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| **Developed by:** | **Human Resources and employment policy group** |
| **Director leads:** | **Director of Human Resources, organisational development and estates** |
| **Contact for advice:** | **Payroll Department /Human Resources** |

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1. **INTRODUCTION**

This policy sets out the rights regarding statutory and occupational maternity leave and pay. The policy provides a summary of the provisions to assist employees to choose the entitlements that is most suitable to their circumstances.

1. **PURPOSE and SCOPE**

**2.1** The purpose of the policy is to provide staff with information about their entitlements to leave and pay for the birth of a baby. The policy includes information on the qualification requirements for leave and pay and provides guidance on the steps staff should take in order to benefit. It also includes detail on other issues arising when a member of staff needs to take maternity leave.

**2.2** The policy has been written to comply with the requirements of [Agenda for Change terms and conditions](http://www.nhsemployers.org/PayAndContracts/AgendaForChange/Pages/Afc-Handbookrp.aspx?bcsi_scan_587D43807B96E3A7=uE/C5dsfR0cd1lnBfyeeRhkAAADQ6KcO&bcsi_scan_filename=Afc-Handbookrp.aspx) and the [Terms and Conditions Consultants (England) 2003, best practice and legislation](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4070548)

**2.3** This policy is intended to apply to all employees of the Trust, including Medical and Dental staff. It does not, however, apply to agency workers.

## DEFINITIONS AND SUMMARY OF ABBREVIATIONS AND TERMINOLOGY USED IN THIS DOCUMENT:-

## Expected week of Childbirth (EWC) - The Sunday of the week your baby is due as detailed on the MATB1

* **Expected Date of Childbirth (EDC) -** Expected date of childbirth (the date your baby is due)
* **MATB1** - Maternity certificate confirming your expected date of childbirth which is available from your GP or Midwife at the 21 Week of pregnancy
* **Occupational Maternity Pay (OMP)** - Maternity Pay paid by the Trust if you have 12 months continuous NHS service
* **Statutory Maternity Pay (SMP)** - Maternity Pay paid by the Trust if you earn enough to pay national insurance and been employed for 26 weeks at the 15 week before the expected date of Childbirth
* **Maternity Allowance (MA)** - Paid by Job centre Plus for women that do not qualify for other maternity pay provided they have been employed or self-employed for 26 weeks out of the last 66 weeks Plus earned a specified average pay in over 13 weeks of the 26 weeks.
* **Ordinary Maternity Leave (OML)** - The first 26 weeks of maternity leave
* **Additional Maternity Leave (AML)** - a further 26 weeks maternity leave

## Keeping in touch days (KIT days) – Up to a maximum of 10 days that the employee on Maternity leave can attend work without bringing their maternity leave to an end and are intended to facilitate a smooth return to work

## CHILDBIRTH - The live birth of a child or a still birth after a pregnancy lasting at least 24 weeks.

## AVERAGE WEEKLY PAY - Pay based on the 2 months’ pay up to and including the 15th week before the expected date of childbirth. (25th week of pregnancy) if a pay award/increment is implemented before or during the maternity leave period, the pay will be recalculated.

* **Notification week/ 15 week date -** This is the 15th week before your baby is due (25th week of pregnancy). You must inform your line manager and payroll at this time of the date you intend to start your maternity leave.
* **11th week date -** This is the 11th week before your baby is due (your 29th week of pregnancy). This is the earliest date you can commence maternity leave and statutory maternity pay can be paid.
* **4th week date -** This is the 4th week before your baby is due (36th week of pregnancy). If you are off sick after this date for pregnancy related reasons your maternity leave will commence automatically. It commences the day after the first complete day of absence.

**4.0 RESPONSIBILITIES OF MANAGERS**

* Discuss the Maternity Leave/Pay schemes with employees before the commencement of their maternity leave including advising that if they choose a paid leave scheme and then decide to leave after the Birth an overpayment of salary will occur, which will be recoverable. Further guidance is available from HR/Payroll.
* To allow the employee paid time off to attend antenatal appointments including doctors, midwife and hospital appointments and antenatal appointments that are at the advice of a medical practitioner. An expectant partner of a pregnant individual has the right to take time of work for up to 2 antenatal appointments.
* Undertake risk assessments at all stages including:
* During pregnancy
* When returning within 6 months of the birth
* Return following a still birth
* Return when breastfeeding
* Discuss annual leave arrangements prior to commencement of Maternity leave
* Agree and maintain reasonable contact with an employee on Maternity leave, keeping them up to date with changes in the workplace, social or department events
* Discuss the employees wish to undertake KIT days
* Reasonably consider any request to reduce their hours or work flexibly, in accordance with the Trust's Flexible Working Time policy and procedure
1. **RESPONSIBILITIES OF THE HUMAN RESOURCES/ PAYROLL DEPARTMENT**
* To provide advice and guidance to managers and employees on the interpretation of the policy

* Provide employees with their entitlement to maternity leave and pay, the expected date of return and notifications required under the policy
* To maintain and monitor appropriate records.

* To keep managers informed of the progression of maternity leave/pay applications.
* To update and review the maternity leave/pay provisions.

**6.0 EMPLOYEES RESPONSIBILITIES**

 Regardless of whether or not you intend returning to work following maternity leave you must:

* Continue to be employed by the Trust until immediately before the beginning of the 11th week before your E.W.C.
* Notify your manager of your intention to take maternity leave before the end of the 15th week before the expected birth date or as soon as practicably possible
* Comply with all notification requirements within this policy
* Provide all documentation in line with this policy
* Discuss annual leave arrangements and keep in touch days (KIT) days prior to taking maternity Leave
* You should request and seek prior agreement with payroll for your occupational maternity pay to be paid in a different way to normal e.g., a fixed amount paid each period throughout the maternity leave. Should you fail to ask for alternative arrangements you will be paid your maternity leave as it is accrued.
* You must notify your manager of your intended return to work day within 28 days of receiving confirmation of your maternity leave. Should you wish to change your return to work date at any point throughout your maternity leave you must give your manager a minimum of 28 days notice before returning to work
* You must notify payroll immediately (day after) if you have your baby early
* Following the birth of your baby you may not work for your employer for the 2 weeks immediately following the birth. Work includes any work done from home or a hospital bed.

**7.0 ENTITLEMENTS (SCHEMES)**

 To assist you in choosing the most suitable scheme, provisions have been grouped together under Schemes A to D. The following matrix incorporates all the various provisions available.

 To select your most suitable scheme, look down the left hand column of the matrix headed ‘Length of Employment’ to the box which shows your length of service. The box to the right then indicates your most suitable scheme(s).

 **Different Types of Schemes Available**

|  |  |
| --- | --- |
| **Length of Employment** | **Type of Scheme** |
| You have been employed for less than 26 weeks at the end of your 25th week of pregnancy (15th week date) | A |
| You have been employed for 26 weeks at the end of your 25th week of pregnancy (15th week date)– but less than 12 months at your 29th week of pregnancy (11th week date)  | B |
| You have been employed for 12 months or more, at your 29th week of pregnancy (11th week date) and intend returning to work | C |
| You have been employed for 12 months or more at your 29th week of pregnancy (11th week date) and are uncertain if you want to return, or do not intend to return | D |

 **7.1 SCHEME A**

 If you qualify for Scheme A, you will receive:

 52 weeks unpaid leave

 In addition, you may be entitled to Maternity Allowance (see https://**www.gov.uk**/**maternity-allowance)**

 **7.2 SCHEME B - FOR THOSE INTENDING OR NOT INTENDING TO RETURN TO WORK**

 If you qualify for Scheme B you will receive:

 52 weeks unpaid leave

 In addition, you may be entitled to the following SMP,

|  |  |
| --- | --- |
| **Weeks** | **Entitlement** |
| 1 – 6 | 90% of average weekly earnings |
| 7 – 39 | 90% of average weekly earnings or current rate of SMP – whatever is the lower |
| 40 – 52  | Unpaid leave  |

 Providing you satisfy all the conditions outlined below.

* Have been continuously employed by your current employer for at least 26 weeks ending with the 15th week before the E.W.C.
* You must have average weekly earnings in the last 8 weeks of those 26, which qualify for the payment of National Insurance.
* Are still pregnant at the 11th week before the E.W.C. or have had the baby by that time. The earliest that SMP can start is the 11 week before EWC and the latest it can be paid is the date of the birth. SMP can start on any day of the week
* Submitted the MATB1 and the application form for maternity leave at least 28 days before the maternity leave is due to start.
* And have stopped working.

**7.3 SCHEME C - FOR THOSE INTENDING TO RETURN TO WORK**

 If you qualify for Scheme C then you will receive 52 weeks leave of which 39 weeks will be paid leave:

|  |  |
| --- | --- |
| **Weeks** | **Entitlement** |
| 1 – 8 | Full pay (inclusive of SMP and/or certain allowances/benefits if applicable) |
| 9 – 26 | Half pay plus SMP (if applicable, provided this does not exceed your normal full weekly pay |
| 27 – 39 | SMP or 90% of average weekly earnings, whichever is the lower |
| 40-52 | Unpaid leave |

You can qualify for scheme C (NHS Occupational Maternity pay) providing you fulfil the conditions outlined below

* You have at least 12 months continuous NHS service with 1 or more NHS employers (without a break in service) and continue be employed at the beginning of the 11 week before the expected week of childbirth (A break of 3 months or less is disregarded but does not count towards the 12 month service
* You are working full or part time which qualifies you to pay National insurance
* You notify your manager in writing, that you intend to take maternity leave, the date it is to commence and confirm your intention to return to the Trust or another NHS employer for a 3 month period, prior to your 15 week before the expected date of childbirth (or as soon as reasonably practicable)
* You submit a MATB1 certificate from a registered medical practitioner or practising Midwife not less than 28 days before the commencement of maternity leave or as soon as reasonably practicable
* Should you wish to return to work prior to the end of the full 52 weeks maternity leave you must inform your manager in writing at least 28 days before the actual date you intend to return to work. (you do not need to do this if taking the full 52 weeks).

You can request payroll to pay your Occupational Maternity in a different way i.e., in equal amounts throughout the period of leave provided this is requested and agreed prior to commencement of maternity leave as detailed in the application form

To be eligible for the criteria of SMP you must fulfil the conditions as per scheme A

**7.4 SCHEME D - FOR THOSE UNCERTAIN AS TO WHETHER THEY WISH TO RETURN TO WORK OR DO NOT INTEND RETURNING**

 If you qualify for Scheme D you will receive:

 39 weeks paid leave (providing you fulfil the conditions outlined in scheme B)

|  |  |
| --- | --- |
| **Weeks** | **Entitlement** |
| 1 – 6 | 90% of average weekly earnings |
| 7 – 39 | 90% of average weekly earnings or current rate of SMP -whichever is the lower |

If, providing you fulfil the criteria of Scheme C, you subsequently decide to return to work, you will be eligible to remain on maternity leave for a period of up to 52 weeks (which is inclusive of the 39 weeks paid maternity leave).

 In addition, if you return to the employment of the Trust, for at least 3 months

 After the maternity leave ends, you may, depending on qualification (as per

 Scheme C become eligible for additional Occupational Maternity Pay.

**8.0 ADDITIONAL INFORMATION**

 The following points are a general guide to help you to understand the maternity provisions. You may wish to discuss these further with your manager, Payroll, or a member of the Human Resources Department.

8.1 RISK ASSESSMENT

 Your line manager will be required to conduct a risk assessment ([http://nww.swyt.nhs.uk/health-safety/Pages/Risk-Assessmen](http://nww.swyt.nhs.uk/health-safety/Pages/Risk-Assessment.aspx)[t.aspx](http://nww.swyt.nhs.uk/health-safety/Pages/Risk-Assessment.aspx) on your post to ensure that there are no hazards within your job or workplace that may affect your health, or the health of your baby, whilst you are pregnant, have given birth in the previous 6 months or are breastfeeding.

8.2 ALTERNATIVE EMPLOYMENT FOR NEW AND EXPECTANT STAFF MEMBER

 If the Trust considers that you or your child would be at risk were you to continue with your normal duties (based up on the risk assessment and medical evidence), the Trust should take appropriate action to reduce or eliminate the risk. This may require suitable adjustments or alternative work where the risk cannot be reduced via any other options. Medical advice may need to be sought from Occupational Health to assist in determining appropriate solutions adjustments or alternative work.

 Where suitable adjustments or alternative employment is not available, you will be asked to refrain from work on health and safety grounds, on normal pay, until you give the appropriate notice to commence maternity leave.

8.3 FIXED TERM/TRAINING CONTRACTS

 Fixed term or training contracts which are due to expire after the 11th week before the expected date of Childbirth shall have their contractextended to allow them to receive 52 weeks maternity leave which includes paid occupational and statutory maternity pay and the remaining 13 weeks unpaid maternity leave provided they meet the qualifying criteria in section 6. They will accrue annual leave and bank holidays for the period of maternity leave.

 Should the fixed term worker wish, the contract can be terminated at the expiry date and the maternity pay due paid as a lump sum to the employee. They would only accrue annual leave up to the date of termination

 The dismissal can then take place and the reason for the dismissal will still be for the reason of the fixed term contract ending.

 The fixed term worker does not have a right to return to their post after the expiry of their maternity pay/leave if the contract would have ended had they not been pregnant. In this circumstance you would not be required to repay any maternity leave

 If you are on a planned rotational training scheme you may return to work in the same or in the next planned post with the agreement of your Clinical Tutor or Training Co-ordinator.

 Absence on maternity leave, paid or unpaid will not count as a break in service

8.4 REDUNDANCY

If a pregnant employee qualifies for statutory maternity pay and is made redundant before going on maternity leave but after the beginning of the 15th week before the baby is due, they will be entitled to receive the full amount of their statutory maternity pay (SMP) as well as any redundancy payment.

If they are entitled to contractual maternity pay this will cease on the last day of service.

8.5 ANTE-NATAL CARE

 You are entitled to reasonable time off (with pay) for ante-natal care as recommended by a medical professional and it is deemed necessary for your wellbeing. You should request time off in advance. If asked to do so, you must produce an appointment card (or similar) showing the appropriate time. Antenatal care may include relaxation and parenting classes as well as antenatal care.

8.6 SICKNESS ABSENCE DURING PREGNANCY AND MATERNITY LEAVE.

 If you are absent on sick leave wholly or partly due to a pregnancy related illness during the last 4 weeks before the E.W.C. then maternity leave will automatically commence on the day after the first complete day of absence.

 Pregnancy related absence prior to the last 4 weeks before the EWC will be treated as sickness absence in accordance with the sickness absence policy but will not count towards an absence trigger.

 Odd day’s pregnancy related illness during this period can be disregarded if the employee wishes to continue working until the maternity leave start date notified.

8.7 PREMATURE BIRTH

 Where a baby is born prematurely, you will be entitled to the same amount of maternity leave and pay as if your baby had been born full term.

 If the premature birth occurs prior to the 11th week before the E.W.C., maternity leave shall commence on the day after birth and will continue for the full entitlement.

 If your baby is born prior to the 11th week before the E.W.C. and, your baby remains in hospital, you may, with agreement of your manager, choose to split your maternity leave entitlement. You may take a minimum of 2 weeks leave immediately after the birth and then returning to work to take the balance of leave following your baby's discharge from hospital.

**8.8 MISCARRIAGE**

Where there is a miscarriage before the start of the 25th week of pregnancy, normal sick leave will apply as necessary however, this will not count towards an absence trigger.

8.9 STILL BIRTHS

In the sad event of a still birth after the start of the 25th week of pregnancy the usual maternity pay and leave entitlements will apply.

8.10 ANNUAL LEAVE AND BANK HOLIDAYS

 Annual leave and Bank holidays will continue to accrue during paid and unpaid maternity leave to be taken upon return

 For employees taking maternity leave, they should take as much of the annual leave for that leave year prior to the maternity leave starting.

It may be possible, with the agreement of your manager to carry over 20 days annual leave (pro rata for part time staff) from one leave year to another where this cannot reasonably be taken prior to commencement of maternity leave. However, annual leave which can be calculated in advance, should wherever possible, be taken before maternity leave commences where the period of maternity leave is likely to extend beyond the end of the leave year.

 Where unused annual leave and public holidays exceed the 20 day (pro rata provision for carry over to the next leave year it may be beneficial for the manager and employee to take the unused annual leave and bank holidays from a previous annual leave year before or at the end of the agreed paid/unpaid maternity leave period. In all circumstances the manager and employee should agree how it will be taken.

8.11 INCREMENTAL DATE

 Periods of paid and unpaid maternity leave count as service for the purpose of annual increments.

**9.0 EFFECTS OF MATERNITY LEAVE ON BENEFITS AND DEDUCTIONS**

**9.1 PENSION**

 If you are a member of the National Health Service Pension Scheme, then you will be liable to pay contributions during the whole of your maternity leave, **including any unpaid periods**. This ensures the continuity of your pensionable service. During unpaid leave, pension contributions are not deducted and these arrears of contributions will be recoverable on your return to duty. For any further advice, please contact Payroll.

9.2 TRUST LEASE CAR USERS

 If you are a lease car user then you will be liable to continue to make contributions as determined by your Lease Car agreement. You will be entitled to continue to use the car during the maternity leave period, provided you continue with the payments for private use. You should discuss this matter with the Fleet Manager, Human Resources Department.

**9.3 SALARY SACRIFICE**

If an employee goes on maternity leave and has a salary sacrifice (Car, Childcare Vouchers, Home electronics etc.), the maternity pay will be calculated on the gross pay excluding the salary sacrifice. The salary sacrifice will be payable throughout their maternity leave including Occupational Maternity pay, Statutory maternity pay and no pay.

The process will be as follows:

1. During any period of pay the salary sacrifice will be deducted
2. During any period of no pay the amount owed for the salary sacrifice will be calculated and deducted up on a return to work. The employee should discuss with payroll the period from which the payment should be recovered.

Alternatively, where the salary sacrifice is for a Childcare vouchers the employee may request to cease these prior to Maternity leave (you should note that due to Government changes anyone leaving the scheme will not be eligible to re-join the childcare voucher scheme following their maternity leave as the scheme closed to new applications on 4th October 2018). If you are in receipt of childcare vouchers when you become pregnant you should contact the childcare team immediately as it could affect the amount of maternity pay you receive.

Where the salary sacrifice is a car it may be returned to Fleet with the appropriate notice and the early termination charge paid in full.

Salary sacrifice for home electronics must be paid as the employee has received the goods.

9.4 DEDUCTIONS FROM PAY

 Deductions from pay (e.g., Premier Health Benefits, Trade Union subscriptions, childcare vouchers etc.) will continue whilst you are receiving pay but will cease if/when you start unpaid maternity leave. Please ensure that you are aware of the consequences of these deductions ceasing during your unpaid maternity leave.

9.5 EXTENSION OF UNPAID LEAVE

 Where consistent with the needs of the service, your manager may agree to you taking additional unpaid leave after confinement, in accordance with the Trust's Special Leave Policy. This may be in the form of Parental Leave or career breaks. Agreement should be reached with your manager at the earliest time possible.

 **Please note - this does not count towards the 3 months requirement to return to work in order to receive occupational maternity pay**

**9.6** **KEEP IN TOUCH DAYS**

You should agree with your manager what kind of contact you will have with your department during your maternity leaveand how you will be kept updated on changes and developments.

 You may undertake up to 10 keeping in touch days during your maternity leave without your maternity pay being affected. These days cannot be taken during the first two weeks immediately after the birth of the baby. It is your decision if you wish to undertake these days and the Trust cannot insist that you do. These days may be used for attending a training course or for some other work agreed with your manager to keep you up to date. Work for any part of the day will be counted as 1 KIT day.

 If you do work a KIT day during your paid period of leave you will receive payment equivalent to the hours worked offset against any SMP and OMP you receive.

 Once you have used all you KIT days, if you undertake any further work, you will lose your SMP for that week.

 **Please note that the manager should inform payroll of all KIT days worked**

9.7 RETURN TO WORK

 You must give 28 days’ notice of your intention to return to duty following your maternity leave unless you intend to return at the end of your 52 weeks leave when no extra notice is required to be given.

 You have the right to return to your job under your original contract or similar type of job on no less favourable terms and conditions, following your maternity leave providing you return on the appropriate notified date.

 You must have a minimum of 2 weeks maternity leave immediately following the birth of your child.

 Should you wish to return to work earlier than the original date agreed, you must give your manager 28 days’ notice.

**9.8** **FLEXIBLE WORKING**

 There is no automatic right to return to reduced hours or set shift/working patterns that are different to those of your department, although you have right to request flexible working in accordance with the Trust policy. You should discuss your wishes with your manager and complete the flexible working request as early as possible. If it is not possible for you to work different hours, the manager will confirm the reasons for this in writing you.

9.9 NOT RETURNING TO WORK

 Completion of Section 2 of the Maternity Pay/Leave Application Form indicating that you will not be returning to work is **not** regarded as resignation. **A formal resignation must be submitted subject to giving the appropriate period of notice.**

9.10 FAILURE TO RETURN TO WORK

 Failure to return to work for the Trust immediately after your maternity leave (for at least 3 months), or to another NHS employer, within 15 months of the beginning of maternity leave, **will lead to the Trust reclaiming the whole of the Occupational Maternity Pay** (less any pay to which you may be entitled to receive under the Statutory Maternity Pay Scheme).

 **Please note that you must physically return to work for the period of 3 months.**

**9.11** **GUIDANCE LEAFLET ON YOUR RIGHTS AND RESPONSIBILITIES**

The Trust has produced a leaflet for staff, which gives an overview of the Maternity provisions. This leaflet can be seen at Appendix 2.

**9.12** **CHILDCARE AND CARERS SUPPORT SERVICE**

The Childcare and Carers Support Services team is there to help all staff working for the Trust. They provide a range of services and information on all aspects of childcare and those with caring responsibilities. The information of contact numbers, workshops, in house nurseries/holiday clubs and much more can be accessed through the Trust intranet site.

**9.13 INFORMATION ABOUT MATERNITY RIGHTS AND STATUTORY MATERNITY PAY**

 For further information on statutory maternity rights and benefits please refer to:

* Your local Benefits Agency (Job Centre Plus)
* DirectGov <http://www.direct.gov.uk/en/Employment/index.htm>
* Dept. for work and pensions – [www.dwp.gov.uk](http://www.dwp.gov.uk)
* Health and safety executive – [www.hse.gov.uk](http://www.hse.gov.uk)
* Agenda for Change Terms and Conditions Handbook.

**10.0** **MANAGERS CHECKLIST**

**As soon as employee advises you of pregnancy:**

* Carry out appropriate risk assessment(s)
* Allow paid time off for antenatal appointments

**Once written confirmation of maternity leave received from employee:**

* Acknowledge receipt of maternity information from employee
* Ascertain plans for return to work
* Plan for their leave – staff covering etc.
* Confirm accrual of annual leave and plans to take it.
* Complete application form and attach MAT B1 form.
* Agree reasonable contact arrangements whilst off.
* Discuss keeping in touch days if appropriate.

**Before employee returns to work:**

* Consider any requests for flexible working
* Consider possible arrangements for breastfeeding
* Give formal notice to any temporary staff covering this area of work.

**11.0 EMPLOYEES CHECKLIST**

* Advice line manager in writing by 15th week before baby is due.
* Consider you must give at least 28 days’ notice of any changes to the start of maternity leave.
* Consider you must give 28 days’ notice of any change to the date of return from maternity leave.
* Consider plans for return and discuss with manager.
* Agree accrual of annual leave and plan on how/when to take it.
* Present MAT B1 form and complete and sign application form.
* Agree reasonable contact arrangements whilst off.
* Discuss keeping in touch days if appropriate.

**Before returning:**

* Agree arrangements for returning to work, including any request for flexible working.
* Advise whether breastfeeding arrangements are required.

**12. SUMMARY OF PROVISIONS**

* The Trust's Occupational Maternity Pay/Leave Provisions
* Statutory Maternity Pay (SMP) Provisions
	1. **Occupational Provisions**

12 Month continuous service with 1 or more NHS employer at beginning of 11th week before expected week of childbirth (a break in service of 3 months or less is disregarded but doesn’t count towards 12 month service)

Working full or part time and pay national insurance

Do not pay national insurance

Notified your manager in writing of intention to take maternity leave by 15 week before expected date of childbirth

Not entitled to occupational Maternity pay or leave

Provided a MATB1 certificate from a GP or Midwife 28 days before commencement of maternity leave

Do not intend to return to work

Plan to return to work for the Trust or another NHS Trust for a period of 3 Months at the end of the maternity leave

You will qualify for the above providing that the following conditions are fulfilled:

* + 1. And, if desired, return to work after your maternity leave has ended, for the Trust or another NHS employer for a minimum period of three months. If you do not intend returning to work, you are required to provide written confirmation of your resignation.

 **12.1.2** You inform your manager, in writing, at least 28 days before the actual date you intend to return to duty if you intend to return prior to the end of your full 52 weeks maternity leave period **or** provide written confirmation, of your intention not to return to work. If you intend to return to work at the end of your full 52 weeks maternity leave you will not be required to give any further notice to your manager.

**12.1.3** You request and seek prior agreement with Payroll for your Occupational Maternity Pay to be paid in a different way to normal e.g., a fixed amount paid each pay period over the full maternity leave period.

**12.2 STATUTORY MATERNITY PAY (SMP) PROVISIONS**

 If you **do not** qualify for the Occupational Maternity Pay/Leave Provisions (above) you **may** qualify for Statutory Maternity Pay. Statutory Maternity Pay is a provision whereby most women employees receive from their employer a set statutory amount of maternity pay for a period of 39 weeks.

**12.2.1** To qualify for SMP you must have been employed, without a break in service in the NHS, for 26 weeks at your 25th week of pregnancy (the 15th week before the E.W.C) Also you must have average weekly earnings in the last 8 weeks of those 26, which qualify for the payment of National Insurance contributions. The 15th week is known as the "qualifying week".

**12.2.2** If you qualify for SMP you will receive the following:

* For the first six weeks of your maternity leave you will receive 90% of your average weekly earnings, and
* for the remaining 33 weeks of your maternity leave a pre-determined standard rate which is set by the Department for Work and Pensions or 90% of average pay whichever is lower,

**12.2.3** The earliest that SMP can start to be paid is 11 weeks before the E.W.C.

The latest it can start to be paid is the date of the birth. Normal pay will continue until SMP starts. SMP can start on any day of the week.

**12.3 MATERNITY ALLOWANCE**

Further information on Statutory Maternity Pay and Maternity Allowance entitlements is also available on the DWP website at: -

<http://www.dwp.gov.uk/a-to-z>

<https://www.gov.uk/browse/benefits/families>

**APPENDIX 1**

SOUTH WEST YORKSHIRE PARTNERSHIP NHS FOUNDATION TRUST

 **APPLICATION FOR MATERNITY LEAVE/PAY**

## SECTION 1

Payroll Number …………………………

Full Name .........................................................................................

Home Address………………………………………………………………………………. ……………………………………………………………………………………………….....

………………………………………………………………………………………………….

………………………………………………………………………………………………….

Contact telephone number ………………………………………………………………….

Job title............................................................. Manager..................................................

Dept/Location................................................................................................................

Date commenced with Trust ........................................................................................

Date commenced with the NHS (or Local Authority) ....................................................

MAT Certificate Attached \* o To Follow \* o

Expected Date of Childbirth ............................................

Maternity leave start date (after any annual leave being taken). …………………………

Expected date of return (if prior to 52 weeks leave) …………………………………….

 Lease Car Holder Yes/No Home electronics Yes/No

 Childcare vouchers Yes/No salary sacrifice car Yes/No

Pay Options

I wish to be paid averaged out o Over ……… number of weeks

I wish to be paid as per my maternity calculation o

 Please note that a schedule of gross pay will be sent to you in the month you commence Maternity leave

**SECTION 2** ***I DO NOT*** intend to return to work.

I, .......................................................................... wish to apply for maternity leave and/or pay in accordance with Scheme ........... (A, B, or D).

**I do not** intend to return to work and my last day of work with the Trust will therefore be .........................................................

Letter of Resignation: Attached \* o To Follow \* o

Signed: ........................................................ Dated: ..............................................

**SECTION 3** ***I DO*** intend to return to work/wish to keep this decision open.

I, ………. ........................................................, wish to apply for Maternity Leave and/or pay in accordance with Scheme ............ (A, B, C or D).

I have read and understood the conditions of my chosen Scheme and am fully aware that:

* If I intend to return to work before the end of my ordinary or additional maternity leave, I will provide written confirmation to the Human Resources Department and my manager of my actual date of return to work at least 28 days (4 weeks) before that date**,**
* Should I fail to return to the Trust or any other NHS employment for a minimum of 3 months after the expiry of my maternity leave, I shall be liable to repay the whole of the Maternity Pay received less any Statutory Maternity pay to which I am entitled.
* Should I wish to ensure continuity of my pensionable service then I understand that I shall need to make additional payments in respect of any period of unpaid Maternity Leave.

o I have left my decision to return to work open. In accordance with Scheme D, I understand that if I return to the employment of the Trust, I may be eligible to receive additional Occupational Maternity Pay. I agree that the Trust may retain any such entitlements until I return to the Employment of the Trust.

Signed.....................................................................…… Dated ...........................

**TO BE COMPLETED BY THE MANAGER**

**I confirm that I have seen and discussed the Maternity Leave Schemes open to the above-named and that they have completed the required period of service.**

**I have undertaken the relevant risk assessment.**

**Signed................................................................. Dated ...........................................**

**Print Name……………………………………….**

**ON COMPLETION, PLEASE FORWARD IMMEDIATELY TO THE PAYROLL DEPARTMENT, KENDRAY HOSPTIAL, DONCASTER ROAD, BARNSLEY S70 3RD.**

\* PLEASE TICK AS APPROPRIATE

APPENDIX 2



# Guidance on Your Rights & Responsibilities

**Maternity Provisions**



**INTRODUCTION**

## Having a Baby

The information contained within this leaflet is designed to offer guidance regarding your pregnancy and events after the birth of your baby in relation to work. This guidance must be read in conjunction with the Trust’s Maternity Leave and Maternity Pay Policy, available from your manager, Human Resources Department, or the Trust’s Internet/Intranet.

Any questions you have after reading this leaflet should initially be directed to your manager.

The Leaflet is in four sections:

* Your Maternity Rights – Maternity leave/pay
* Your Responsibilities - Maternity Leave Application
* During Pregnancy/Maternity Leave
* Further Help and Advice

#### SECTION 1 - Your Maternity Rights

The regulations regarding maternity leave and pay are complex and are affected by continuous service and your level of earnings.

##### Maternity Leave

* All pregnant employees are entitled to 52 weeks maternity leave regardless of length of service
* All pregnant employees are entitled to 26 weeks ordinary maternity leave (OML), (which may be paid or unpaid, subject to meeting certain criteria regarding continuous employment and level of earnings).
* All pregnant employees are eligible for additional maternity leave (AML) making a *total* of a year’s leave.
* All pregnant employees have a right to paid time off for antenatal care.
* Employees returning from maternity leave have a right to return to the original or similar type of job on no less favourable terms.
* Employees have a right to be offered suitable alternative work where this is available, if redundant while on maternity leave.
* Employees are protected from sex discrimination and unfair dismissal for reasons related to pregnancy or maternity leave.

#### *Maternity Pay*

* Maternity pay is available to all employees during OML providing you have been employed, without a break in service in the NHS, for 26 weeks at the 25th week of pregnancy (the 15th week before your baby is due) You must also have average weekly earnings in the last 8 weeks of those 26, which qualify for the payment of National Insurance contributions. The earliest maternity pay can be paid is 11 weeks prior to the EWC.
* Employees not entitled to maternity pay may be entitled to a Maternity Allowance providing they have been employed/self-employed for 26 weeks in the 66 weeks (the test period) up to and including the week before the baby is due and earned on average at least £30 or more a week in any 13 weeks in the test period. The Allowance is paid by the Benefits Agency.
* It is important for families to check what other benefits they may be entitled to from the Benefits Agency/ Job centre plus, for example tax credits.

#### *Risk Assessments*

As it is a legal requirement that your employer performs a written risk assessment of your current work activities, it is important that you advise your manager at the earliest opportunity of your pregnancy.

This risk assessment will determine if your current role needs to be modified, or tasks eliminated during your pregnancy, the assessment may be updated as necessary.

Your manager should carry out a further risk assessment, on your return to work in the following instances:

* a return to work within 6 months of the birth
* a return to work following a still birth
* a return to work when breast feeding

If you have any concerns please do not hesitate to contact your manager, Occupational Health, or the Human Resources Department.

#### SECTION 2 – Your Responsibilities

#### *Maternity Leave Application*

Legally, you are required to notify your manager of your intention to take maternity leave by your 25th week of pregnancy. However, you are advised to inform your manager as soon as you are aware that you are pregnant, to ensure your personal safety and that you are aware of your rights and responsibilities *(see above - Risk Assessment)*

Within the Trust’s Maternity Leave Policy, you will find an Application Form for maternity leave/pay which you should ideally complete with your manager. Your Maternity Leave/Pay rights depend upon:

* You submitting your Application Form for maternity leave at least 28 days prior to the commencement of your maternity leave and/or, you providing written confirmation of your intention not to return to work. In this case a letter of resignation is required.
* You providing a Maternity Certificate (MAT B1) which confirms your estimated date of confinement, unless you are certified medically unfit for work.
* You informing your manager, in writing, of the date you propose to return to work or not. This must be at least 28 days before your return date if this date is prior to the end of your 52 weeks leave.

#### SECTION 3 - During Pregnancy/Maternity Leave

You are advised to have regular meetings/conversations with your manager during your pregnancy/maternity leave to keep them informed of any change in your circumstances, or your general health. You may also wish to be kept informed of departmental/trust wide initiatives, team briefs etc. It is also beneficial to keep in contact with your colleagues during your period of leave so that your return to work can be well planned and supportive. You can agree with your manager to do up to 10 days work during your maternity leave. These are known as ‘keeping in touch days’ and do not affect your right to maternity pay.

#### *Sickness*

Sickness absence throughout pregnancy would continue to be covered by the normal sick pay scheme unless it is during the final 4 weeks of pregnancy before the EWC.

If you go on sickness absence after the fourth week before your expected week of confinement, and it is medically certified as unrelated to your pregnancy, you will receive your normal sick pay entitlement.

However, if your illness is related to your pregnancy, then the absence will be treated as maternity leave and maternity pay will commence from the first day of such absence if applicable.

The Trust’s confidential Occupational Health or Counselling Services are available for support and advice during or after your pregnancy.

If you are sick following the date that you are due to return from maternity leave this will be covered by the normal sick pay scheme.

**Premature Babies**

If you have your baby before you are due to start maternity leave, then your maternity leave will commence from the actual week of confinement.

###### **Annual Leave**

* All annual leave for the current leave year should ideally be taken before maternity leave commences, when your return date falls into the next annual leave year (commencing 1st April).
* If your return to work date falls within the current leave year, annual leave can be taken before or after your maternity leave.
* With the agreement of your line manager, it may be possible for you to carry forward a maximum of 20 to the next leave year if you are prevented from taking annual leave before maternity leave commences.
* However, if you chose not to take your leave during the current annual leave year, you will not be able to carry 20 days leave forward into the next annual leave year unless otherwise agreed with your manager.
* All requests for annual leave and bank holiday must be approved by your manager and taken in accordance with the needs of the department.
* You will continue to accrue annual leave and bank holiday entitlement during your maternity leave (paid and unpaid).

### *Flexible Working Time*

The Trust has introduced guidance on a range of flexible working time options which you may wish to discuss with your manager prior to going on, or when returning from maternity leave. Parents have the right to request flexible working to care for a child under the age of seventeen, or under the age of eighteen if disabled. Discuss with your manager as soon as possible

***Returning to work***

Employees have the right to return to the same job unless not reasonably practical then the right to return to an alternative role with not less favourable terms and conditions applies. If someone returns on the date specified at the time of applying for maternity, they do not need to give any notice of their return to work. However, if they wish to return prior to this agreed date they must give 28 days notice in writing.

### SECTION 4 - Further Help and Advice

The Trust’s Maternity Leave Policy provides more information regarding your rights and responsibilities and you should refer to this.

All Trust Employment Policies and Procedures are available from your manager, Human Resources Department or Trust Internet/Intranet. Other Trust Policies which may be useful include:

Special Leave for domestic, personal and Paternity Leave Guidance

family reasons Policy Adoption Rights & Benefits Policy

Job Share Scheme Flexible working Time Guidelines

***Breastfeeding***

Employees who choose to breastfeed will be provided with suitable rest facilities and they should discuss any arrangements with their manager. There are arrangements with Abacus Nursery (in the Wakefield Locality) where staff can go to express milk or feed their babies.

The member of staff may also wish to work flexibly, and they must discuss this with their manager.

A risk assessment must also be undertaken for anyone who is still breastfeeding on return to work.

### *Childcare Support Services*

The Trust’s Childcare Support Services provides support through a telephone helpline and a dedicated intranet section for advice on childcare provisions e.g., nurseries, local registered services, holiday play schemes, before and after school clubs, emergency childcare provisions etc,

For information regarding childcare contact the Childcare Service Team on 01924 543040.

The local Social Services Department will also be able to provide you with information on childcare.

Further advice is available from your manager, Human Resources Department or log on to the Trust’s Intranet.

 **APPENDIX 3**

**Equality Impact Assessment Tool.**

**Date of assessment: August 2021**

|  |  |  |
| --- | --- | --- |
|  | **Equality Impact Assessment Questions:** | **Evidence based Answers & Actions:** |
| **1** | **Name of the policy that you are Equality Impact Assessing** | Maternity Leave Policy  |
| **2** | **Describe the overall aim of your policy and context?****Who will benefit from this policy?** | The policy sets out the benefits, rights and responsibilities of staff regarding maternity provisions All eligible staff  |
| **3****4** | **Who is the overall lead for this assessment?****Who else was involved in conducting this assessment?** | Director of Human resources, organisational development and estatesThe Employment Policy Sub Group consisting of Managers, Staff side and HR |
| **5** | **Have you involved and consulted service users, carers, and staff in developing this policy?****What did you find out and how have you used this information?** | As it is a staff specific policy, service users were not involved. Staff Side Organisations and managers in the EPG represent the interests of staffInformation to inform policy update including change to terminology. |
| **6****7** | **What equality data have you used to inform this equality impact assessment?** **What does this data say?** | There is no data available in relation to the application of this policy having a negative impact on any group however, it is noted that this policy will only apply to people who are physically able to become pregnant. Available data in relation to staff accessing maternity leave (by characteristic) over the previous 12 months is included below for information. |
| **8** | **Taking into account the information gathered above, could this policy affect any of the following equality group unfavourably:** | **Evidence based answers & actions. Where negative impact has been identified please explain what action you will take to remove or mitigate this impact.** |
|  |  | **YES** | **NO** |  |
| **8.1** | **Race** |  | N | Other – 0.5%White – 90.1%Black African – 2.97%Not stated – 1.49%Indian – 0.5%Pakistani – 2.48%Bangladeshi – 1.98%It is not anticipated this policy will have a negative impact.  |
| **8.2** | **Disability** |  | N | Yes – 4.46%Not declared – 4.95%No – 90.59%It is not anticipated this policy will have a negative impact  |
| **8.3** | **Gender** |  | Y | Due to the nature of the policy, it will only apply to people who are physically able to become pregnant. |
| **8.4** | **Age** |  | N | Up to 30 – 37.13%31-40 – 58.41%Over 40 – 4.46%It is not anticipated this policy will have a negative impact however age may have a limiting impact on the ability to become pregnant. |
| **8.5** | **Sexual Orientation** |  | N | Bisexual – 1.98%Heterosexual or straight – 88.61%Not stated – 7.92%Gay or lesbian – 1.49%It is not anticipated this policy will have a negative impact  |
| **8.6** | **Religion or Belief**  |  | N | Atheism – 29.7%Christianity – 40.59%Not disclosed – 13.37%Other – 9.41%Islam – 5.94%Buddhism – 0.99%It is not anticipated this policy will have a negative impact  |
| **8.7** | **Transgender** |  | Y | Due to the nature of the policy, it will only apply to people who are physically able to become pregnant. |
| **8.8** | **Maternity & Pregnancy** |  | N | This policy describes the provisions and benefits for maternity/pregnancy and is therefore supportive of this group. |
| **8.9** | **Marriage & Civil partnerships** |  | N | Divorced – 2.48%Married – 49.5%Single – 47.52%Legally separated – 0.5%It is not anticipated this policy will have a negative impact  |
| **8.10** | **Carers\*Our Trust requirement\*** |  | N | It is not anticipated this policy will have a negative impact however data will be reviewed when available. |
| **9** | **What monitoring arrangements are you implementing or already have in place to ensure that this policy:*** **promotes equality of opportunity who share the above protected characteristics**
* **eliminates discrimination, harassment and bullying for people who share the above protected characteristics**
* **promotes good relations between different equality groups,**
 |  As required, data relating to staff accessing maternity leave (by characteristic) is available for monitoring purposes. |
| **10** | **Have you developed an Action Plan arising from this assessment?**  | To consider if there is any other meaningful data in addition to the numbers of staff receiving maternity pay/taking maternity leave to inform future reviews. |
| **11** | **Assessment/action plan approved by (director lead)** | Alan DavisDirector of HR, OD and estates August 2021  |
| **12** | **Once approved, please forward a copy of this assessment to the Equality & Inclusion Team:** **inclusion@swyt.nhs.uk** |  |

 **APPENDIX 4**

**Checklist for the Review and Approval of Procedural Document**

*.*

|  |  |  |  |
| --- | --- | --- | --- |
|  | Title of document being reviewed: | Yes/No/Unsure | Comments |
| 1. | Title |  |  |
|  | Is the title clear and unambiguous? | YES |  |
|  | Is it clear whether the document is a guideline, policy, protocol or standard? | YES |  |
| 2. | Rationale |  |  |
|  | Are reasons for development of the document stated? | YES |  |
| 3. | Development Process |  |  |
|  | Is the method described in brief? | YES |  |
|  | Are people involved in the development identified? | YES |  |
|  | Do you feel a reasonable attempt has been made to ensure relevant expertise has been used? | YES | Legal references checked. |
|  | Is there evidence of consultation with stakeholders and users? | N/A |  |
| 4. | Content |  |  |
|  | Is the objective of the document clear? | YES |  |
|  | Is the target population clear and unambiguous? | YES |  |
|  | Are the intended outcomes described?  | YES |  |
|  | Are the statements clear and unambiguous? | YES |  |
| 5. | Evidence Base |  |  |
|  | Is the type of evidence to support the document identified explicitly? | YES |  |
|  | Are key references cited? | YES |  |
|  | Are the references cited in full? | YES |  |
|  | Are supporting documents referenced? | YES |  |
| 6. | Approval |  |  |
|  | Does the document identify which committee/group will approve it?  | YES |  |
|  | If appropriate have the joint Human Resources/staff side committee (or equivalent) approved the document? | YES |  |
| 7. | Dissemination and Implementation |  |  |
|  | Is there an outline/plan to identify how this will be done? | YES | Continuation of previous policy.  |
|  | Does the plan include the necessary training/support to ensure compliance? | N/A |  |
| 8. | Document Control |  |  |
|  | Does the document identify where it will be held? | YES |  |
|  | Have archiving arrangements for superseded documents been addressed? | N/A |  |
| 9. | Process to Monitor Compliance and Effectiveness |  |  |
|  | Are there measurable standards or KPIs to support the monitoring of compliance with and effectiveness of the document? | N/A |  |
|  | Is there a plan to review or audit compliance with the document? | N/A |  |
| 10. | Review Date |  |  |
|  | Is the review date identified? | YES |  |
|  | Is the frequency of review identified? If so, is it acceptable? | YES |  |
| 11. | Overall Responsibility for the Document |  |  |
|  | Is it clear who will be responsible implementation and review of the document? | YES |  |

 **APPENDIX 5**

**Version Control Sheet**

*This sheet should provide a history of previous versions of the policy and changes made*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Version | Date | Authors | Status | Comment / changes |
| 1.0 | April 2010 | James Corson, Susan Glass | Previous | Not the first version but the first version post FT. Only some general updating following amendments to legislation regarding allowance, notice, keeping in touch days and risk assessment documents |
| 2.0 | May 2013 | Susan Glass, Anne Hall | Previous | This policy replaces all similar previous policies covering maternity leave etc. Whether of the Trust, or of any former organisations that applied to employees, who have now joined, or transferred to the Trust. |
| 3.0 | Jan 2016 | Janet Hirst, Assistant Director of HR - Operations | Previous  | Reviewed by Executive Management Team February 2016. Review date extended to May 2017. |
| 4.0 | May 2018 | HR Manager | Previous | Updated in line with legislation and accrual of leave. |
| 5.0 | July 2021 | HR Business Partner/Senior HR Advisor | Current | Updated following the Government’s closure of childcare voucher schemes to new applicants. Additional minor amendments to language and formatting. Updating to include the use of non-binary terms. |