity Employees

<p>MATERNITY & PATERNITY PAY</p>	<p>Maternity Pay</p> <p>Statutory entitlement as follows:</p> <ul style="list-style-type: none"> • Up to 52 weeks' maternity leave. • The first 26 weeks is known as 'Ordinary Maternity Leave', the last 26 weeks as 'Additional Maternity Leave'. <p>Statutory Maternity Pay can be paid for up to 39 weeks, as follows:</p> <ol style="list-style-type: none"> a) the first 6 weeks: 90% of average weekly earnings (AWE) before tax b) the remaining 33 weeks: statutory rate (£148.68 as at April 2020) or 90% of AWE (whichever is lower) <p>Paternity – as per statutory requirements – 1 or 2 weeks leave paid at statutory rate (£148.68 as at April 2020) or 90% of AWE (whichever is lower)</p> <p>Parental Leave As per statutory requirements</p>
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6.2 Maternity Leave & Payments

All pregnant employees are entitled to 52 weeks statutory maternity leave (SML).

Maternity pay in the NHS is made up of Statutory Maternity Pay (SMP) and also payments calculated in accordance with Section 15 of the Agenda for Change: NHS Terms and Conditions of Service, which are incorporated into individuals' terms and conditions of service. The calculation for maternity pay is based on the last two months up to and including the pay day before the end of the qualifying week (15th week before the EWC).

6.2.1 Continuous NHS Service

For the purpose of calculating whether an employee is entitled to occupational maternity pay, continuous service with one or more NHS employers will be taken into consideration. NHS employers includes: health authorities, NHS Boards, NHS Trusts, Primary Care Trusts and Northern Ireland Health Service.

A break in service of three months or less will be disregarded (though not count as service).

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

- employment under the terms of an honorary contract;
- employment as a locum with a general practitioner for a period not exceeding twelve months;
- a period of up to twelve months spent abroad as part of a definite programme of postgraduate training on the advice of the Postgraduate Dean or College or Faculty Advisor in the speciality concerned;
- a period of voluntary service overseas with a recognised international relief organisation for a period of up to twelve months which may exceptionally be extended for a further twelve months at the discretion of the employer which recruits the employee on her return;
- absence on an employment break scheme in accordance with the provisions of Section 34 of the Agenda for Change Terms and Conditions Handbook;
- absence on maternity leave (paid or unpaid) as provided for under this agreement.

6.2.2 Maternity Payment Arrangements

An employee may opt to have their entitlements paid as a fixed amount spread equally over the maternity leave period. This provision will only be applied to the NHS Maternity Pay element. If employees choose to receive their payments in this way, there may be implications for their pension contributions, and they should contact the Payroll Department for advice.

6.2.3 Statutory Maternity Pay (SMP)

SMP is a legal entitlement which employers are required to pay on behalf of the Government, as laid out in Section 4. The standard rate changes annually and details of the current rate are available from the HR/Payroll Departments and on the Department for Work and Pensions website at <https://www.gov.uk/government/organisations/department-for-work-pensions>.

Employees will qualify for SMP if:

- they have 26 weeks continuous Trust service at the 15th week before EWC
- they are still employed by the Trust in the 15th week before EWC
- they earn more than the Lower Earnings Limit for National Insurance i.e. normally pay NI contributions (this figure is available from the HR/Payroll sections)
- they are still pregnant at the 11th week before EWC
- they have stopped working
- they have complied with the rules for notification and medical evidence

If they do not qualify for SMP they will be provided with a Form SMP1 to enable them to apply to the local Benefits Agency for Maternity Allowance. Any benefits they receive from the Agency will be deducted from their NHS Maternity Pay during full pay and also during half pay, but only to the extent that Agency benefit plus half pay does not exceed normal pay.

6.2.4 Minimum Payment Option

If an employee would like to return to work but is unsure about accepting their full entitlement because they may be unable to return, they may wish to consider the Minimum Payment Option. Under this option, the Trust will only pay the minimum amount to which they would be entitled by law i.e. SMP, where eligible. The balance they would have received under the NHS scheme would be withheld until the maternity leave had finished and they had returned to work for the minimum three month period.

6.2.5 Commencement of Maternity Leave

An employee can begin her maternity leave any time between the eleventh week before the Expected Week of Childbirth (EWC) and the Expected Week of Childbirth.

6.2.6 Compulsory Maternity Leave

Employees must take a minimum of 2 weeks leave after giving birth. This is known as the “compulsory maternity leave period”. Any employer who allows a woman to work during the compulsory maternity leave period will be guilty of a criminal offence and liable to a fine.

6.2.7 Obligations of Line Managers

A manager may hear informally or through colleagues that one of his/her members of staff is pregnant. As soon a manager is aware that an employee is pregnant then they have a responsibility to actively manage the situation and to consider any health and safety issues (See risk assessment – see section 5.8).

Following discussion the employee and manager should complete the Maternity Leave Application Form and send to Payroll. At this time the manager and employee should discuss annual leave arrangements in line with arrangements in section 14.

Before going on leave, the manager and the employee should also discuss and agree any voluntary arrangements for keeping in touch during the employee's maternity leave including. (See Keeping in Touch days – KIT - Section 13.)

Payroll will confirm in writing:

- the employee's paid and unpaid leave entitlements under this agreement (or statutory entitlements if the employee does not qualify under this agreement);
- unless an earlier return date has been given by the employee, her expected return date based on her 52 weeks paid and unpaid leave entitlement under this agreement; and
- the length of any period of accrued annual leave which it has been agreed may be taken following the end of the formal maternity leave period
- the need for the employee to give at least 28 days' notice if they wish to return to work before the expected return date.

6.2.8 Risk Assessments

Whilst many employees inform their manager of their pregnancy in the early stages they are not actually obliged to do so. However, wherever possible employees should be encouraged to be open about their pregnancy in order to enable consideration is given to their health & safety during pregnancy.

Managers should ensure that regular workplace risk assessments continue to take place whilst the pregnant employee is at work. Where risks are identified, which may adversely affect the employee's health and safety or that of their baby, managers should consider the following:

- temporarily adjust their working conditions and/or hours of work,
- arrange suitable and appropriate alternative work, where it is available, for which they should receive her normal rate of pay even though the work done might normally attract a lower rate of pay,
- exclude them from work on their full pay for as long as necessary to protect the safety or health of the employee and their baby.

If an expectant employee who works at night obtains a medical certificate stating that night work could affect their health and safety, they must either be offered suitable alternative daytime work if any is available, or excluded from work as above.

Where advice is required from the Occupational Health department, the Pregnancy Risk Assessment form at appendix C should be used, supported by a formal referral.

For guidance on Risk Assessments managers are advised to refer to the Trust's Health & Safety Policy.

6.2.9 Pre-term birth

Where an employee's baby is born alive prematurely, the employee will be entitled to the same amount of maternity leave and pay as if her baby was born at full term.

Where an employee's baby is born before the 11th week before the expected week of childbirth and the employee has worked during the actual week of

childbirth, maternity leave will start on the first day of the employee's absence.

Where an employee's baby is born before the 11th week before the expected week of childbirth and the employee has been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start the day after the day of birth.

Where an employee's baby is born before the 11th week before the expected week of childbirth and the baby is in hospital, subject to the agreement of their manager, the employee may split their maternity leave entitlement, taking a minimum period of two weeks' leave immediately after childbirth and the rest of their leave following her baby's discharge from hospital.

As soon as is reasonably practicable the employee must notify their manager of the date of birth in order to preserve their rights to maternity leave and pay.

6.2.10 Still births

Where an employee's baby is still born after the 24th week of pregnancy, the employee will be entitled to the same amount of maternity leave and pay as if their baby was born alive. Employees should still indicate their intended date of return to work as it may be different to the date which was originally notified. As soon as an employee returns to work, maternity pay will cease.

6.2.11 Miscarriage

Where an employee has a miscarriage before the 25th week of pregnancy there will be no entitlement to maternity leave/SMP and normal sick leave provisions will apply in accordance with their terms and conditions of service.

In all cases of miscarriage or still birth support is available via Occupational Health Service and Staff Counseling services.

6.2.12 Sickness Absence During Pregnancy

Pregnancy Related Illness

If an employee is away from work ill, or becomes ill, with a pregnancy related illness, during the last four weeks before the EWC, their absence shall be treated as maternity leave, and the maternity leave period starts automatically on the beginning of the 4th week before EWC or the day after the first day of absence.

Absence prior to the last four weeks before EWC, supported by a medical certificate or self- certificate, shall be treated as sick leave in accordance with the normal sick leave provisions.

Odd days of pregnancy related illness during this period may be disregarded if the employee wishes to continue working until the maternity leave start date previously notified to her manager.

Absence Certified as unrelated to pregnancy

If an employee is off work ill, or becomes ill during the last four weeks before the expected week of Childbirth, for a reason unconnected with the pregnancy, then the absence shall be treated in accordance with the normal

provisions for paid sickness absence, provided the absence is covered by a medical certificate. Such absence shall be treated as sick leave until the date previously notified as the commencement of maternity leave, or if they have yet to notify a date, on the date of the birth.

Absence following maternity leave

If an employee submits a self-certificate, or a medical certificate from a registered medical practitioner, covering the period from the date they have notified the Trust that they will return to work they will be entitled to sick leave in accordance with the normal sick leave provisions.

6.2.13 Additional Paternity Leave

From 3 April 2011 fathers will have the opportunity to take additional paternity leave provided that the mother has returned to work before using her full entitlement to maternity leave – see Maternity Support (Paternity) Leave/Additional Paternity Leave - section 6.

6.2.14 Ante-Natal/Postnatal Care

All pregnant employees are entitled to reasonable paid time off to attend ante-natal clinic appointments on the advice of a registered medical practitioner, registered midwife or registered health visitor. Antenatal Care can include medical examinations, relaxation classes and parent craft classes.

This entitlement is regardless of length of service or hours of work.

Employees must be able to produce for their Head of Department, on request, after the first appointment:

- a certificate from a registered medical practitioner (GP), registered midwife or registered health visitor confirming that they are pregnant, and
- an appointment card or some other document showing an appointment has been made
- be able to show that the appointment has been made on the advice of a duly qualified doctor, midwife or health visitor.

Employees should apply to their manager for time off in the usual way on each occasion and should always request such time off in advance.

No payment shall be made in respect of time spent on antenatal care outside normal working hours.

Fathers and partners (including spouse or civil partner of the mother and a person, of either sex, in a long-term relationship with the mother) are encouraged to attend antenatal appointments and where possible these should be outside of working time. Where this is not possible unpaid leave can be taken for up to two antenatal appointments. There is no qualifying week to exercise this right. Agency workers must have worked in the same job for the Trust for 12 weeks. A declaration form for completion can be found on Staff Net.

Women who have recently given birth and have returned to work after the 2-week compulsory maternity leave period should have paid time off during the

6-week post-natal period for attendance at health clinics (not applicable for staff who retain local contracts).

6.2.15 Breastfeeding at Work

It is recognised that some new mothers continue to breastfeed or express milk, even after they have returned to work and we support our staff to do this. Employees to whom this applies should talk to their manager about personal requirements, such as facilities needed and breaks, so that they can come to some agreement (see guidance at Appendix D).

6.2.16 General Points

Childcare Vouchers – employees are entitled to continue to receive childcare vouchers during the maternity leave period, however, as Maternity Pay is calculated on earnings after childcare vouchers are deducted, the financial impact of continuing to receive these must be considered. For those employees in salary sacrifice schemes the SMP will not be reduced by a salary sacrifice. However any NHS Maternity Pay above the level of SMP will be subject to salary sacrifice. Employees are advised to contact the Payroll Department or the Trust's Childcare Co-coordinator for advice.

Employees on Fixed Term or Training Contracts - employees on a fixed term contract which expires after the 11th week before the EWC:

- If they satisfy the qualifying conditions for NHS Maternity Pay, they will have their contract extended to enable them to receive the 52 weeks entitlement, which includes NHS and statutory maternity pay and the remaining 13 weeks of unpaid maternity leave
- If they do not satisfy the qualifying conditions for NHS Maternity Pay, they may be entitled to SMP

If there is no right of return to be exercised because the contract would have ended if pregnancy had not occurred, then the condition requiring them to repay maternity payments (as outlined in section 12.1) will not apply.

Redundancy while on Maternity Leave entitles you to special rights. As a statutory requirement you will be offered redeployment to any suitable job within the Trust, even if there are other employees that may be suitable for the job.

Bank/Casual Employees - in some circumstances Bank /Casual Employees may be entitled to SMP. There is no entitlement to NHS Maternity Pay.

6.3 Maternity Support/Paternity Leave

Maternity Support/Paternity Leave allows eligible employees to take leave to care for their baby or to support the mother following birth.

This outlines the provisions for the two types of Maternity Support/Paternity Leave available to employees:

- Ordinary Maternity Support/Paternity Leave and Pay (section 6.1)
- Additional Maternity Support /Paternity Leave (section 6.3)

Where a couple adopts a child, they may choose who will take Maternity Support/Paternity Leave and who will take Adoption Leave.

Ante-natal Classes - where a partner wishes to attend ante-natal classes, this should be accommodated. Where possible these classes should be outside of working time, however, where this is not the case, reasonable unpaid time or paid time for up to two ante-natal appointments may be given at the discretion of the Manager.

The Qualifying week for calculation payment purposes is the end of the 15th week before the Expected Week of Childbirth (EWC) or in Adoption Cases, the end of the week in which notification of adoption is given.

QUALIFICATION An employee is eligible if they are the baby's biological father or adopter of the child, or the mother's or adopter's husband, partner or civil partner or they have or expect to have responsibility for the child's upbringing.

6.3.2 Leave

Maternity Support/Paternity Leave can be taken for one week or two consecutive weeks. There are no provisions to take the leave as odd days or two separate weeks. If only one week is taken, there will be no entitlement to take the other week at a later date..

Maternity Support/Paternity Leave is available to staff at the time of the birth/placement or, if more helpful, it can be taken later but must be completed within 56 days of the birth/adoption placement. Leave cannot start before the baby is born or before the adoption placement.

6.3.3 Payments

The standard rate of Statutory Pay changes annually and details of the current rate are available from the HR/Payroll Departments or on the Department for Work and Pensions website at <https://www.gov.uk/government/organisations/department-for-work-pensions>.

Employees who have average weekly earnings below the lower earnings limit will not qualify for Statutory Pay but will be paid 90% of their average weekly earnings.

6.3.4 Additional Maternity Support/Paternit Leave and Pay

Births

For an employee to qualify for additional Maternity Support/Paternity Leave they must:

- be the father of the baby and/or the husband or partner (including same-sex partner or civil partner) of a woman who is due to give birth - a partner is someone who lives with the mother of the baby in an enduring family relationship but not an immediate relative
- have, or expect to have, the main responsibility for the baby's upbringing, apart from any responsibility of the mother
- have at least 26 weeks' continuous employment with you ending with the qualifying week - the 15th week before the expected week of childbirth

- continue to be employed by the Trust work from the qualifying week into the week before they wish to take additional Maternity Support/Paternity Leave (weeks run Sunday to Saturday).
- be taking the time off to care for the baby

The baby's mother must also:

- be entitled to statutory maternity leave, statutory maternity pay or maternity allowance
- resume working at least two weeks after the child's birth

Adoption

An employee qualifies for additional Maternity Support/Paternity Leave when adopting a child if:

- they are married to or the partner or civil partner of the child's co-adopter (the co-adopter is the adopter who has chosen to take adoption leave)
- for UK adoptions, they have been matched with a child for adoption - the qualifying week is the week they are matched for adoption
- for overseas adoptions, the child must have entered Great Britain - the qualifying week is the later of either the week official notification was received, or the week the employee had been employed by the Trust for 26 weeks
- they did not take statutory adoption leave or pay
- they have been continuously employed by the Trust for at least 26 weeks ending with their qualifying week - for overseas adopters this must be before the child entered Great Britain
- they continue to be employed by the Trust from the qualifying week into the week before they wish to take additional Maternity Support /Paternity Leave (weeks run Sunday to Saturday)
- they will be taking time off to care for the child

The child's co-adopter must also be entitled to adoption leave or pay.

6.3.5 Leave

Additional Maternity Support /Paternity Leave is for a maximum of 26 continuous weeks.

If your partner has returned to work, the leave can be taken between 20 weeks and one year after your child is born or placed for adoption.

You cannot start your Additional Maternity Support/Paternity Leave or get any Statutory Pay if the mother or adopter is;

- still on a period of annual, sick, or parental leave which directly follows maternity or adoption leave.
- receiving Statutory Maternity Pay or Maternity Allowance or Statutory Adoption Pay during this time.

Once your partner has returned to work your leave and pay entitlement is not affected by any further annual leave or sick leave that your partner takes.

Employees must give the Trust written notice of 8 weeks before the date they wish to start Additional Maternity Support/Paternity Leave (please use the

form outlined in Appendix G). The Trust will respond in writing within 28 days outlining the date when your leave and pay will start and end.

Within 28 days of receiving your notice the Trust may ask for;

- A copy of the child's birth certificate or adoption matching certificate
- The employment details of the mother or adopter that has taken adoption leave.

This information must be passed to the Trust within 28 or days or you may be unable to take your leave.

If you are no longer eligible for Additional Maternity Support/Paternity Leave you must give the Trust 6 weeks' notice. For example, you may no longer be eligible if your partner does not return to work as planned or because you will not be caring for the child. If less than 6 weeks' notice is given the Trust may enforce a period of unpaid leave. This would run no longer than 6 weeks from the date you informed the Trust of your change.

6.3.6 Payments

To be eligible for Additional Statutory Pay;

- You must earn at least the lower earnings limits (LEL) for National Insurance contributions (If you are unsure whether this applies to you, please contact pay roll services for guidance).
- The mother or adopter must have returned to work (the mother/adopter can return to work no earlier than two weeks after the child was born or placed for adoption) and stopped claiming any relevant pay, with at least two weeks of unexpired Statutory Pay period remaining.

You must intend to care for the child during your Additional Statutory Pay Period.

If you are adopting from overseas the qualifying week for Additional Statutory Maternity Support /Paternity Pay will be the later of either;

- The week official notification was received
- The week you have 26 weeks' continuous service

Additional Statutory Pay is only payable to you during your partner's 39 week Maternity Allowance, Statutory Maternity or Statutory Adoption Pay period.

If eligible for Additional Statutory Pay, you will receive the current weekly rate of ASPP at the time of your payment, or 90% of your average weekly earnings, whichever is less.

6.3.7 Unpaid Additional Maternity Support/Paternity Leave

You have the right to unpaid Additional Maternity Support/Paternity Leave if you meet the eligibility criteria for the leave but not the pay. All Additional Maternity Support /Paternity Leave taken after the end of Statutory Maternity pay, Maternity Allowance or Statutory Adoption pay period is unpaid.

If you do not qualify for any form of Additional Maternity Support/Paternity Leave (paid or unpaid) you may be able to take annual leave or request a

more flexible working pattern. Please see the Trust's Flexible Working and Annual Leave policies.

If your application for Additional Statutory Maternity Support/Paternity Pay is not granted the Trust will give you a copy of the ASPP1 form explaining the reason why.

6.4 Adoption/Surrogacy Leave

Adoption leave is an entitlement available for all employees wishing to adopt a child through an approved adoption agency and where they have primary care responsibilities for that child or to someone having a baby via surrogacy.

6.4.1 Eligibility Criteria

All employees are entitled to take 52 weeks adoption leave providing they have been newly matched with a child for adoption by an adoption agency or for overseas adoptions, been issued with a certificate by a central authority confirming eligibility to adopt.

Proof of surrogacy must be provided via a written statement to confirm employees intend to apply for a parental order in the 6 months after the baby's birth.

To be eligible for adoption/surrogacy pay, the employee must have:

- Been employed by the Trust without a break for at least 26 weeks up to and including the week the adoption agency told the employee they had been matched with a child for adoption or, in the cases of surrogacy, the date the child is born.
- Been earning a minimum average pay as stipulated by the Department of Work and Pensions (see www.direct.gov.uk for current minimum pay requirements)
- Notified the Trust in accordance with the notification requirements detailed below

An employee is not eligible for adoption/surrogacy leave or pay if they:

- Arrange a private adoption
- Become a special guardian
- Adopt a stepchild

Foster carers who go on to become adopters for a child they have fostered (after being matched with the child by a UK adoption agency) will qualify for statutory adoption leave and pay if they satisfy relevant eligibility criteria. The usual notification requirements apply.

6.4.2 Submitting An Application

Only one period of leave will be available irrespective of whether more than one child is placed for adoption as part of the same arrangement.

If a couple is jointly adopting they can choose which of them will take the adoption leave and pay. The co-adopter could have the right of up to 26 weeks additional Maternity Support/Paternity Leave. This is in addition to the two weeks Statutory maternity support/Paternity Leave they could be entitled to. Additional Maternity Support/Paternity leave can be taken

between 20 weeks and one year of the placement. (See Maternity Support/Paternity leave Policy).

Leave should also be granted for official meetings in the adoption process, as well as time off after the adoption itself. This may be paid at the discretion of the manager.

The employee and manager must complete the application Adoption/Surrogacy Leave application form at appendix H, and forward to the Payroll Department. Written confirmation of leave and pay entitlements will be sent to the employee within 28 days outlining the date on which they expect the employee to return to work if the full adoption entitlement is taken or an earlier date if indicated on the application form.

If an employee wishes to return to work before the planned end of their adoption/surrogacy leave period they must give 8 weeks' notice of the new date they intend to return. An employer can accept a shorter period of notice.

Employees are able to change the date on which they wish adoption/surrogacy leave to start providing they notify their manager by whichever is the earlier of:

- 28 days before their adoption/surrogacy leave start date
- 28 days before their new adoption/surrogacy leave start date

6.4.3 Leave

Adoption/Surrogacy Leave and Pay can start:

- From the date the child starts living with you or
- Up to 14 days before the date you expect the child to start living with you

Adoption/Surrogacy Leave can start on any day of the week.

If the child's placement ends during the adoption leave period, the employee will be able to continue adoption leave for up to eight weeks after the end of the placement.

6.4.4 Payments

Pay in the NHS is made up of Statutory Adoption Pay (see <https://www.gov.uk/government/organisations/department-for-work-pensions> for current rates) and also payments calculated in accordance with Section 15 of the Agenda for Change: NHS Terms and Conditions of Service, which are incorporated into individual's terms and conditions of service.

Employees with less than 26 weeks continuous service will be entitled to up to 52 weeks unpaid.

Employees who are adopting and who have been continuously employed by the Trust for 26 weeks at the qualifying week are entitled to:

- 52 weeks statutory adoption leave, which includes
- 39 weeks paid at the rate of Statutory Adoption Pay (if eligible)

Employees with more than 12 months continuous NHS service ending with the week in which they are notified of being matched with the child for adoption or in surrogacy arrangements are entitled to the following:

- 8 weeks full pay, plus
- 18 weeks half pay (plus SAP if eligible) plus
- 13 weeks at the rate of Statutory Adoption Pay, plus
- 13 weeks unpaid leave

A summary of entitlements is shown in the chart at Section 4 above.

An employee may opt to have their entitlements paid as a fixed amount spread equally over the adoption/surrogacy leave period. Note that this provision will only be applied to the NHS contractual adoption pay element. If they choose to receive their payments in this way, there may be implications for their pension contributions, and they should contact the Payroll and Pensions Department for advice.

Statutory Adoption Pay (SAP)

SAP is a legal entitlement which employers are required to pay on behalf of the Government. It can be paid for 39 weeks – 6 weeks at 90% of employee's average weekly earnings, plus 33 weeks at standard rate, or a rate equivalent to 90% of average earnings, whichever is the lower. The standard rate of Statutory Adoption Pay changes annually and details of the current rate are available from the HR or Payroll Departments and on the website: www.direct.gov.uk

If they do not qualify for SAP they will be provided with a Form SAP1 to enable them to apply to the local Benefits Agency. Any benefits they receive from the Agency will be deducted from their NHS Adoption Pay during full pay and also during half pay, but only to the extent that Agency benefit plus half pay does not exceed normal pay.

Qualifying weeks for calculating payments

The calculation for pay is based on the average weekly earnings over the period of at least eight weeks up to and including the last normal pay day to fall before the first day of the week after the week in which the adopter is notified of having been matched with a child for adoption or the day the child is born in surrogacy arrangements.

Minimum Payment Option

If an employee would like to return to work but is unsure about accepting their full entitlement because they may be unable to return, they may wish to consider the Minimum Payment Option. Under this option, the Trust will only pay the minimum amount to which they would be entitled by law i.e. SAP where eligible. The balance they would have received under the NHS scheme would be withheld until the adoption leave had finished and they had returned to work for the minimum three month period.

6.4.5 Employees On Fixed-Term Contracts

Employees on a fixed term contract which expires after the matching of the child is notified, if they satisfy the qualifying conditions for NHS Adoption pay, will have their contract extended to enable them to receive the 52 weeks

leave, which includes paid contractual and statutory adoption pay and the remaining 13 weeks of unpaid adoption leave.

If they do not satisfy the qualifying conditions for NHS Adoption pay, they may be entitled to SAP.

If there is no right to return to work because the contract would have ended if the adoption had not occurred, then the condition requiring the employee to repay adoption payments (as per section 6.7) will not apply.

6.4.6 Bank/Casual Workers

In some circumstances bank/casual workers may be entitled to SAP. There is no entitlement to NHS Adoption Pay.

6.5 Parental Leave

This is the right to take time off work to look after a child or make arrangements for the child's welfare. Parents or legal guardians can use it to spend more time with their children and strike a better balance between their work and family commitments.

The leave is unpaid.

Employees remain employed during periods of parental leave. The Trust must continue to honour any terms and conditions relating to notice, redundancy, disciplinary and grievance procedures. The Trust also remains bound by its implied obligation of trust and confidence.

Employees remain bound by their implied obligation of good faith, and any terms and conditions relating to disclosure of confidential information, notice of termination, the acceptance of gifts or other benefits, and participation in any other business.

6.5.1 Eligibility Criteria

Employees qualify if all of these apply:

- they're named on the child's birth or adoption certificate
- they have or expect to have parental responsibility
- they're not self-employed or a 'worker' – e.g. an agency worker or contractor
- they're not a foster parent (unless they've secured parental responsibility through the courts)
- the child is under 18

Employers can ask for proof (like a birth certificate) as long as it's reasonable to do so – e.g. they can't ask for proof each time an employee requests leave.

6.5.2 Entitlement

Employees get 18 weeks unpaid leave in total for each child up until the child's 18th birthday. In the case of multiple births (e.g. twins) each parent is entitled to 18 weeks leave for each child.

For each adopted child employees receive 18 weeks up to their child's 18th birthday or 5th anniversary of their adoption (whichever comes first)

In the case of part time staff, leave is proportional depending upon the number of hours worked.

The leave should be taken in blocks of at least one week depending upon what has been agreed with their line manager. Arrangements will be made as flexible as possible for parents of children with disabilities and in these circumstances single days may be taken instead.

Leave is limited to four weeks per annum per child. A 'week' equals the length of time an employee normally works in a week.

Where an employee works an irregular shift pattern, any blocks of leave taken should be taken as a typical pattern within the rota.

It is good practice for managers to maintain contact with employees whilst they are on parental leave. The manager can ask to see a birth certificate or papers (original documents) confirming a child's adoption or the date of placement.

6.5.3 Process

Appeals

Appeals against decisions to postpone an application for parental leave should be lodged in writing to the Human Resources Business Partner (Operations) within fourteen (14) calendar days of the date of the original decision letter, stating the substantive reason(s) for the appeal.

An appeal will be dealt with by a more senior manager than the manager who made the decision to postpone the parental leave and will be conducted in accordance with the appeals procedure at appendix K.

A representative from HR Management will be present at an Appeal Hearing to provide procedural advice. However, the decision will be taken by the Manager hearing the Appeal.

The decision of the appeal hearing will be confirmed in writing to the employee within fourteen (14) calendar days of the verbal decision.

The appeal hearing is the final stage of the procedure and any decision will be final.

Under the ACAS Code of Practice 2009 - Disciplinary and Grievance Procedures, the employee has a right to be accompanied by a 'companion' at formal meetings. The employee may be accompanied by a trade union representative, an official employed by a trade union or a colleague from within the Trust (or within an integrated service) but not someone acting in a legal capacity. Employees may only have one companion and the companion should not be someone who would prejudice the investigation/hearing process.

A Trust employee who has agreed to accompany a colleague (also employed by the Trust) is entitled to take reasonable paid time off to fulfill that responsibility, where possible.

The companion should be allowed to address the hearing and to put and sum up the employee's case, but does not have the right to answer questions on the employee's behalf.

It is the employee's responsibility to arrange their own representation.

6.5.4 Postponement Of Leave

If the Trust considers that an employee's absence would unduly disrupt the service, then it can postpone the leave for no longer than 6 months after the beginning of the period that the employee originally wanted to begin their leave.

Examples that would justify a postponement are:

- work is at a seasonal peak
- where a significant proportion of staff apply for leave at the same time
- when the employee's role is such that his or her absence at a particular time would unduly harm the service.

Leave can't be postponed (delayed) if:

- the employer doesn't have a 'significant reason' – e.g. it would cause serious disruption to the business
- it's being taken by the father or partner immediately after the birth or adoption of a child
- it means an employee would no longer qualify for parental leave – e.g. postponing it until after the child's 18th birthday

If it's postponed, the manager will:

- will discuss the matter with the employee and confirm the postponement and reasons for the postponement in writing no later than 7 calendar days after receiving the employee's notice to take leave
- will set out the new dates for the leave – these must be within 6 months of the requested start date and the length of the leave will be equivalent to the employee's original request

The Trust cannot postpone when an employee applies to take parental leave immediately after the birth or adoption of a child, unless at the request of an employee.

6.6 Shared Parental Leave

SPL enables eligible mothers, fathers/partners and adopters, whose babies are due or who will adopt a child on or after 5 April 2015, to choose how to share the care of their child during the first year of birth or adoption.

SPL may be taken at any time within the period which begins on the date the child is born or date of the placement.

Employees may be entitled to SPL and Statutory Shared Parental Pay (ShPP) if:

- Their baby is due on or after 5 April 2015 as per the MATB1 form
- They adopt a child on or after 5 April 2015

SPL will still apply to babies who were due on or after 5 April 2015 but arrive

prior to this date.

Employees can commence SPL if:

- They are eligible (see section 8.1); and
- They or their partner end (“curtail”) their maternity or adoption leave or pay early (section 8.3).

The remaining leave will be available as SPL. The remaining pay may be available as ShPP.

Employees have the right to submit a statutory maximum of 3 notifications/requests specifying leave periods they are intending to take (see section 8.4). SPL must be taken in blocks of at least one week. Parents can choose how much of the SPL each of them will take.

SPL and ShPP must be taken between the baby’s birth and first birthday (or within one year of adoption).

6.6.1 Eligibility

To qualify for SPL an employee must share care of the child with either:

- a husband, wife, civil partner or joint adopter;
- the other child’s parent;
- a partner (if they live with the employee and the child).

A mother must:

- have a partner who lives with the mother/primary adopter and with the child.
- be entitled to either maternity/adoption leave or to statutory maternity/adoption leave or maternity allowance.
- have curtailed, or given notice to reduce, their maternity/adoption leave, or their pay/allowance (if not eligible for maternity/adoption leave).

A parent intending to take SPL must:

- be an employee
- share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption.
- have properly notified the Trust of their entitlement and have provided the necessary declarations and evidence (see Section 8.9).

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP is required to satisfy the “continuity of employment test” and their partner must meet the “employment and earnings” test:

Continuity of Employment Test

An employee must have a minimum of 26 weeks' service at the end of the 15th week before the child’s expected due date or by the date an employee is matched with their adopted child and is still working for the Trust at the start of each leave period

Employment and Earnings Test

An employee's partner must, in the 66 weeks leading up to the child's expected due date/matching date, have worked for at least 26 weeks and earned at least £30 (correct as of 2015) a week on average in 13 of the 66 weeks. This can be employed, self-employed or as an agency worker.

6.6.2 Shared Parental Pay (ShPP)

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

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

An eligible employee may be entitled to take up to 37 weeks ShPP. The amount of weeks ShPP available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

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

Any ShPP due will be paid at a rate set by the Government for the relevant tax year.

6.6.3 Entitlement to shared parental leave and pay

If an employee is eligible to SPL then they may be entitled to take up to a maximum of 50 weeks SPL during the child's first year.

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

If an employee 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.

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

If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity

Allowance (MA), they must reduce their entitlement to less than the 39 week paid period (this would only apply in cases where the partner of the Trust employee were not entitled to the leave, i.e. agency workers or self-employed). If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

SPL can commence as follows:

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

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

SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see section 8.4 below) but must be taken in blocks of one week.

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

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

6.6.4 Notification requirements for shared parental leave and pay

Notification of curtailment of Maternity/Adoption Leave

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

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

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

Following receipt of a notice of curtailment of Maternity/Adoption Leave the manager must copy the documentation to the Payroll Department (within two working days).

Notifying the Trust of an entitlement to Shared Parental Leave/Pay

At least eight weeks before an employee can take a period of SPL or claim ShPP an employee who is intending to take SPL and/or ShPP must complete a SPL Notification Form and submit to their line manager.

In addition to the completion of the SPL Notification Form notifying the line manager of their entitlement to SPL/ShPP, an employee must also provide notice to take the leave. Notice to take leave should be provided at the same time as their notice of entitlement to SPL. Completion of the SPL Notification Form fulfills notification requirements.

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

If the individual's right to work is via a Certificate of Sponsorship they must also notify the Human Resources Department in order that they can ensure compliance with UKBA regulations.

An employee has the right to submit up to three separate notifications (this includes variation, cancellation notifications). An employee must specify the leave periods intended to be taken. Each notification may contain either:

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

Any variation or cancellation notification made by the employee (which must be signed by both parties where it alters the total amount of SPP each party will take), including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. Following receipt of a variation or cancellation notice the manager must copy the documentation to the Payroll Department (within two working days).

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.

SPL can only be taken in complete weeks but may begin on any day of the week (i.e. if a week of SPL began on a Tuesday it would end on a Monday). Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

SPL can only be taken in complete weeks but may begin on any day of the week.

Where a return to work is between periods of SPL, the next period of SPL can commence on any day of the week.

SPL can be taken at different times to an individual's partner or share the leave between the two persons. If a person chooses to take their leave at

the same time then during the eligible weeks they would both be in receipt of ShPP.

6.6.5 Continuous leave notifications

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

An employee has the right to take a continuous block of leave notified in a single notification, providing the request:

- a) Does not exceed the total number of weeks of SPL available to the employee and
- b) the Trust has been given at least eight weeks' notice.

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

6.6.6 Discontinuous leave notifications

A single notification may also contain a request for two or more periods of discontinuous leave, (i.e. a set number of weeks of leave over a period of time, with breaks between the leave where an employee returns to work);

The Trust will consider requests for discontinuous leave but retains the right to refuse such a request.

Where a request for discontinuous leave is made by an employee, there will be a 14 day discussion period during which the Trust and/or the employee may arrange a meeting to discuss the detail of the request. The meeting will be made with the aim of agreeing an arrangement that meets both the needs of the employee and the service.

If a discontinuous leave pattern is refused the employee may:

- a) withdraw the request without detriment on or before the 15th day after the notification was given; or
- b) take the total number of weeks requested in a single continuous block.

If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to confirm when they would wish the leave period to commence. Leave cannot commence prior to 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.

Upon receipt of such notification(s), the line manager should arrange to discuss the request with the employee at the earliest opportunity. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can be approved without further discussion a meeting may not be necessary. Where a meeting does take place, although not part of a formal procedure, the employee may be accompanied by a trade union representative, an official employed by a trade union or a colleague from within the Trust but not someone acting in a legal capacity.

Where a meeting is required it should take place in private and be arranged in advance.

The purpose of the meeting is to discuss in detail, the leave requested and what will happen while the employee is away from work. Where the request is for discontinuous leave the discussion may focus on;

- a. how the leave proposal could be agreed;
- b. whether a modified arrangement could be agreed and;
- c. what the outcome may be if no agreement is reached.

Once a decision is reached, the line manager must indicate on SPL Notification Form whether the request has been accepted or rejected and forward it to Human Resources Team. The employee should be informed verbally by their line manager of the outcome prior to the Human Resources Team being notified.

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

Employees should be notified of the outcome of their request at the earliest opportunity but no later than 14 calendar days following receipt of their notification. Line managers should do this by completing the appropriate section on the SPL Notification Form providing a copy to the employee.

Once an application is agreed a copy of the form should be sent to the Payroll Department by the line manager and a copy sent to the sources department.

An ESR 2 form must be completed by the line manager at the start and end of each period of SPL.

6.6.7 Written confirmation

When notified, the Payroll Department will provide written confirmation of the following:

- the employees paid and unpaid leave entitlement
- periods of leave agreed
- the number of booking notifications remaining to the employee (see above).
- the need for the employee to give at least eight weeks' notice if they wish to vary or cancel the agreed and booked period(s) of SPL.

6.6.8 Evidence of eligibility

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

- a) the name and business address of the partner's employer (where the employee's partner is no longer employed or is self-employed their contact details must be provided);
- b) in the case of biological parents, a copy of the child's birth certificate (or,

- where one has not been issued, a declaration as to the time and place of the birth or MATB1 where the birth has not yet taken place).
- c) in the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption.

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

6.6.9 Variations to arranged Shared Parental Leave

A mother or adopter may be able to change their decision to end maternity or adoption leave early if both:

- the planned end date has not passed;
- the mother/adopter have not already returned to work.

One of the following must also apply:

- an employee discovers during the 8-week notice period that neither part is eligible for SPL or ShPP;
- The mother or adopter's partner has died;
- The mother informs the Trust less than 6 weeks after the birth (and provided notice prior to the birth).

Employees are permitted to vary an agreed and booked period of SPL, provided that written notification at least eight weeks before the date of any variation is provided. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Any variation or cancellation notification made, including notice to return to work early, will usually count as a new notification reducing an employee's ability 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 an employee being agreeable to the change, this will not count as further notification. Any variation will be confirmed in writing by line managers.

6.6.10 Shared Parental Leave In Touch (SPLIT) days

Before and during SPL, the manager and employee should discuss and agree any voluntary arrangements for keeping in touch during the SPL including letting the employee know of any developments at work, promotion opportunities, restructuring plans and, nearer the time, to help facilitate a return to work.

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

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

- a) any voluntary arrangements that the employee may find helpful to help him/her keep in touch with developments at work and, nearer the time

- of his/her return, to help facilitate his/her return to work.
- b) keeping the manager in touch with any developments that may affect his/her intended date of return.
 - c) confirming how the employee will be informed of any Trust information which occur during his/her period of SPL.

To facilitate the process of SPLIT days it is important that the manager and employee have an early discussion to plan and make arrangements for SPLIT days before the employee's SPL takes place.

Any amount of work done on a SPLIT day counts as one SPLIT day i.e. if someone comes in for a one hour training session and does no other work that day, they will have used up one of their SPLIT days.

Any work completed on a SPLIT day, will be counted as a whole day for SPLIT purposes and paid for the hours worked.

Employers cannot require an employee to do these days, nor does an employee have the right to be offered such work.

6.6.11 Accrual of annual leave/public holidays

Annual leave/public holidays will continue to accrue during shared parental leave and where possible should be taken during the relevant holiday year.

The amount of accrued annual leave/public holidays an employee can carry over to the next annual leave year should not normally exceed 5 working days i.e. one working week (pro-rata for part-time employees and full time employees who work their shifts over less than 5 shifts per week).

The amount of annual leave/public holidays an employee wishes to carry over must be approved by the line manager before the shared parental leave period starts.

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

6.7 Child Bereavement Leave

Child bereavement leave enables employees who have experienced the death of a child to take paid leave. A bereaved parent is anyone who had responsibility as one of the primary carers for a child who is now deceased. This includes adoptive parents, legal guardians, individuals who are fostering to adopt, and any other parent/child relationship deemed reasonable. For example, this may include grandparents who have had caring responsibilities for a child, or instances where someone other than the biological parent is the primary carer (this could be the case where the parents of the child have separated).

There is no requirement for the child to be under 18 years old.

All bereaved parents will be eligible for a minimum of two weeks of child bereavement leave. A bereaved parent will not be required to demonstrate any eligibility criteria in order to access bereavement leave or pay.

All bereaved parents will be entitled to two weeks' occupational child bereavement pay which will include any entitlement to statutory parental bereavement pay. Pay is calculated on the basis of what the individual would have received had they been at work

Where both parents of a deceased child work for the same organisation, these entitlements will apply to both members of staff.

Parents who experience a still birth from the 24th week of pregnancy will be eligible for these provisions, and will subsequently still be eligible for the provisions set out at section 5.10. Bereavement leave and pay may be extended to members of staff, by local arrangement, in these circumstances where they were hoping to become parents under surrogacy arrangements.

Bereaved parents do not have to take the two weeks of leave in a continuous block. The employee should agree with their manager the leave they wish to take. Taking child bereavement leave is an individual choice, it is not compulsory for the employee to take child bereavement leave.

Bereaved parents may request to take child bereavement leave at any point up to 56 weeks following the death of the child. Should the parent wish to take child bereavement leave immediately following the death of a child they shall be able to do so upon informing their manager that they will be absent from work for this purpose. Should the parent wish to take child bereavement leave at another time, after the initial period following the death, they should give their manager reasonable notice of their intention to take the leave at this time.

The employee must complete a Child Bereavement Leave application form. Bereaved parents will at no point be required to produce the child's Death Certificate, or any other official documents, in order to access child bereavement leave or pay. The manager may ask for a written declaration from the employee, within a reasonable timeframe, in order to satisfy statutory requirements.

6.8 Notification Requirements

6.8.1 Notification Requirements - Maternity

To access Maternity Leave and pay, the employee must give notice of their intention to take maternity leave by the 15th week before EWC. They need to tell their manager:

- The fact that they are pregnant
- The expected week of childbirth (EWC)
- When they wish the maternity leave to start (this date cannot be earlier than the beginning of the 11th week before the EWC)

Employees will need to give their managers medical evidence of their EWC in the form of a maternity certificate (form MAT B1). This is available from the doctor or midwife (and can't be dated earlier than the 20th week before EWC) and must be forwarded to their manager at least 28 days before the commencement of the maternity leave.

The employee and their manager must complete the Maternity Leave Application Form at appendix B, and forward to the Payroll Department.

The Trust will respond to the request within 28 days in writing outlining the date on which they expect the employee to return to work if the full maternity leave entitlement is taken or an earlier date if indicated on the application form.

Employees are able to change the date that they wish their maternity leave to start. They should notify their employer at least 28 days beforehand or, if this is not possible, as soon as is reasonably practicable beforehand).

6.8.2 Notification Requirements - Adoption/Surrogacy

UK Adoptions

The employee must give notice of their intention to take adoption leave within 7 days of being notified by their adoption agency that they have been matched with a child for adoption. They will need to tell their manager:

- When the child is expected to be placed with them; and
- When they wish the adoption leave to start
- That they want to claim adoption pay (need to give 28 days' notice)

Employees will have to give their managers documentary evidence – a 'matching certificate' as evidence of their entitlement to SAP. This certificate will also be required as proof of entitlement to Adoption Leave. Information required includes the name and address of the adoption agency, the date they were notified of a match with the child, the date on which the child is expected to be placed for adoption, or the actual date of placement if already happened, and a declaration that the employee has chosen to receive adoption pay.

Overseas Adoptions

1. **First Notification Stage** - the employee must inform their manager of:

- The date on which they receive official notification
- The date on which the child is expected to enter Great Britain

The manager must be informed within 28 days of the notification being received.

2. **Second Notification Stage** - the employee must give their manager at least 28 days' notice of the date they wish the Adoption leave to start. This notice can be given at the first Stage if the date is known.

Adoption Leave and Pay cannot start until the child has entered Great Britain.

3. **Third Notification Stage** – the employee must tell their manager the date the child actually entered Great Britain within 28 days of the date of entry. Evidence must be provided in the form of a passport stamp or visa.

Surrogacy arrangements

Employees must provide at least 15 weeks' notice of when the baby is due and when leave will commence

6.8.3 Notification Requirements – Maternity Support/Paternity

To access this leave the employee must give notice of their intention to take Maternity Support/Paternity Leave either by the 15th week before the

beginning of the expected week of Childbirth or within 7 days of being notified of being matched for adoption.

When giving notice, employees should inform their manager of:

- The expected week of Childbirth/expected date of adoption placement
- Whether they wish to take one or two weeks leave
- When they wish the leave to start
- Make declaration for Maternity Support/Paternity Leave and Statutory Pay by completing the Application Form at Appendix G.

Employees are able to change the date on which they wish Maternity Support/Paternity Leave to start (but not the length of leave) providing they give 28 days advance notice, where practicable.

Evidence of eligibility to the above should be provided through confirmation of the date of Childbirth on the form MATB1 or of adoption on the Matching Certificate (original documents)

To be eligible for Statutory Pay, an employee must give 28 days' notice of their intention to claim this payment.

6.8.4 Notification Requirements - Parental

Employees must give 21 days' notice before their intended start date. If they or their wife or partner are having a baby or adopting, the notice period is 21 days before the week the baby or child is expected.

Employees must provide notice in writing and confirm the start and end dates of the parental leave. The amount of leave to be taken at any one time will be agreed by the employee and the manager

21 calendar days' notice must be given by completing the application form at Appendix H. The manager will also complete this form either accepting or rejecting the request.

The Trust can postpone the leave for up to 6 months where the service would be particularly disrupted if the leave were taken at the time requested

6.9 Returning to Work

Employees will be entitled to return to the same job on the same terms and conditions following parental leave. However, where that is not reasonably practicable, they will return to a suitable and appropriate post on the same terms and conditions and with similar status.

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

If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

When returning to work after 26 weeks or less Additional Maternity Support/Paternity Leave, you will return to the same job on the same terms and conditions prior to your Leave. This protection also applies if you take up to 4 weeks parental leave in addition to your Additional Maternity Support /Paternity Leave. Where leave in excess of this is taken you will be entitled to the same terms and conditions and where reasonably practical, the same job.

6.9.1 Return to Work - Maternity/Adoption

Employees receiving NHS Maternity Pay or NHS Contractual Adoption Pay must give an undertaking to return to work for a minimum of three months following maternity leave.

If an employee does not intend to return to work for a minimum of three months, they should indicate this when completing the leave application form.

If an employee has received NHS Maternity Pay or NHS Contractual Adoption Pay, and it was their intention to work for a minimum of three months with this Trust, or to return to a different NHS employer within 15 months of the beginning of their maternity/adoption leave, but changes their mind, then they must refund the whole amount of the NHS maternity pay received, less any SMP or SAP, to which they was entitled.

In cases where the Trust considers that to enforce this provision would cause undue hardship, the recovery of OMP may be waived. Employees can appeal against the recovery of OMP by writing to the Deputy Director of Workforce & OD.

Employees may request to return to work on different hours and the Trust has a duty to consider this request and facilitate wherever possible (ref: Flexible Working Policy).

If an employee wishes to return to work before the planned end of their maternity leave period they must give 8 weeks' notice of the new date they intend to return. An employer can accept a shorter period of notice.

6.9.2 Return to Work - Maternity Support/Paternity

Employees must inform the Trust of their intended return to work date when applying for Additional Maternity Support /Paternity Leave. If you wish to return at an earlier date you must give the Trust at least 6 weeks' notice before the new date.

6.9.3 Return to Work- Parental Leave

Periods of parental leave should be regarded as continuous service and the employee retains all of their contractual rights, except remuneration, and should return to the same job after the leave.

6.9.4 Return to Work - Shared Parental Leave

An employee who has notified their intention to return to work is not required to give any further notification of return.

If the employee wishes to return to work earlier than the expected return date, the employee must provide a written notice to vary the leave and must give at least eight weeks' notice.

This notice will count as one of the employee's three notifications. If the employee has already used three notifications to book and/or vary leave then the Trust is not required to accept the notice to return early but may choose to do so where reasonably practicable.

Following receipt of a notification to return early the manager must copy the documentation to the Payroll Department (within two working days) to allow any changes to be recorded on ESR.

6.10 Arrangements for Keeping In Touch

Before and during maternity/adoption/surrogacy leave the manager and employee should discuss and agree any voluntary arrangements for keeping in touch during the maternity leave including letting the employee know of any developments at work, promotion opportunities, restructuring plans and, nearer the time, to help facilitate her return to work.

Employees may, with agreement from their manager, undertake up to ten days' work, known as 'Keeping in Touch Days' (KIT) under their contract of employment during their maternity leave period, for which they will be paid. The type of work that the employee undertakes could include attendance at a conference, to undertake training or updates, attend team meetings, or their normal duties.

Any amount of work done on a KIT day counts as one KIT day i.e. if someone comes in for a one hour training session and does no other work that day, they will have used up one of their KIT days.

Payment will be made for KIT days in respect of the number of hours worked, i.e. if someone attends a team meeting lasting 4 hours, the employee will receive payment for 4 hours. The payment will only be made if an employee is in a no pay situation on the day of working. Managers are to complete an ESR2 form for payment of the hours.

Any employee who is breast feeding must be risk assessed and facilities provided in accordance with Appendix D.

It should be noted that SMP will be offset against any payment made for the KIT day i.e. the employee cannot receive more than a normal days pay.

Employers cannot require an employee to do these days, nor does an employee have the right to be offered such work.

6.11 General Points

An employee can only take one period of Maternity Leave/ Maternity Support/Paternity Leave regardless of the number of children resulting from a single pregnancy or the number of children matched with them as the same time for adoption.

6.11.1 The Contract of Employment

Continues throughout Maternity/ Maternity Support/Paternity/Adoption leave, and the period of leave will count towards a period of continuous employment for the purposes of statutory employment rights.

While on Additional Maternity Support /Paternity Leave your employments terms and conditions are protected. You keep your normal employment rights and benefits (excluding wages).

Pay Step dates will not be affected by any periods of paid or unpaid maternity leave.

6.11.2 Annual leave

Maternity Leave	Maternity Support/Paternity Leave	Adoption/Surrogacy	Parental Leave
<p>Contractual annual leave, including Bank Holidays, will continue to accrue during paid and unpaid maternity leave. When planning leave, employees will need to bear in mind the year end, and that there will be no payment in lieu or carry over of any untaken annual leave.</p>	<p>Contractual annual leave will continue to accrue as normal during Ordinary Maternity Support/Paternity Leave. If bank holidays fall within the Ordinary Maternity Support/Paternity Leave period, there is no provision to take these bank holidays at a later date. Contractual Annual leave and Bank Holidays will continue to accrue during the additional maternity support/paternity leave period and can be added to the beginning or end of Additional Maternity Support/ Paternity Leave. There will be no provision to carry forward any annual leave not taken over to the next holiday year.</p>	<p>Annual Leave – including Bank Holidays will continue to accrue during paid and unpaid adoption leave. When planning leave, employees will need to bear in mind the year end, and that there will be no payment in lieu or carry-over of untaken annual leave.</p>	<p>Annual Leave – whilst on parental leave, employees will not accrue contractual annual leave. However, there will be entitlement to statutory annual leave.</p>

6.11.3 NHS Pension Scheme

Maternity Leave	Maternity Support/Paternity Leave	Adoption/Surrogacy	Parental Leave
<p>if employees normally pay into the Pension Scheme they will continue to pay contributions for the full period of paid maternity leave. The rates of contribution are based on what the employee earns prior to the reduction of pay.</p> <p>Pension due for the unpaid part of maternity leave will be recovered over a reasonable period after their return to work - this is normally equivalent in length to the period for which they were not making contributions.</p> <p>If an employee wishes to cease their pension contributions during their maternity leave period, the pensions department can provide information on the implications of doing so.</p> <p>Employees who are not returning to work should note that their last day of pensionable service will be taken as the last day that maternity pay is paid.</p>	<p>Employers contributions will continue to be paid as normal. Employees contributions will be based on the amount of contractual/statutory payments made.</p>	<p>If employees normally pay Pension they will continue to pay contributions for the full period of paid adoption leave. The rate of contribution are:</p> <ul style="list-style-type: none"> • During Full Adoption Pay – full contribution • During Half Adoption Pay – half contribution • During Unpaid Adoption Leave – half contribution <p>Pension due for the unpaid part of adoption/surrogacy leave will be recovered over a reasonable period after their return to work - this is normally equivalent in length to the period they were not making contributions for.</p> <p>Employees who are not returning to work should note that their last day of pensionable service will be taken as the last day that adoption pay is paid.</p> <p>If an employee wishes to cease their pension contributions during their adoption/surrogacy leave period, the payroll department can provide information on the implications of doing so.</p>	

6.11.4 Revalidation/Registration

Please be aware that in order to revalidate you must fulfil the minimum requirement of practice hours as stipulated by NMC i.e. 450 hours on each part of the Register in a three year period. This period of absence will not count towards your practice hours for your next revalidation as an employee of CDDFT. Please find further guidance in the Revalidation Policy.

6.11.5 Redundancy

Additional Maternity Support/ Paternity Leave entitles you to special rights. As a statutory requirement you will be offered redeployment to any suitable job within the Trust, even if there are other employees that may be suitable for the job. You will also be entitled to a 4 week trial period.

6.11.6 Employment Breaks

Maternity Leave	Maternity Support/Paternity Leave	Adoption/Surrogacy	Parental Leave
<p>An individual is not entitled to maternity/adoption pay if the qualifying weeks are during an Employment Break. Where an Employment Break immediately follows paid maternity leave, the requirement to return to work within the NHS for a minimum period of three months will be subsumed into the Employment Break requirement to return for a minimum of one year. Should an employee not return for a minimum of three months following the Employment Break immediately following paid maternity/adoption leave, the paid elements of maternity/adoption leave must be repaid by the employee.</p>		<p>An individual is not entitled to adoption pay if the qualifying weeks are during an Employment Break. Where an Employment Break immediately follows paid adoption/surrogacy leave, the requirement to return to work within the NHS for a minimum period of three months will be subsumed into the Employment Break requirement to return for a minimum of one year. Should an employee not return for a minimum of three months following the Employment Break immediately following paid adoption/surrogacy leave, the paid elements of maternity/adoption/surrogacy leave must be repaid by the employee.</p>	

6.11.7 Data Protection

All employees working in the NHS are bound by a legal duty of confidence to protect personal information they may come into contact with during the course of their work. This is not just a requirement of their contractual responsibilities but also a requirement within Data Protection Legislation which the Trust must comply with.

7 Monitoring

7.1 Compliance and Effectiveness Monitoring

Compliance with this policy will be monitored as outlined in the table below.

7.2 Compliance and Effectiveness Monitoring Table

Monitoring Criterion	Response
Who will perform the monitoring?	Workforce & OD (via Workforce Compliance)
What are you monitoring?	Correct application of entitlements in this policy
When will the monitoring be performed?	Annually
How are you going to monitor?	Review of sample applications made as part of process
What will happen if any shortfalls are identified?	Education and Learning will be shared with Care Group/Corporate managers as appropriate HR/Payroll team meetings
Where will the results of the monitoring be reported?	Payroll Team Meeting Care Group/Corporate Operational Meetings Workforce Engagement & Improvement Group
How will the resulting action plan be progressed and monitored?	Care Group/Corporate Management/Payroll Team
How will learning take place?	Via HR/Payroll Team Meetings

8 Glossary of Terms

SMP – Statutory Maternity Pay
 SPL – Shared Parental Leave
 ShPP – Shared Parental Pay
 KIT Days – Keeping in Touch Days

9 Associated Documentation

- Employment Relations Act 1999;
- Employment Act 2002;
- The Work and Families Act 2006;
- Children & Families Act 2014;
- Equality Act 2010;
- Agenda for Change Terms and Conditions of Service.
- Data Protection Legislation

10 Appendices

Appendix 1 - Equality Impact Assessment

Appendices are available on the HR Management page on StaffNet:

10.1 Appendix 1 - Equality Analysis/Impact Assessment (v4/2018)

Division/Department:

Workforce & Organisation Development

Title of policy, procedure, decision, project, function or service:

POL/PD/0055 Parental Policy

Lead person responsible:

Joanne Benzies, HR Manager

People involved with completing this:

Policy Review Forum
Policy Review Group
HR Team

Type of policy, procedure, decision, project, function or service:

- Existing
- New/proposed
- Changed

Date Completed:

July 2020



Step 1 – Scoping your analysis

What is the aim of your policy, procedure, project, decision, function or service and how does it relate to equality?

To outline the provisions for Maternity, Paternity, Surrogacy, Parental Leave and Shared Parental Leave and provide clarity on the arrangements for requesting and taking that leave.

Who is the policy, procedure, project, decision, function or service going to benefit and how?

All Trust employees and managers. To ensure employees and managers are aware of their rights and obligations

What barriers are there to achieving these outcomes?

None

How will you put your policy, procedure, project, decision, function or service into practice?

Via the normal communication channels and line management arrangements with support from the HR Management Team for professional advice and support

Does this policy link, align or conflict with any other policy, procedure, project, decision, function or service?

Employment Rights Act 1996

Employment Relations Act 1999

Employment Act 2002

Agenda for Change Terms and Conditions of Service Handbook

Work and Families Act 2006

Parental Leave Regulations 2010

Step 2 – Collecting your information

What existing information / data do you have?

All leave applications are collated at a local level by managers and provided to Payroll. Payroll records provide details on the leave taken.

Who have you consulted with?

Staff Representatives via the Policy Review Group. Staff via the Policy Review Forum which is made up of staff with characteristics protected under the Equality Act 2010.

What are the gaps and how do you plan to collect what is missing?

None identified

Step 3 – What is the impact?

Using the information from Step 2 explain if there is an impact or potential for impact on staff or people in the community with characteristics protected under the Equality Act 2010?

Ethnicity or Race

No differential impact known

Sex/Gender

Provides more opportunity for employees to participate in caring for children.
Positive impact on staff who may extend their time off work following maternity leave.

Age

No differential impact known

Disability

Statutory provision for increased flexibility within Parental Leave to take leave in smaller blocks to care for children with disabilities.

Religion or Belief

No differential impact known

Sexual Orientation

Language used in policy ensures equity for diverse family groups.

Marriage and Civil Partnership (applies to workforce issues only)

No differential impact known

Pregnancy and Maternity

No differential impact known

Gender Reassignment

No differential impact known

Other socially excluded groups or communities e.g. rural community, socially excluded, carers, areas of deprivation, low literacy skills etc.

No differential impact known

Step 4 – What are the differences?

Are any groups affected in a different way to others as a result of the policy, procedure, project, decision, function or service?

None identified

Does your policy, procedure, project, decision, function or service discriminate against anyone with characteristics protected under the Equality Act 2010?

Yes No

If yes, explain the justification for this. If it cannot be justified, how are you going to change it to remove or mitigate the affect?

N/A

Step 5 – Make a decision based on steps 2 - 4

If you are in a position to introduce the policy, procedure, project, decision, function or service? Clearly show how this has been decided.

N/A – existing policy

If you are in a position to introduce the policy, procedure, project, decision, function or service, but still have information to collect, changes to make or actions to complete to ensure all people affected have been covered please list:

N/A

How are you going to monitor this policy, procedure, project or service, how often and who will be responsible?

Annually - review of sample applications made as part of process by Workforce & OD