

## MATERNITY & ADOPTION, PATERNITY, PARENTAL LEAVE & SHARED PARENTAL LEAVE PROCEDURE

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### PROCEDURE SUMMARY

This procedure sets out the arrangements and entitlements to leave and/or pay to employees who:

- are pregnant or adopting a child
- are the partner of someone who is pregnant or adopting a child
- need to take time off for their children.

### The Trust monitors the implementation of and compliance with this procedure in the following ways;

This procedure will be subject to review as per the agreed review schedule of Trust HR policies and procedures and as agreed by the Trust's Partnership Committee.

Compliance with this procedure will be against the Trust's agreed minimum requirements/standards as detailed within its Auditable Standards and Monitoring Arrangements, as well as the use of internal reporting and recording within the Human Resources Directorate.

Services	Applicable	Comments
Trust wide	✓	

**The Director responsible for monitoring and reviewing this procedure is  
Executive Director of People and Culture**

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**MATERNITY & ADOPTION, PATERNITY, PARENTAL  
& SHARED PARENTAL LEAVE PROCEDURE**

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**ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST**

**MATERNITY & ADOPTION, PATERNITY, PARENTAL LEAVE  
& SHARED PARENTAL PROCEDURE**

**1.0 ASSURANCE STATEMENT**

- 1.1 This procedure sets out the arrangements and entitlements of employees to Maternity, Adoption and Paternity Leave and pay, Parental Leave and Shared Parental Leave. It reflects the provisions of the Employment Act 2002, the Equality Act 2010, the Maternity & Parental Leave Regulations 2015 and Agenda for Change Terms & Conditions.
- 1.2 This procedure aims to ensure that all employees are treated equitably, are without risk to themselves or their child and that they receive their due entitlements. All leave will be provided in a timely, fair, reasonable and consistent way and supported by legislative frameworks.
- 1.3 It is an integral part of the Wellbeing Agenda and assists with staff retention thus retaining valuable skills within the Trust. It aims to increase staff motivation and ensure the safety of employees.
- 1.4 The procedure aims to ensure that no staff are discriminated or disadvantaged as a result of a 'protected characteristic' in its application. Managers should liaise with HR to ensure the Trust is not open to claims of discrimination when considering requests for leave under this procedure.
- 1.5 The management of leave procedures within the Trust will be built on and demonstrate the Trust's corporate values and behaviours. These values are in being:
- Compassionate
  - Empowering
  - Open

In demonstrating these behaviours and values, supporting the achievement of its strategic priorities to:

- To continuously improve service user experience and outcomes through the delivery of high quality, safe, and innovative services.
- To be a high performing health and care organisation and in the top 25% of community and mental health Foundation Trusts.
- To be a valued system leader focused on integrated solutions that are shaped by the communities we serve.

**2.0 INTRODUCTION**

- 2.1 This procedure must be read in conjunction with the Leave Policy.
- 2.2 It is intended that by producing guidance on the different leave, the Trust can maintain high morale, improve retention and support the wellbeing of employees.
- 2.3 For the purposes of this procedure the terms ‘mother’ and ‘father’ will refer to either the birth parent and / or as parent. This is in no way intended to be gender specific.

**3.0 SCOPE**

- 3.1 This procedure applies to all employees of the Trust who meet the qualifying definitions on length of service. **Appendix 1** provides a ready reckoner of eligibility for leave and pay. It must be read with the relevant sections below so that the correct individual entitlements are identified in each case.

**4.0 DEFINITIONS**

- 4.1 For the purposes of applying the provisions contained in this document a glossary of terms that are used within the procedure are as follows:

<b>Protected Characteristics</b>	Characteristics as defined by the Equality Act 2010. These are ethnic origin, nationality, race, disability, gender, marital or partnership status, age, religion or belief, sexual orientation or transgender status.
<b>Partner</b>	Someone of either sex who lives with the mother/adopter in an enduring family relationship but is not a blood relative).
<b>Matched/ Matching</b>	This means the adoption agency has decided that the person is suitable to adopt a particular child.
<b>Placed</b>	This means the child starts living with the person permanently with a view to being formally adopted in the future. They may have stayed with them before this date.
<b>Adopter</b>	This means the person or persons who are going to adopt the child. They may be applying to adopt the child on their own, or they may be applying to adopt the child with their partner.
<b>Continuous Service</b>	Continuous service is calculated as 12 months’ continuous service with one or more NHS employers. Continuous service and what does or does not count

	as a break is set out in detail in paragraphs 12.1 to 12.3 of The NHS Terms and Conditions of Service Handbook(s)
<b>Maternity Leave</b>	This means a period of absence from work granted to a mother before and after the birth of their child
<b>Paternity Leave</b>	This means a period of absence from work granted to a father or partner after the birth of their child
<b>Parental Leave</b>	If an employee has completed one year's continuous service with an employer, they are entitled to 18 weeks unpaid parental leave for each child born or adopted. The leave can start once the child is born or placed for adoption, or as soon as the employee has completed a year's service, whichever is later.
<b>Shared Parental Leave</b>	This means where parents and adopters can share leave and pay with their partner to care for a child from birth to their first birthday
<b>Adoption Leave</b>	This means a period of absence from work granted for an adopter to care for a child

## 5.0 MATERNITY AND ADOPTION LEAVE & PAY

### 5.1 General Arrangements

- 5.1.1 Maternity and adoption leave entitlements are dependent on the length of service of the employee with one or more NHS Employers, and are set out below.
- 5.1.2 Maternity service is calculated from the 15<sup>th</sup> week before the expected week of childbirth for Statutory Maternity Pay (**SMP**) and Occupational Maternity Pay (**OMP**).
- 5.1.3 Maternity Leave may be taken any time from the beginning of the 11<sup>th</sup> week before the expected week of childbirth (**EWC**). The expected week of childbirth must always commence on a Sunday, although maternity leave may begin on any day of the week.
- 5.1.4 Maternity Leave can only be taken in one block of leave with the exception of Shared Parental Leave (SPL).
- 5.1.5 SPL Shared Parental Leave operates alongside other statutory family leave to which trust employees are entitled i.e. maternity leave; adoption leave; paternity leave and unpaid parental leave. Shared parental leave should not be confused with either *parental* leave or **paternity** leave, both of which are unaffected by shared parental leave.

- 5.1.6 Adoption leave is calculated from the day the adoption agency tells the adopter that they have been matched with a child for Statutory Adoption Pay (**SAP**) and Occupational Adoption Pay.
- 5.1.7 Adoption Leave may be taken within seven days of the date an employee is told that they have been matched with the child.
- 5.1.8 If the employee is adopting the child with their partner, the couple must decide which one of them applies for/receives the entitlement of Adoption Leave/Pay and then the other may decide to apply to receive the entitlement of Paternity Leave/Pay/ (see Definitions at Section 4 above for how a partner is defined).
- 5.1.9 Reasonable time off to attend official meetings in the adoption process will be given.
- 5.1.10 Foster Parents**
- 5.1.11 Statutory Adoption Pay and Adoption Leave are not normally available to foster parents or step parents who go on to adopt a child.
- 5.1.12 Fostering for Adoption**
- 5.1.13 Prospective adopters who have been approved by their adoption agency under a “concurrent” or “fostering for adoption” arrangement is entitled to Adoption Leave/Pay. Employees may choose to start their adoption leave when a fostering placement is made or when the child is matched with them for adoption.
- 5.1.14 Only one set of adoption leave is payable per placement.
- 5.1.15 Receipt of fostering allowances and payments during the fostering phase of placement will not affect adoption pay.

## **5.2 Leave & Pay Entitlements**

### **5.2.1 Less than Six Months NHS Service**

39 weeks' Ordinary Maternity or Adoption Leave (unpaid) with the right to return to the existing post. The employee may also be entitled to claim a Maternity or Adoption Allowance from the Jobcentre Plus (see 5.2.2) payable regardless of intention to return to work.

### **5.2.2. Maternity or Adoption Allowance**

If an employee does not qualify for Statutory Maternity Pay or Statutory Adoption Pay, for example, because the employee's earnings are too low, Maternity or Adoption Allowance can be claimed from the Jobcentre Plus. To check your individual entitlement and the amount of the allowance in your case please contact the JobcentrePlus or visit [www.gov.uk/maternity-allowance/overview](http://www.gov.uk/maternity-allowance/overview).

5.2.3 **Between Six Months (26 weeks) and 12 months' NHS service**

• **Leave:**

26 weeks' Ordinary Maternity or Adoption Leave and 26 weeks Additional Maternity Leave

• **Pay:**

Statutory Maternity Pay (**SMP**) or Statutory Adoption Pay (**SAP**) is paid for up to 39 weeks. Entitlement is:

- First 6 weeks - 90% of your average weekly earnings (before tax)
- next 33 weeks – Standard rate **SMP** or **SAP** or 90% of your average weekly earnings (whichever is lower)

**SMP** and **SAP** are paid in the same way as your salary and Tax and National Insurance will be deducted.

Statutory pay is payable regardless of the employee's intention to return to work.

For the current up to date rates of statutory entitlements and rates, please visit: [www.gov.uk/employers-maternity-pay-leave/entitlement](http://www.gov.uk/employers-maternity-pay-leave/entitlement) or [www.gov.uk/adoption-pay-leave](http://www.gov.uk/adoption-pay-leave)

5.2.4 All employees, regardless of length of service are entitled to a further 13 weeks unpaid Additional Maternity Leave or Additional Adoption Leave. All employees have a right to take 52 weeks of Maternity or Adoption Leave whether or not they return to NHS employment.

5.2.5 **More than 12 months' continuous service** at the beginning of the 11<sup>th</sup> week before the expected week of childbirth (or see paragraph 5.1.7 above for adoption leave) with an intention to return to work with an NHS employer for a minimum of 3 months after maternity/adoption leave has ended.

**OCCUPATIONAL MATERNITY or ADOPTION LEAVE & PAY**

- *8 weeks' full pay (less SMP or SAP or maternity allowance)*
- *18 weeks' half pay plus SMP or SAP or maternity allowance*
- *13 weeks' SMP or SAP*

*Totalling 39 weeks' paid Maternity or Adoption Leave.*

In addition, the option of taking a further 13 weeks' unpaid leave, making a total of 52 weeks overall.

**NB: An employee cannot be paid more when on Maternity or Adoption Leave, than they would normally earn when working.**

**NB: Average earnings are calculated using monthly and weekly earnings.**



5.2.6 **Six months or more service and not intending to return to work**

Entitlement will be the same as an employee with between 6 and 12 months' service (see 5.2.3 above).

5.2.7 Bank staff who have worked regularly on the Bank may be entitled to Statutory Maternity Pay or Statutory Adoption Pay/Leave as above. Advice should be sought from the HR Department as to whether service is sufficient to qualify for any of the entitlements listed in **Section 5.2.5** above.

5.2.8 Maternity/Adoption pay is summarised in **Appendix 2**. Should employees require further guidance they should contact the Human Resources Department for advice.

5.2.9 Maternity pay is paid as stated above unless there is prior agreement with the Human Resources Department to pay in an alternative way. Some employees may wish to receive equal monthly pay over their maternity leave period. SMP cannot be paid in an alternative way. Further information can be sought from the HR Department. .

**5.3 Application and Notification of Maternity Leave**

5.3.1 Once an employee has had their pregnancy confirmed, they must complete the Maternity Leave application form (see **Appendix 3**), but no later than 15 weeks prior to the Expected Week of Childbirth. They must advise their manager in writing using the Maternity Leave Application Form (see **Appendix 3** and follow the applications process in **Appendix 4**).

A pregnant employee is able to change her mind about when they wants to start their maternity leave, providing they tell their manager at least 28 calendar days in advance of the new date, (or if this is not possible, as soon as is reasonably practicable beforehand).

5.3.2 Once notified, the line manager must follow the risk assessment process and complete the risk assessment form (RMPG11, Appendix 2a) that can be found on the Trust's intranet. This form will evaluate the employee's working environment and duties to identify any effects that these might have during the pregnancy. This assessment should be reviewed by the staff member and the line manager regularly throughout the pregnancy, and the again post the staff member's return to work, especially if breast feeding. If the assessment and/or subsequent reviews raises any issues that cannot be managed locally, the line manager should contact the Risk Management Department who will provide further assistance

5.3.3 If requested, the Occupational Health Department will undertake a consultation to discuss any queries and offer advice on work during pregnancy.

5.3.4 Any risk identified as a result of this assessment should be discussed with the employee.

- 5.3.5 If an identified risk limits the amount of time a pregnant woman can work in a particular environment, for example, it may be necessary to either:
- Temporarily adjust the employee's working conditions and / or hours of work,  
or
  - Offer suitable alternative work, or if that is not feasible
  - Suspend from work on medical grounds on average pay plus enhancements where applicable, for as long as necessary to protect their safety or health and/or that of the child.

**NB: Before any discussion is taken, advice must be sought from the Occupational Health Service, the HR Department and where appropriate the Risk Management Team.**

- 5.3.6 Any employee, who is advised to temporarily reduce their hours /alter their shift pattern to avoid any risk to their own, or the unborn baby's health during pregnancy, will be entitled to protection of their average earnings from the start of any agreed change until the start of their maternity leave.
- 5.3.7 An **original** MATB1 form must be given to the Manager as soon as it is received from the midwife or doctor (normally at approximately 12 weeks prior to the expected week of childbirth). Failure to do so could affect Maternity Pay as it cannot be processed without it.

The Manager will reply within 4 weeks of receiving the completed MATB1 form, setting out:

- Their entitlement
  - Expected date of return
  - Arrangements for changes to agreed arrangements, including 'KIT Days if known.
- 5.3.8 An employee who intends to return to work on their existing terms and conditions at the end of their full maternity leave entitlement will not be required to give any further notice to the Trust.
- 5.3.9 An employee who wishes to return to work before the end of their maternity leave is required to give the Trust at least 28 days' notice of the new date they intends to return to work.
- 5.3.10 An employee who wishes to request flexible working arrangements must follow the procedure laid out in the Trust's arrangements for Flexible Working and complete a Flexible Working Application Form. An employee who wishes to request flexible working must have 26 weeks' service when 25 weeks pregnant and is required to give the Trust at least 28 days' notice of their request prior to their intended date of returning to work.

A template letter can found for managers to use when communicating the above to staff via **Appendix 13**

## **5.4 Application and Notification of Adoption Leave**

5.4.1 An employee must produce evidence that they are adopting a child through an adoption agency to qualify for adoption leave/pay. This may be in the form of a Matching Certificate or letter and needs to evidence the following:

- The name and address of the adoption agency and the employee
- The date the child is expected to be placed for adoption, or the date the child was placed for adoption

The date the adopter was told by the adoption agency that they had been matched with the child.

**NB: Adoption leave will not be paid without acceptable evidence.**

5.4.2 The time limit for producing evidence is 28 calendar days before the start of paid leave, except where there is an acceptable explanation as to why it could not be produced within the timeframe.

5.4.3 The application process of adoption leave replicates section 5.3 above - Application and Notification of Maternity Leave. However, if you are adopting a child from abroad you will need to complete the Inland Revenue form (SC6)

## **5.5 Sickness Absence During Pregnancy or Maternity Leave**

5.5.1 If an employee is off work ill, or becomes ill, with a pregnancy related illness during the last 4 weeks before the expected week of childbirth, maternity leave will normally commence at the beginning of that week, or the beginning of the week after the employee last worked, whichever is the later

5.5.2 Pregnancy related absence taken before the last 4 weeks of the expected week of childbirth should be supported by a medical or a self-certificate, shall be treated as sick leave in accordance with the Trust's Management of Sickness Absence Procedure.

5.5.4 Odd days of pregnancy-related illness during the last 4 weeks of pregnancy may be disregarded if the employee wishes to continue working until the maternity leave start date previously notified.

5.5.5 If the employee is unable to attend work at the expected date of return to work due to sickness, the normal sick leave provisions and notification procedures will apply in accordance with the Sickness Absence Policy and Procedure)

## **5.6 NHS Pension (Scheme Members Only)**

5.6.1 Maternity or Adoption leave is counted as continuous service, and contributions to the NHS Pension Scheme must be maintained if an employee is returning to work.

5.6.2 If the employee is a member of the NHS Pension Scheme, pension contributions will continue to be deducted during the paid period of maternity leave. Whether on part pay, or unpaid leave, the contributions paid will be those which would have been due on the rate of pay received prior to unpaid leave (including Statutory Maternity/Adoption Pay). No paid contributions will be made to the employee's pension during the unpaid maternity period. However, to ensure continuity of pensionable service, the amount owed during the unpaid period of maternity leave will be reclaimed when the employee returns to work.

5.6.3 If the employee does not intend to return to work, pensionable service will not be extended unless contributions to the NHS Pension Scheme are paid. The employee should contact the Pensions Department within the Payroll Department for further details and to discuss options.

## **5.7 Staff Affected by Change During Maternity & Adoption Leave**

5.7.1 Should there be any proposed change to an employee's post/duties whilst on maternity leave, these will be managed in accordance with the Organisational Change Policy and Procedure.

## **5.8 Staff on Fixed Term Contracts**

5.8.1 Employees subject to fixed-term or training contracts which expire after the 11<sup>th</sup> week before the expected week of childbirth shall have their contracts extended to allow them to receive the 52 weeks, which includes paid contractual and statutory maternity pay, and the remaining 13 weeks of unpaid maternity leave if they satisfy the following conditions:

- They have 12 months' continuous service with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth;
- Employee notifies their employer in writing before the end of the 15th week before the expected date of childbirth (or if this is not possible, as soon as is reasonably practicable thereafter). This should include:
  - Confirmation of their intention to take maternity leave;
  - Confirmation of the date on which they wish to start maternity leave. An employee can choose when to start their maternity leave – this can usually be any date from the beginning of the 11th week before the baby is born (but see paragraph 5.3.1);
  - Original MATB1 form

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

5.8.3 If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred, the repayment provisions described in paragraph 5.16.1 will be applicable.

5.8.4 Employees on fixed-term contracts who do not meet the 12 months' continuous service condition may still be entitled to Statutory Maternity Pay.

## **5.9 Rotational Training Contracts**

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

## **5.10 Antenatal & Postnatal Care**

5.10.1 Employees have the right to reasonable paid time off for antenatal and postnatal care. Antenatal and postnatal care may include relaxation and parent-craft classes as well as appointments. Managers should request evidence of appointments etc. and employees should give at least two weeks' notice if they require time off.

5.10.2 A risk assessment will need to be completed for breastfeeding mothers and suitable private rest facilities will need to be provided.

## **5.11 Miscarriage**

5.11.1 Where an employee experiences a miscarriage before the 24<sup>th</sup> week of pregnancy normal sick leave provisions will apply as necessary.

5.12.2 For an employee who is the partner of someone who has suffered a Miscarriage please refer to the Trust's Special Leave Procedure in considering a request for Carers (of Dependents) Leave.

## **5.12 Premature Births**

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

5.12.2 Where an employee's baby is born before the eleventh 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

### **5.13 Still Birth**

- 5.13.1 Where an employee has a still birth after the 24<sup>th</sup> week of pregnancy the employee will be entitled to the same amount of maternity leave and pay as if the baby had been born alive. This applies even if the baby lives for only a short period of time.

### **5.14 Keeping in Touch Days (KIT Days)**

- 5.14.1 An employee may work for up to a maximum of ten (aggregated) KIT days without bringing her maternity leave to an end. Any days of work will not extend the maternity period.
- 5.14.2 Keeping the employer in touch with any developments that may affect her intended date of return.
- 5.14.3 To facilitate the process of KIT days, it is important that the employer and employee have early discussions to plan and make the arrangements for KIT days before the employee's maternity leave takes place.
- 5.14.4 An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of her baby.
- 5.14.5 The work can be consecutive or not and can include training or other activities which enable the employee to keep in touch (KIT) with the workplace.
- 5.14.6 Any such work must be by agreement and neither the employer nor the employee can insist upon it.
- 5.14.7 The employee will be paid at their basic daily rate, for the hours worked less appropriate maternity leave payment for KIT days worked.
- 5.14.8 Working for part of any day will count as one KIT day.
- 5.14.9 Assessment must be carried out for any employee who is breastfeeding and facilities provided
- 5.14.10 The Line Manager will keep in touch with employees during their maternity leave. The procedure for returning to work includes time scales, which are provided to enable more effective workforce planning by managers during the time of absence.

### **5.15 Annual Leave/Bank Holidays During Maternity Leave**

- 5.15.1 The majority of annual leave for the current leave year should be taken prior to the commencement of Maternity Leave. Where it is not possible for employees to take their leave prior to maternity leave it must be taken immediately upon returning to work. How this is taken should be agreed between the employee and their line manager.

- 5.15.2 Payments in lieu may be considered as an option in exceptional circumstances where accrual of annual leave exceeds normal carry over provision Bank holidays will continue to accrue during maternity/adoption leave, whether paid or unpaid.
- 5.15.3 An employee who returns to work on different contracted hours following maternity leave will accrue annual leave from the date of return based on the new contract hours.

## **5.16 Return to Work from Maternity or Adoption Leave**

- 5.16.1 If for any reason the employee fails to return to a substantive position either this, or another Trust or NHS Employing organisation within fifteen months of commencing their maternity or adoption leave, they will be required to refund the whole of their Occupational Maternity or Adoption pay. The employee is required to return to work for at least three months in order to retain Occupational Maternity or Adoption pay
- 5.16.2 Employees must not work during the two weeks following childbirth.
- 5.16.3 As when an employee is pregnant, where she has recently given birth or is breastfeeding, the Line Manager must carry out a risk assessment of their working conditions. If it is found, or a medical practitioner considers, that an employee or her child would be at risk it may be necessary to either:
- Temporarily adjust the employee's working conditions and / or hours of work, or
  - Offer suitable alternative work, or if that is not feasible
  - Suspend from work on medical grounds on average pay plus enhancements where applicable, for as long as necessary to protect her safety or health and/or that of the child.

These provisions also apply to an employee who is breastfeeding if it is found that their normal duties would prevent them from successfully breastfeeding her child.

- 5.16.4 Employees are entitled to return to work on their existing terms and conditions of service. Employees who have worked for the Trust for 26 weeks also have the right to make a flexible working request as provided for under the Trust's Flexible Working Policy and Procedure.
- 5.16.5 In line with the principles of flexible working, employees have the right to ask for changes in working patterns and managers have the responsibility of considering the request carefully. Service delivery and quality, including health and safety legislative requirements must not be compromised.
- 5.16.6 If it is agreed that the employee will return to work on a flexible basis, including changed or reduced hours, for an agreed period this will not affect the employee's right to return to their job under their original contract at the end of the agreed period.

- 5.16.7 If an employee returns on a flexible basis, there shall be no adverse effect on the amount of Maternity Pay paid previously.
- 5.16.8 When an employee is on a planned rotation of appointments with one or more NHS employers as part of an agreed programme of training, she shall have the right to return to work in the same post or in the next planned post irrespective of whether the contract would otherwise have ended if pregnancy and childbirth had not occurred. In such circumstances the employee's contract will be extended to enable the practitioner to complete the agreed programme of training.
- 5.16.9 Maternity Leave, whether paid or unpaid, shall count as service for annual increments and for the purposes of any service qualification period for additional annual leave.
- 5.16.10 It is an offence to carry out other paid employment either for the organisation or for another employer (NHS or private sector) whilst claiming maternity leave. It may lead to disciplinary action and/or prosecution.

## **6.0 PATERNITY LEAVE (MATERNITY SUPPORT LEAVE)**

### **6.1 General Arrangements**

6.1.1 All employees are entitled to two weeks' maternity support pay if they are:

- The biological father, husband/civil partner of the mother or partner (see definitions section) of the mother.

6.1.2 Maternity support pay entitlements are dependent on the length of service of the employee.

**NB: Statutory Paternity Pay (SPP) and Paternity Leave is not normally available to foster parents or step-parents who go on to adopt a child.**

#### **6.1.3 Less than Twelve Months NHS Service**

6.1.4 Employees are not entitled to Occupational Maternity Support pay but may be entitled to Statutory Paternity Pay (SPP) subject to qualifying conditions. To qualify for leave, employees must have been employed for at least 26 weeks when the pregnancy is at 25 weeks or at the end of the week the employee is matched with the adopted child and earn above the lower earnings limit for NI contributions.

#### **6.1.5 Over Twelve Months (52 weeks) NHS Service at the beginning of the week in which the baby is due**

6.1.6 Employees are entitled to two weeks paid Occupational Maternity Support Pay (inclusive of SPP paid) which must be taken in one block.

6.1.7 All leave must be taken within 56 days of the actual date of birth (or 56 days after the expected date of birth if the baby is born early) or in the case of adoption from the date of the child's placement.



- 6.1.8 Leave may start mid-week and be taken as rolling weeks e.g. Wednesday to Wednesday.
- 6.1.9 Only one period of leave is available for multiple births.
- 6.1.10 Reasonable paid time off to attend antenatal and postnatal classes will be given.
- 6.1.11 In the unfortunate event of a stillbirth after the 24<sup>th</sup> week of pregnancy or dying after birth, the employee will be entitled to the same amount of paternity leave and pay as above.
- 6.1.12 If an employee is expecting a child or adopting a child which is matched with the employee, they may be able to share leave with their partner, **See Section 8.**
- 6.1.13 If an employee has not used up all their Statutory Maternity Leave and has gone back to work, their partner can take the remainder of their leave off instead. This is called Additional Paternity Leave. The partner can take this after the baby is 20 weeks old but before they are 1 year old. This leave must be taken in one block of time.
- 6.1.14 The partner must give the Trust notice that they want to take Additional Paternity Leave, plus evidence that they are entitled to this and a declaration from the person on maternity or adoption leave that they have gone back to work.
- 6.1.15 If the person on maternity leave has not used up all their entitlement to Statutory Maternity Pay or Maternity Allowance, the partner can be paid additional Statutory Paternity Pay for the rest of the time they were entitled to it.

## **6.2 Application & Notification of Paternity Leave (Maternity Support Leave)**

- 6.2.1 As soon as the employee can do so, they must complete the Paternity Leave Application Form (see Appendix 7). The flow chart Appendix 9 provides guidance on the process. They must also complete the applicable Inland Revenue form and enclose a copy of the MATB1 form. The MATB1 form is a statement from the doctor/midwife indicating the expected date of childbirth. An expectant mother normally receives the MATB1 approximately 12 weeks prior to the expected week of childbirth. This must be done no later than 28 calendar days before the requested start date for leave.

### **Inland Revenue Forms**

- SC3 – Statutory Paternity Pay/Leave
  - SC4 – Statutory Paternity Pay/Leave if you are becoming an adoptive parent
  - SC5 – Statutory Paternity Pay/Leave if you are becoming an adoptive parent and the child is being adopted from abroad.
- 6.2.2 Employees may revise their request but this must be done 28 calendar days before leave is due to start.

### 6.3 MONITORING OF IMPLEMENTATION AND GOVERNANCE

- 6.3.1 The manager will reply within 14 calendar days confirming entitlement and expected date of return.

## 7.0 PARENTAL LEAVE

- 7.1 Employees can take up to 18 week's **unpaid** Parental Leave (in their capacity as parents or adoptive parents).
- 7.1.1 This right is available only to those employees who have been continuously employed for a period of one year or more and who are parents of a child/children under the age of 18).
- 7.1.2 The most parental leave that can be taken in one year for each child is 4 weeks. Leave should be taken in blocks of one week, either separately or back-to-back.
- 7.1.3 In the case of multiple births the entitlement applies to each of those children.
- 7.1.4 The manager can delay leave up to 6 months if it is felt that the service provided will be adversely affected in exceptional circumstances.
- 7.1.5 Leave cannot be postponed if notice is given to take it immediately after a child is born or immediately after a child is placed with an employee for adoption.
- 7.1.6 During parental leave the employee retains their contractual rights except remuneration and should return to the same job after it.
- 7.1.7 Parental leave requests should be made to the line manager using the parental leave application form (**Appendix 8**) giving at least 21 days' notice

## 8.0 SHARED PARENTAL LEAVE

### 8.1 Introduction

Shared Parental Leave is a type of leave available to parents with babies due on or after 5 April 2015, where parents can share leave and pay with their partner to care for a child from birth to their first birthday. This policy also applies to an adopter and their partner when a child is placed for adoption on or after 5 April 2015

- 8.1.1 Eligible parents in surrogacy arrangements will also have an entitlement to statutory adoption leave and pay and shared parental leave and pay. The provisions for maternity and adoption leave, statutory maternity pay and maternity allowance are not changing and continue to operate as distinct and separate arrangements to that of Shared Parental Leave.

- 8.1.2 Shared parental leave therefore operates alongside other statutory family leave to which employees are entitled – i.e. maternity leave, adoption leave, paternity leave and unpaid parental leave.
- 8.1.3 Shared Parental Leave enables mothers to commit to ending their maternity/adoption leave and pay at a future date and to share the untaken balance of leave and pay with their partner, or to return to work early from maternity/adoption leave and opt in to shared parental leave and pay at a later date.
- 8.1.4 Shared Parental Leave may be taken either in a single block or may be taken in smaller blocks of leave (a minimum of a week at a time) interspersed with time at work alternating with the partner who may then take up the childcare responsibilities, unlike maternity leave which has to be taken in a single continuous block of leave.
- 8.1.5 Shared Parental Leave should not be confused with either **parental** leave or **paternity** leave, both of which are unaffected by shared parental leave
- 8.1.6 Paternity Leave is a period of two weeks paid leave for fathers and partners to be taken in a single block of leave within 56 days of the birth. This is dealt with in Section 6, Paternity Leave Policy
- 8.1.7 Parental leave is the entitlement to take a period of unpaid leave, up to a maximum of 18 weeks to care for a child for whom they have parental responsibility. This is dealt with in Section 7, Parental Leave Policy.

## **8.2 SCOPE**

- 8.2.1 The procedure applies to those employees of the Trust where they are the mother, adopter or the partner, and who meet the eligibility criteria. Only an employee can have and take shared parental leave.
- 8.2.2 If it is the mother who is employed by the Trust, their partner must (where relevant) submit any notifications to take shared parental leave set out in this procedure to their own employer, which may have its own shared parental leave policy in place, if they want to take a period of shared parental leave. Similarly, if it is the partner who is employed by the Trust, the mother must (where relevant) submit any notifications to take shared parental leave to their own employer. The mother and the partner should ensure that they are each liaising with their own employer to ensure that requests for shared parental leave are handled as smoothly as possible.
- 8.2.3 Temporary workers do not have 'employee' status and are not therefore eligible to take either shared parental leave or shared parental pay. However should they meet the 'Employment and Earnings test' and opt in to shared parental leave their partner, if they are a Trust employee, will be eligible to do so.

8.2.4 Reference is made in this policy to ‘the Trust’ where it is possible to do so. As the mother may not be an employee of this Trust it is not possible to do so on all occasions and therefore reference has been made to ‘the employer’ where this is the case

### **8.3 KEY PRINCIPLES OF SHARED PARENTAL LEAVE**

8.3.1 Shared parental leave allows the mother (whether birth mother, adoptive or surrogate) of a new baby to be able to end their maternity leave and pay entitlement and share the remaining leave and pay with their partner.

The remaining leave is available as shared parental leave (SPL) and the remaining weeks of pay is available as shared parental pay (ShPP).

A mother can opt in to shared parental leave at any time during their maternity leave period or even once they have returned to work provided that this is still within the 52 week maternity period.

8.3.2 Provided both partners satisfy eligibility criteria they will be able to jointly decide how to split the leave and pay between themselves and whether they want to be off work together or at different times.

8.3.3 Shared parental leave must be taken for the purposes of caring for the child, and must end no later than one year after the birth of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

8.3.4 If both partners are eligible and the mother ends their maternity or adoption leave and pay (or maternity allowance) early, then the parents can:

- Take the rest of the 52 weeks of leave (up to a maximum of 50 weeks) as shared parental leave (SPL)
- Take the rest of the 39 weeks of pay or maternity allowance (up to a maximum of 37 weeks) as shared parental pay (ShPP)

8.3.5 Only a maximum of 50 weeks SPL is available to share as the first 2 weeks following the birth of a child remain as a compulsory maternity leave period reserved for the mother.

Similarly an employee who takes adoption leave must also take at least 2 weeks of their maternity leave before changing to SPL.

8.3.6 The amount of shared parental leave that the partner will be able to share will depend on how much maternity leave the mother took prior to the birth and when they brings their maternity leave period to an end. A notice period of 8 weeks is required to opt in to shared parental leave.

8.3.7 Leave can be taken as either as one continuous period of leave (a block of leave) or more flexibly with up to a maximum of three separate blocks of leave of different duration referred to as ‘discontinuous’ leave. The leave must be taken in blocks of 1 week, with a maximum of three requests (per pregnancy) made by each parent.

Requests for a single continuous block of leave cannot be refused. Requests for a pattern of discontinuous leave can be refused if it is felt that the needs of the service cannot support such an approach. There is no right of appeal if this is the case.

- 8.3.8 Whilst this policy refers to the ‘mother’ in terms of maternity or adoption leave, shared parental leave is available to same sex couples.

Where a couple has a parental or adoption order in relation to a child, or is applying for one, one of the parents can be eligible for adoption leave and pay, and the other for paternity leave and pay. The couple must elect which one will take adoption leave and take shared parental leave with the other parent, provided that both parents meet the relevant eligibility criteria.

Within the policy:

The ‘due date’ is the date of notification of matching for adoption  
The actual ‘date of birth’ is the date of placement of the child with the adopter

#### **8.4 ELIGIBILITY FOR SHARED PARENTAL LEAVE (SPL)**

- 8.4.1 As an employee of the Trust to qualify for Shared Parental Leave you must share responsibility for the child with one of the following:

- Your husband, wife, civil partner or joint adopter
- Your child’s other parent
- Your partner (if you live with them)

You, or your partner, must be eligible for maternity pay or leave, adoption pay or leave, or Maternity Allowance.

Only two eligible parents are entitled to share parental leave and it is the choice of the mother to identify with whom they are sharing responsibility for the care of the child.

- 8.4.2 Parents taking shared parental leave must be an employee of the Trust, have a ‘working’ partner and be able to satisfy eligibility criteria set out below which includes a ‘continuity of employment test’ and ‘employment earnings test’.

#### **8.4.3 Mother’s Eligibility For Shared Parental Leave**

A mother is eligible for shared parental leave (SPL) if they:

- Has at least 26 weeks continuous employment ending with the 15th week before the EWC/matching date and remains in continuous employment with the Trust during any period of SPL that they take:
- Has at the date of the child’s birth, the main responsibility, apart from the partner, for the care of the child
- Is entitled to statutory maternity leave in respect of the child

- Complies with the relevant maternity curtailment requirements (or has returned to work before the end of statutory maternity/adoption leave) and has shared parental leave notice and evidence requirements.

In addition their partner must:

- Have been employed or been a self-employed earner for at least 26\* of the 66 weeks immediately preceding the expected EWC and
- Have average weekly earnings of at least the maternity allowance threshold for any 13 of those 66 weeks **and**
- Have at the date of the child's birth/placement, the main responsibility apart from the mother for the care of the child

## **8.5 Partner's Eligibility For Shared Parental Leave**

8.5.1 A partner is eligible for shared parental leave if they:

- Has at least 26 weeks continuous employment ending with the 15th week before the EWC and remains in continuous employment with the Trust until before any period of SPL that they take.
- Has at the date of the child's birth, the main responsibility, apart from the mother, for the care of the child
- Complies with the relevant shared parental leave notice and evidence requirements

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

- Have been employed or been a self-employed earner for at least 26\* of the 66 weeks immediately preceding the EWC and
- Have average weekly earnings of at least the maternity threshold for any 13 of those 66 weeks and
- Have at the date of the child's birth, the main responsibility, apart from the partner for the care of the child and  be entitled to statutory maternity leave, statutory maternity pay or maternity allowance in respect of the child and
- Comply with the relevant maternity leave or pay curtailment requirements (or have returned to work before the end of statutory maternity leave)

*\*this does not need to be continuous employment*

## **8.6 SHARED PARENTAL PAY (ShPP)**

8.6.1 Statutory shared parental pay is only available if the mother is entitled to statutory/contractual maternity pay or maternity allowance.

If the mother does not qualify for any of these then the parents may qualify for shared parental leave, but they cannot qualify for shared parental pay.

- 8.6.2 Those employees who are eligible will be entitled to take up to 37 weeks ShPP while taking SPL.

The amount of weeks available to pay ShPP will depend on those already taken by the mother prior to curtailing their maternity leave entitlement and opting in to shared parental leave. E.g. 37 weeks minus any weeks already taken.

- 8.6.3 In opting out of the maternity leave provisions and into SPL, outstanding maternity pay under those provisions is forfeited.

Payment of ShPP under the shared parental leave provisions is set nationally and is a flat rate of pay.

- 8.6.4 An employee seeking to claim shared parental pay must be able to further satisfy that they:

- Intend to care for the child during the week in which ShPP is payable
- Have an average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child's expected due date are not less than the lower earnings limit in force for national insurance contributions
- Must remain in continuous employment until the first week of ShPP has begun
- The employee must give proper notification in accordance with the rules below

## **8.7 NOTIFICATION REQUIREMENTS**

- 8.7.1 In order to take Shared Parental Leave, the parents must provide the relevant employer with three notices:

- a 'maternity leave curtailment' notice - to end maternity entitlement
- a notice of 'entitlement and intention' – to confirm entitlement to SPL and ShPP
- a 'period of leave' notice - to book SPL and ShPP

It is expected that the first two types of notice are submitted at the same time, and there is no reason why they cannot be incorporated within the same letter although the 'period of leave' notice may be submitted later.

## 8.8 Maternity Leave Curtailment Notice

- 8.8.1 Before the mother or partner can take shared parental leave, the mother must either return to work before the end of their maternity leave (by giving the required 8 weeks' notice of their planned return) or provide their employer with a 'maternity leave curtailment notice'.

The 'maternity leave curtailment notice' must be in writing and state the date on which maternity leave is to end.

The maternity leave end date must be:

- after the two week compulsory maternity leave period
- be at least 8 weeks after the date on which the mother gave the maternity leave curtailment notice to their employer

- 8.8.2 An employee can withdraw their notice curtailing their maternity leave in limited circumstances. This must be in writing and due to the following circumstances:

- It is discovered that neither the mother nor the partner are entitled to SPL or statutory shared parental pay, and the mother withdraws their 'maternity leave curtailment notice' within 8 weeks of the date on which the notice was given;
- The 'maternity leave curtailment notice' was given before the birth of the child and the employee withdraws their 'maternity curtailment notice' within 6 weeks of the child's birth;
- The partner has died.

## 8.9 Notice of Entitlement and Intention

- 8.9.1 At least 8 weeks before the start date of the first period of shared parental leave is to be taken, the mother or partner must provide the Trust with a 'notice of entitlement and intention'.

Although it must be in writing and be provided at least 8 weeks before the start date of the first period of SPL to be taken, it is non-binding and is for the purposes of being able to understand and plan for the proposed absence.

- 8.9.2 If the **MOTHER is the Trust's employee**, the 'notice of entitlement and intention must contain the following information:

- The names of the mother and partner
- The start and end date of any statutory maternity leave taken or to be taken by the mother
- The total amount of shared parental leave available
- The expected week of birth of the baby, the actual date of birth if the child has already been born, or date of placement



- How much shared parental leave the mother and partner each intend to take *and*
- A non-binding indication as to when they intend to take SPL (including the start and end dates of each period of leave)

*It must also include a signed declaration signed that:*

- They satisfy, or will satisfy, the eligibility requirements to take SPL
- The information provided is accurate and they will immediately inform the Trust if they cease to be eligible.

*There must also be a signed declaration by the partner stating:*

- Their name, address and national insurance number
- That they satisfy or will satisfy the conditions for SPL
- That they are the father of the child, or are married to, the civil partner of or the partner of the mother
- That they consent to the amount of leave that the mother intends to take and
- That they consent to the Trust having and 'processing' i.e. using the information that has been provided in the partner's declaration

8.9.3 If the **PARTNER** is the Trust's employee, the 'notice of entitlement and intention' must contain the following:

- The names of the mother and partner
- The start and end date of any statutory maternity leave taken or to be taken by the mother
- The total amount of shared parental leave available
- The expected week of birth of the baby, the actual date of birth if the child has already been born, or date of placement
- How much shared parental leave the mother and partner each intend to take and
- A non-binding indication as to when they intend to take SPL (including the start and end dates of each period of leave)

It must include a declaration signed by the employee that:

- They satisfy or will satisfy, the eligibility requirements to take SPL
- The information provided is accurate and they will immediately inform the Trust if he/she ceases to care for the child

*There must also be a declaration signed by the employee's partner stating:*

- Their name, address and national insurance number
- That they satisfy or will satisfy the conditions for SPL
- That they are the father of the child, or are married to, the civil partner of or the partner of the mother
- That they consent to the amount of leave that the mother intends to take and

- That the consent to the Trust having and ‘processing’ i.e. using the information that has been provided in the partner’s declaration

*And include a declaration signed by the mother stating:*

- Their name, address and national insurance number
- That they satisfies or will satisfy the conditions for SPL
- They consent to the amount of leave the partner intends to take
- They will immediately inform the employer if they no longer meet the requirement to take SPL and
- They consent to the Trust having and ‘processing’ i.e. using the information that has been provided in the mother’s declaration

After receiving this notice from either the mother or partner, the Trust has a period of 14 days should it wish to do so, to request to see a copy of the child’s birth certificate and/or to request the name and address of the other parent’s employer.

Where the child has not yet been born, this would be within 14 days of the birth.

8.9.4 The employee has 14 days from the date of the request to provide the required information.

8.9.5 In the case of adoption, the Trust can request 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.

<b>9.0 VARIATION OR CANCELLATION OF NOTICE OF ENTITLEMENT AND INTENTION</b>
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9.1 An employee can vary or cancel their proposed SPL dates following the submission of a ‘notice of entitlement and intention’, provided that they provide the Trust in writing at least 8 weeks before the date of any variation.

9.2 Any new start date cannot be sooner than 8 weeks from the date of the variation request.

9.3 Any ‘variation or cancellation’ notice made by an employee, including notice to return to work early, will usually count as a new notification reducing the employee’s right to book/vary leave by one.

However a change as a result of a child being born early or as a result of the organisation requesting it to be changed, with the agreement of the employee, will not count as a further notification.

Any variation must be confirmed in writing by the Trust

<b>10.0 BOOKING AND TAKING SHARED PARENTAL LEAVE</b>
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- 10.1 An employee is permitted to submit up to 3 notices specifying the leave they wish to take. Each notification may contain either:
- A single period of weeks of leave (continuous leave)  
or
  - Two or more weeks of discontinuous leave, where the employee is wishing to return to work between periods of leave.

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

- 10.2 An employee considering/taking SPL is encouraged to contact their manager at the earliest opportunity to discuss their plans and to enable the organisation to support the individual, as well as to make plans for their cover.

- 10.3 On receipt of a 'notification of entitlement and intention', a meeting may be arranged between the employee and the manager to discuss it. This meeting may involve Human Resources and whilst there is no entitlement to be represented, the option of being accompanied by either a recognised Trades Union representative or current work colleague, may also be given.

Where a notice is for a single period of continuous leave or where a request for discontinuous leave can be approved in the terms stated in the employee's notice, then a meeting may not be necessary.

- 10.4 A notification for a period of continuous leave, is a request for a number of weeks to be taken in a single unbroken period of leave (e.g. 4 weeks in a row).

An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them and the employer has been given at least 8 weeks' notice.

An employee may submit up to 3 separate notifications for continuous periods of leave.

- 10.5 A single notification may also contain a request for 2 or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (e.g. 6 weeks of SPL and work every other week for a period of 3 months)

The Trust can refuse a request for a discontinuous period of leave if there are concerns over accommodating the request or propose an alternative pattern of leave. See further in Section 12 below.

- 10.6 An employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the Trust, in writing, at least 8 weeks before

the date of any variation. Any new start date cannot be sooner than 8 weeks from the date of the variation request.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one.

However, a change as a result of a child being born early or as a result of the organisation requesting to be changed (in cases of discontinuous leave) and the employee being in agreement, will not count as further notification. Any variation must be confirmed in writing by the manager

## **11.0 RESPONDING TO A SHARED PARENTAL LEAVE NOTIFICATION**

- 11.1 Once a manager receives the 'notice of entitlement and intention', a written response will be received from the manager no later than the 14th day after the notice was made. Some example letters can be found as appendices at the end of this policy. All time frames are in calendar days as opposed to working days.
- 11.2 All notices for continuous leave will be confirmed in writing and cannot be declined
- 11.3 All requests for discontinuous leave will be carefully considered by the Trust on a case-by-case basis recognising that teams can be affected by differing service needs and pressures. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

An employee will be informed in writing of the decision no later than the 14th day after the leave notification was given. The request may be granted in full or the Trust may suggest an alternative. There is no right of appeal, should the request be declined.

- 11.4 If a discontinuous leave request is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given or may take the total number of weeks in the notice in a single continuous block.

If an employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin.

- 11.5 The leave cannot start sooner than 8 weeks from the date the original notification was submitted. If the employee does not choose a start date, then the leave will begin on the first leave date requested in the original notification.

## **12.0 RIGHTS DURING SHARED PARENTAL LEAVE**

- 12.1 During the period of SPL, the employee's contract of employment continues to be in force and they are entitled to receive all their contractual benefits, except for salary. All benefits will continue, as will the accrual of contractual annual leave entitlement.
- 12.2 Annual leave continues to accrue and can be taken before, during or after shared parental leave. The same rules around requests for the booking and taking, and the carry-over of annual leave apply and therefore must be in accordance with the Trust's Annual Leave policy.

This should therefore be taken into consideration as part of the planning of any overall leave arrangements as it should be noted that shared parental leave must be taken by the child's first birthday and cannot be extended for any reason.

## **13.0 CONTACT DURING SHARED PARENTAL LEAVE**

- 13.1 Before an employee commences SPL, the line manager should discuss arrangements for them to keep in touch during the leave. The Trust reserves the right in any event, to maintain reasonable contact with the employee from time to time during SPL.

This may be to discuss the employee's plans for their return to work, to discuss any special arrangements to be made or training to be given to ease their return to work or to update them on developments at work during their absence

- 13.2 An employee can agree to work for the Trust (or attend training) for up to a maximum of 20 days during SPL without that work bringing their period of SPL to an end or impacting on their right to claim ShPP. These are known as 'Shared Parental Leave in Touch' days or 'SPLIT' days and are an individual entitlement to each parent. Any work carried out on a day or part of a day shall constitute a day's work for these purposes and will be paid at basic daily rate.
- 13.3 The Trust has no right to offer or require an employee to carry out any work and employees have no right to undertake any work during the shared parental leave. Any work undertaken is a matter of agreement between the line manager and the employee.

Any SPLIT days worked do not extend the period of SPL.

## **14.0 SICK LEAVE DURING SHARED PARENTAL LEAVE**

- 14.1 To be eligible to take shared parental leave it is a key criterion that the parent is absent for the purposes of caring for their child and therefore an employee cannot claim for sick leave or pay whilst on shared parental leave.

- 14.2 In the event that an employee is too ill to care for their child during a week that they are meant to be on shared parental leave, they must inform their manager immediately.
- 14.3 In these circumstances their entitlement to be on shared parental leave in the week that they are ill will cease, and they will instead be subject to the Trust's sick leave and pay provisions in accordance with Trust policy.
- 14.4 Shared parental pay is not payable in any week where sick pay is claimed and therefore the Trust is entitled to reclaim any monies paid as an overpayment of wages if payment has already been made.

## **15.0 RETURNING TO WORK AFTER SHARED PARENTAL LEAVE**

- 15.1 The employee will have been formally advised in writing by the Trust of the end date of any period of SPL. The employee is expected to return on the next working day after this date, unless they notify the Trust otherwise. If an employee is unable to attend work due to sickness or injury, the Trust's normal arrangements for sickness absence will be applied.
- 15.2 If an employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the Trust at least 8 weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their 3 notifications to book and/or vary leave then the Trust does not have to accept the notice to return early, but may do so if it is considered to be reasonably practicable to do so.
- 15.3 An employee is entitled to return to the same job if the aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less

If the maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, an 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 no less favourable.

## **16.0 EMPLOYEES WITH MORE THAN ONE JOB**

- 16.1 Where an employee has 2 (or more) jobs and they qualify for shared parental leave in respect of each employment, they are entitled to take shared parental leave from each employer.

This should not be confused with an employee working for the Trust who has two posts – as this is one employment and therefore only one entitlement.

- 16.2 To be eligible for Shared Parental Leave, the employee must have given notice on all their maternity leave entitlement (from both jobs) in order to be eligible for Shared Parental Leave. A mother cannot be taking maternity leave in one job and shared parental leave in another job.

The maximum number of weeks that are available to share will however remain as a total of 52 weeks. Advice should be sought from HR if this occurs.

## **17.0 FIXED TERM CONTRACTS**

- 17.1 An employee must be in employment on the date that SPL is due to commence or ShPP is due to be paid. If a fixed term contract has ended prior to this date, then there is no entitlement to receive or continue to receive SPL or ShPP. However, the reason for ending a fixed term contract cannot be due to the fact an individual has requested SPL.

## **18.0 MONITORING OF IMPLEMENTATION AND GOVERNANCE**

- 18.1 This procedure is subject to review as per the Trust HR review schedule and as agreed by the Trust's Partnership Committee.

- 18.2 Compliance with this procedure will be against the Trust's agreed minimum requirements/standards as detailed within its Auditable Standards and Monitoring Arrangements.

The policy itself is subject to review as part of the Trust's HR Policy schedule and is agreed on an annual basis at the Joint Consultative Committee.

- 18.3 The Trust considers that knowingly providing false or inaccurate information to the Trust, another employer or the HMRC is a serious offence.

Any employee suspected of doing so, attempting to do so or behaving in a fraudulent manner will be investigated in accordance with the appropriate Trust policies and procedures and as a result may find themselves subject to disciplinary action.

## **19.0 FURTHER ADVICE OR SUPPORT**

- 19.1 For further advice in the first instance please contact your HR Advisor.

Alternatively there is a range of useful advice and information contained on both the ACAS and Government website (Department for Business Innovation & Skills) websites.

Included in the Government website is a step-by-step guide that you can fill in with your details to help you find out if you are eligible to receive shared parental leave.

[www.acas.org.uk/spi](http://www.acas.org.uk/spi)  
[www.gov.uk/shared-parental-leave-and-pay](http://www.gov.uk/shared-parental-leave-and-pay)

The Trust also offers a range of other advice and support through its Employee Assistance Programme who may be contacted on 0800 243458. This is a free and 24 hour confidential service.

**20.0 REFERENCE TO OTHER TRUST POLICIES AND PROCEDURES**

20.1 This policy should be read in conjunction with other policies in place that may be relevant. These include

- Leave Policy
- Flexible Working Policy and Procedure
- Employee Wellbeing & Sickness Absence Policy/Management of Sickness Absence Procedure
- Organisational Change Policy and Procedure

**END**



