

Maternity, Adoption, Maternity Support (Paternity) and Additional Paternity Leave Policy

(Replaces Policy No. TP/WF/220 V.4)

POLICY NUMBER	TP/WF/220
POLICY VERSION	V5
RATIFYING COMMITTEE	Trust Partnership Forum
DATE RATIFIED	15 th January 2021
NEXT REVIEW DATE	14 th January 2025
DATE OF EQUALITY & HUMAN RIGHTS IMPACT ASSESSMENT (EHRIA)	15 th January 2021
POLICY SPONSOR	Director of Workforce & OD
POLICY AUTHOR	Head of ER & Business Partnering

EXECUTIVE SUMMARY:

This policy details the benefits of maternity, adoption, maternity support (paternity) and additional paternity leave which are available to all staff. It sets out the procedure to be followed to secure entitlement to this leave and, where appropriate, pay, and also details the responsibilities of managers in supporting and managing pregnant employees.

If you require this document in another format such as large print, audio or other community language please contact the Corporate governance Office on: 0300 304 1195 or email:
policies@sussexpartnership.nhs.uk

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Guiding principles of our workforce policies

We are committed to improving staff experience and wellbeing, making sure our staff feel valued, supported and cared for. As part of this we want to do everything possible to ensure our policies are progressive, easy to understand and are used and applied in a fair and meaningful way. We also want to ensure our policies support staff even in difficult or challenging circumstances, facilitating decisions being made with transparency and impartiality.

1.0 Introduction

Sussex Partnership NHS Foundation Trust recognises that expecting a baby or planning an adoption is an exciting event in your life, and that you need to make plans for leave and the care of your new child.

This policy details the benefits of maternity leave, adoption leave and shared parental leave which are available to you and the action you must take to secure your entitlement. Maternity support, shared parental and adoption leave rights apply to all staff regardless of age, disability, gender and gender identity, race, sexual orientation, marital/civil partnership status and religion or belief.

The Trust also recognises that all employees, not only those with children, need to achieve work-life balance. Further Information is given in the Flexible Working and Special Leave policies.

During your leave you are still an employee. You must maintain the professional registration that is required for your role. If you intend to let your registration lapse due to not returning to work, or other relevant circumstances, you must discuss this with your manager in the first instance. You may need to inform your regulatory body of your plans.

1.1 Purpose

This policy sets out the entitlement to leave and pay for maternity, adoption and shared parental leave for all staff of Sussex Partnership NHS Foundation Trust. It also sets out the responsibilities of both staff and managers before, during and after leave.

1.2 Definitions

1.2.1 Adopter

For the purposes of this policy, an adopter is a person who has been matched with a child for adoption or, if a couple have been matched jointly, the member of the couple who has chosen to take adoption leave and/or Statutory Adoption Pay.

1.2.2 Maternity

Maternity refers to the relationship to the baby of the mother, giving rise to an entitlement to statutory maternity leave and/or Statutory Maternity Pay around the birth of their child. This includes surrogate mothers and mothers who have undergone IVF treatment.

1.2.3 Partner

A partner includes all types of partner, including spouse, civil partner and partner in an enduring family relationship who is not an immediate relative.

1.2.4 Paternity

Paternity refers to the relationship to the baby of the biological father and/or the mother's husband or partner as defined above, which gives rise to an entitlement to Maternity Support (Paternity) Leave and/or Statutory Paternity Pay around the birth of their child. For the purpose of qualifying for Maternity Support (Paternity) Leave, paternity also covers the secondary carer of a child placed for adoption.

1.2.5 Primary Carer

A primary carer is an employee who is, or expects to be, the main carer of a baby or adopted child.

1.2.6 Secondary Carer

A secondary carer is an employee who is, or expects to be, the partner of the primary carer of a baby or adopted child.

1.3 Scope

This policy covers all permanent employees of the Trust

In certain circumstances employees on fixed term contracts (see sections 4.1 (maternity), 5.2 (adoption) and 6.1 and 6.2 (paternity)) and bank and agency workers (see sections 4.1.8 and 4.3) will also be covered by all or part of this policy. Staff on secondment to the Trust from other employers will be covered by their own employer's policy in terms of entitlement to leave and pay, but will need to notify the Trust of their plans to take leave in the same way as permanent staff.

Any information that a staff member provides to the Trust about their health will be processed lawfully and in accordance with the Trust's Data Protection & Confidentiality Policy

1.4 Principles

The purpose of this policy is to ensure that all staff and managers are aware of their rights and obligations in respect of maternity, shared parental leave and adoption.

2.0 Policy Statement

The aim of this policy is to:

- increase employees' awareness of maternity legislation, inform them of their statutory and contractual entitlements, and explain their responsibilities;
- maintain the health and safety of new and expectant mothers; and
- ensure every employee receives fair and consistent treatment and is not discriminated against in any way.

3.0 Duties

3.1 Director of Workforce and Organisational Development

The Director of Workforce and OD is responsible for the implementation of this policy, regularly reviewing the effectiveness of the policy and for approving any amendments that may be required.

3.2 Other Directors, Senior Managers and Heads of Department

Executive Directors, Directors and Deputy and Assistant Directors are responsible for:

- the effective implementation of this policy within their directorates;
- providing resources for putting this policy into practice within their directorates; and
- ensuring that this policy is followed within their Clinical Delivery Service/ directorates.

3.3 Trade Union Representatives

Trade union workplace representatives, otherwise known as stewards, are elected representatives whose role includes representing members both individually and collectively. All stewards have basic training in representation and access to regular training courses. They can gain support, advice and information from their branch, paid union officials via their regional offices and their union's online resources. Stewards are bound by the rules and governance structures of their union and are expected to keep up to date with relevant training.

3.4 All Managers and Supervisors

All line managers should ensure that all employees in their teams are made aware of this policy. In addition, managers have the following responsibilities:

Maternity

- To undertake a risk assessment for all pregnant employees, those who have recently given birth and those who are breast feeding and to update any risk assessment if the working environment changes.
- Where there are concerns about health, safety and welfare, to refer the member of staff to the Occupational Health Department.
- To discuss on a one to one basis what support the member of staff might need during her pregnancy, including time off for antenatal care.

Maternity and Adoption

- To discuss their plans for leave, return dates and the use of 'keeping in touch' days.
- To plan what cover may be needed early in the process and keep other members of the team informed of such plans.
- To forward application forms to the Human Resources team as soon as possible to allow them to confirm entitlements.
- To confirm annual leave arrangements including carrying over of leave.
- To consider requests for flexible working after return from maternity or adoption leave.

3.5 Human Resources

Human Resources have the following responsibilities:

- to provide advice and answer queries related to the entitlements within this policy and employment legislation;
- to process maternity and adoption application forms and confirm entitlement in writing; and
- to propose updates to this policy in relation to maternity legislation as required.
- To support managers through the policy and provide advice in line with legislation ensuring the application of a consistent approach.
- Assist the managers with advice in response to a management referral to occupational health if necessary /requested including any reasonable adjustments to the duties.

3.5 All Staff

Staff have the following responsibilities:

- to discuss their plans for maternity, adoption and maternity support (paternity) leave as early as possible with their manager so that plans can be made and they can be given support and/or risk assessed as appropriate;
- to comply with this Policy and make every effort to attend any meetings arranged by management.

- To ensure that relevant documentation is completed and submitted within specified timescales detailed in this policy; and any amendments to the application: and
- Keeping in touch with the manager whilst on leave.
- to inform their manager if they are concerned about risk or health and safety issues as soon as they arise.
- To discuss with the manager any annual leave requests, prior to and following leave , in line with normal procedures,

4.0 Maternity

4.1 Entitlements to Maternity Leave and Pay

4.1.1 Expected Week of Childbirth

Many of the maternity entitlements are calculated in relation to your Expected Week of Childbirth (EWC). Your doctor or midwife will calculate the date when you are expected to give birth and they will give you a MATB1 form confirming this date. Your EWC will be the week beginning at midnight between Saturday and Sunday in which your baby is expected to be due.

4.1.2 Maternity Leave

All employees are entitled to take up to 52 weeks maternity leave, regardless of length of service. This will be made up of 26 weeks of Ordinary Maternity leave (OML) and 26 weeks unpaid Additional Maternity Leave (AML). It is a legal requirement for employees to take a minimum of 2 weeks maternity leave following the birth of their child.

You must give notice of your intention to start the leave (see section 4.1.11). You can also choose how long you want to take leave for, up to the 52 week maximum, but the law says that you must take two weeks' leave immediately after the birth; this is called compulsory maternity leave. Should your baby be born early, then maternity leave will commence on the day the baby is born.

4.1.3 Qualifying Week

This is the date 15 weeks before the week your baby is due (EWC) and is used to calculate eligibility to Statutory Maternity Pay (SMP).

4.1.4 Statutory Maternity Pay

This is maternity pay, paid under national Social Security arrangements but paid to you by your employer. To be eligible you must:

- be employed in the qualifying week, the 15th week before your EWC;

- have 26 weeks' continuous service with the Trust at the 15th week before EWC; and
- have average weekly earnings before tax are above the Lower Earnings Limit for National Insurance.

To claim SMP you must:

- tell the Trust when you want your pay and leave to start. You should do this by the 15th week before your baby is due, using Appendix 2 of this policy; and
- provide your manager with evidence of when your baby is due, normally on a MATB1 certificate which your midwife or doctor will give you 20 weeks before the baby is due. Your manager will need to send this certificate to the HR team, with your maternity leave application form.

Statutory Maternity Pay (SMP) is paid for up to 39 weeks. You get 90% of your average weekly earnings (before tax) for the first 6 weeks, and for the remaining 33 weeks either a fixed amount (please refer to the department of work and pensions for the amount - it usually increases in April each year) or 90% of your average weekly earnings (whichever is lower). <https://www.gov.uk/maternity-pay-leave>

SMP is paid in the same way as your wages (e.g. monthly or weekly). Tax and National Insurance will be deducted.

You may also be entitled to Occupational Maternity Pay (OMP) (see 4.1.5 below).

If you are not entitled to SMP you will be notified by the Payroll department who will give you form SMP1 explaining the reasons and the original MATB1 will be returned to you. If this does happen you may be able to get Maternity Allowance (see 4.1.6 below).

Appendix 1 gives guidance on entitlements to SMP and OMP.

4.1.5 Occupational Maternity Pay

Occupational Maternity Pay is a contractual payment of maternity pay which is more than the statutory entitlement (SMP). If you are entitled to both OMP and SMP, SMP will be paid alongside OMP, up to a maximum of your normal average wage. Entitlement to OMP depends on how long you have been continuously employed by the NHS.

To qualify for occupational maternity pay you must:

- have 12 months' continuous service with the NHS by the 11th week before EWC;
- still be employed by the Trust into the 11th week before your baby is due to be born; and

- return to NHS employment for a minimum period of three months after your maternity leave has ended (see paragraph 4.1.10 for further information).

To claim OMP you must:

- Tell the Trust when you want your pay and leave to start. You should do this by the 15th week before your baby is due, using Appendix 2 at the back of this policy.
- Provide your manager with evidence of when your baby is due, normally on a MATB1 certificate which your midwife or doctor will give you 20 weeks before the baby is due. Your manager will need to send this certificate to the HR team with your maternity leave application form.
- Tell the Trust about your intentions to return to work, complying with the notification requirements set out in section 4.1.11.

OMP is eight weeks' full-pay and an additional 18 weeks' half-pay. SMP will be paid for the remaining 13 weeks.

By prior arrangement with Payroll, you may receive your OMP in a different way, for example a fixed amount spread equally over the maternity leave period. If you would like to find out more please contact the Payroll department.

Appendix 1 gives guidance on entitlements to OMP and SMP.

4.1.6 Maternity Allowance

Maternity Allowance is a state benefit which is payable to women who do not qualify for SMP. It is based on their recent employment and earnings record and is a state benefit which is payable for 39 weeks.

4.1.7 Employees Holding a Fixed Term Temporary Contract or Training Contract

If you are eligible for OMP and/or SMP and your contract is due to expire after the earliest date that maternity leave can start, your contract will be extended to allow you to receive your maternity pay and leave entitlement.

Absence on maternity leave for up to 52 weeks before a further NHS appointment shall not constitute a break in service.

If you have no right to return because the contract would have ended if pregnancy and childbirth had not occurred, then you will not be required to pay back OMP.

4.1.8 Bank Staff

You may be entitled to receive statutory maternity pay (SMP) if you work on the bank. To be entitled to any maternity pay the following conditions must apply.

- You have been on the payroll for 26 weeks by the qualifying week (15 weeks prior to the EWC).
- You must be above the lower earnings limit for National Insurance (see section 4.1.4 on SMP).
- You should not have refused any work offered during the 26 weeks unless due to sickness.
- You should notify the Trust of your intention to take maternity leave at least 15 weeks before the EWC.

If you think you may be entitled to SMP please complete the application form for maternity leave and pay (Appendix 2). Your manager or a bank co-coordinator should sign the form and indicate if you have refused to undertake work when requested. Final confirmation of entitlement will need to be made by the Payroll department. The HR team will contact you within 28 days of receipt of your application, after the Payroll team has considered it, to confirm if you are eligible for SMP.

4.1.9 Rotational Doctors/Training Contracts

Where a doctor or other employee is participating in a planned rotation of appointments as part of a programme of training, she shall have the right to return to work in the same or in the next planned post within the same or another Trust, irrespective of whether the contract would have ended if pregnancy and the confinement had not occurred. In such circumstances the contract will be extended to enable the practitioner to complete their agreed programme of training.

The following links to the NHS Employers website provide more information:

[Maternity Issues for Doctors in Training](#)
[Doctors in Training – Junior Doctors Terms and Conditions](#)

4.1.10 Employees Who Do not Intend Returning to Work

If you know that you do not wish to return to work after your maternity leave you should send in your resignation giving your contractual notice when you return your application for maternity leave and pay. You will still be eligible for SMP if you fulfil the criteria given in section 4.1.4.

4.1.11 Applying for Maternity Leave and Pay

You can commence your maternity leave anytime from the 11th week before the baby is due to be born and the EWC. Should your baby be born early then maternity leave will commence on the day the baby is born.

You should notify the Trust in writing of your pregnancy and intention to take maternity leave as soon as possible. This is so that your manager can undertake

a risk assessment and discuss with you other things such as time off for antenatal appointments. Information on these is given in sections 4.2 and 4.3. It also allows the manager plenty of time to plan any necessary cover arrangements.

You are required to notify your manager of your intention to take maternity leave by the 15th week before the expected week of childbirth unless this is not reasonably practicable. You should do this by completing the form in Appendix 2 and attaching your MATB1 form. The form asks you to confirm the week in which the baby is due, when you want your maternity leave to start and how long a period of leave you are currently planning to take off. Your manager will then send the application form to the HR team.

You are able to change your mind about the date you wish to commence maternity leave providing you notify your manager 28 days before the original or revised start date, whichever is the earlier.

Following receipt of your application, HR will confirm in writing:

- your OMP, SMP and maternity leave entitlements;
- unless you have indicated that you wish to return earlier, your expected return date based on 52 weeks leave; and
- the need for you to give at least eight weeks' notice if you wish to return to work earlier than the expected return date.

A letter will be sent to you from the HR team within 28 days of receipt of your application form.

Your manager will confirm the length of any accrued leave that it has been agreed you can take following the end of the maternity leave period.

4.1.12 Contact during Maternity Leave

Your manager will discuss keeping in touch with you whilst you are on maternity leave, before you go on leave. They will discuss the frequency of contact you would like and whether you would like this to be by phone, email, letter or visiting your workplace. Your manager will ensure that you are kept up to date with important news such as any changes to the workplace which will affect you on your return.

You may also, with agreement from your manager(s), do up to ten days' work, known as 'keeping in touch' (KiT) days, under your contract of employment during your maternity leave. These are different from the contact with your manager described above, as you can carry out work during these days and you will be paid for them. You should agree with your manager if you would like a KiT day and what you might wish to do; they are particularly useful for attending training courses or team meetings.

If you are breastfeeding on a keeping in touch day, your manager must undertake a risk assessment and provide facilities as described in 4.2 and 4.4.6.

Keeping in touch days will be paid at your basic rate of pay for the hours worked less the appropriate maternity leave payment for those days. Your manager will need to inform Payroll that you have worked a KiT day and the hours that you worked.

4.1.13 Sickness Prior to Maternity Leave

All pregnant employees should notify their manager of their absence in the usual way. If you are sick due to a non-pregnancy related reason you will be covered by the normal sick leave provisions, until your maternity leave commences.

If you are absent from work with a pregnancy related illness during the last four weeks of your pregnancy, then your maternity leave will start at the beginning of the fourth week before the EWC or the beginning of the week after you last worked, whichever is the later. You must provide Payroll with self certificates up to seven days, then a doctor's certificate, to confirm any sickness absence that is not pregnancy related.

4.1.14 Notification of Baby's Birth

You should notify your manager of your baby's exact date of birth, in writing, within one month of the date of your baby's birth. They will forward a copy of this letter to Payroll. This information is required for audit purposes for payment of maternity pay.

4.1.15 Miscarriage, Still Birth and Premature Birth

For a minority of women there may be complications with their pregnancy. Please refer to the HR team for further advice in these circumstances. The HR team will also be able to give you information on the Employee Assistance Programme, which offers free, confidential advice, 24 hours per day, 365 days per year.

The entitlements to leave and pay in the above situations are as follows:

Miscarriage

Where this occurs before the 25th week of pregnancy, normal sick leave provisions will apply.

Still Birth

Where an employee has a still birth after the 24th week of pregnancy, they will be entitled to the maternity leave and pay set out in this policy.

Premature Birth

If your baby is born prematurely you will be entitled to the same amount of maternity leave and pay as if your baby was born at full term. If your baby is born

before the 11th week before the EWC and you worked during the week that your baby was born, maternity leave will start on the first day of your absence; where you were absent on certified sick leave during the actual week of childbirth, maternity leave will commence on the day of birth. Where the baby was born before the 11th week before the EWC and is in hospital, with agreement from your manager you may split your maternity leave entitlement, taking a minimum period of two weeks' leave immediately after childbirth and the rest of your leave following your baby's discharge from hospital.

4.1.16 Eligibility to Continue Receiving SMP/OMP whilst on Maternity Leave

You cannot work for the Trust during paid maternity leave as one of the conditions of receiving SMP is that you have ceased work. The exception to this is 'keeping in touch' days to give you the chance to work, undertake training and keep in touch for up to ten days without losing your right to maternity pay.

If you do choose to return to work before your SMP and/or OMP runs out, you will lose your entitlement to SMP and/or OMP and be considered as having returned to work. You will not be able to take any untaken maternity leave at a later date.

You need to give eight weeks' notice if you wish to return to work earlier than the expected return date.

4.1.17 Working whilst on Maternity Leave

If you are a bank worker as well as holding a substantive post, you may work on the bank during your period of unpaid maternity leave only. You cannot work on the bank during paid maternity leave, as a condition of receiving maternity pay is that you have ceased work. You may work on the bank during your period of unpaid maternity leave, as this is separate from your substantive contract. If you return to your substantive post as well as working on the bank during your period of unpaid maternity leave, you will be considered as having returned to work and cannot take any untaken maternity leave at a later date.

4.1.18 Other Contractual Rights whilst on Maternity Leave

- **Sick pay whilst on maternity leave**

You cannot receive sick pay, or be counted as sick whilst on maternity leave (paid or unpaid). Normal sick pay provisions will only apply again when you return to work. Maternity leave cannot be extended because of sickness during that period.

- **Annual leave whilst on maternity leave**

You will accrue annual leave during your 52 weeks' full period of maternity leave (paid or unpaid). Maternity leave is likely to straddle two annual leave years, referred to as years one and two. In such circumstances you will be able to carry forward any remaining entitlement to the next year. Carried

forward leave and leave from the following annual leave year (year two) can be taken immediately after maternity leave if wished, delaying the return date. Where your maternity leave does not straddle two leave years, you can take your leave if you wish before commencing or at the end of your maternity leave. Annual leave should be booked and agreed with your manager in the normal way. In either case, where you are intending to delay your return from maternity leave by using annual leave you should notify your manager of this, at least eight weeks prior to the date you intend your maternity leave to finish.

- **Continuous service whilst on maternity leave**

Absence on paid or unpaid maternity leave counts as continuous service for employment and incremental purposes.

- **Pension contributions whilst on maternity leave**

Maternity leave counts as pensionable service and you will be liable for contributions on all periods of maternity leave if you are a member of the NHS pension scheme. Your contributions will be based on the amount of maternity pay you receive rather than on your level of earnings immediately before maternity leave commenced.

During your period of unpaid maternity leave, you will be liable for contributions based on your rate of pay which applied immediately prior to the period of unpaid maternity leave. Such contributions will be calculated by the Payroll team and recovered over a similar period of time on your return to pensionable employment.

If you are not intending to return to work after the birth of your baby, and are a member of the NHS pension scheme, you are entitled to pay pension contributions during the period of statutory maternity pay only, thus extending your pensionable service. Contributions are deducted on the amount of pay actually received during your maternity leave.

More information is available from the Payroll department.

- **Childcare vouchers whilst on maternity leave**

If you currently claim the benefit of Childcare Vouchers, this will reduce your maternity pay. Maternity pay is calculated at the 15th week before EWC (see 4.1.3) and is based on the previous 2 months earnings including any childcare vouchers paid during those months. Childcare vouchers would therefore need to have been amended the month prior to those 2 months in order not to affect maternity pay.

After the 26th week of maternity leave, Childcare Vouchers are paid free of charge (up to the value of vouchers paid during the 2 months used for calculating maternity pay) for the remainder of maternity leave.

Contact either payroll or the Health and Wellbeing team as a matter of priority to discuss and gain advice healthandwellbeing@sussexpartnership.nhs.uk.

4.1.19 Terms and Conditions during Maternity Leave

You are entitled to benefit from all contractual terms and conditions, except remuneration, throughout the entire maternity leave period.

4.2 Health and Safety Pre- and Post-Birth

If you are pregnant, have recently given birth or are breastfeeding, your manager will discuss with you any health and safety implications that may need to be considered. Your manager, with your co-operation, will complete a risk assessment (see the New, Expectant and Nursing Mothers Risk Management Policy & Procedure) to ensure that you are not exposed to any hazard that may harm you or your unborn child (or child post-birth). Your manager will continually review this risk throughout your pregnancy and during the period that you are breastfeeding.

If any risks are identified your manager will discuss these with you. It may be necessary to alter your working conditions to avoid or minimise the risk. If it is not possible to make changes to minimise the risk then the Trust will try to provide suitable alternative work on your current rate of pay. At all stages of this process your manager will fully consult you and Occupational Health advice will be sought. In rare cases, where it is not reasonably practicable to offer suitable alternative work, you may be suspended on medical grounds on full pay. Again this will be in conjunction with advice from Occupational Health and you will be fully consulted. Should the above actions be necessary you will have the right of representation at any meetings.

If, during your pregnancy, you feel that you need a place to rest whilst at work, then you should discuss this with your manager who has a duty to provide a suitable place for resting.

You should also discuss any support that you may need whilst breastfeeding, such as a private place to express milk.

4.3 Antenatal Care

All pregnant employees have the right to paid time off to attend antenatal care, regardless of length of service and hours worked. Agency workers also qualify after 12 weeks' service. You need to request this time off with your manager in advance and you will be required to produce your appointment card after your first visit for subsequent visits.

Antenatal care may include parent-craft classes as well as appointments for antenatal care.

4.4 Returning to Work

You have the right to return to your job at the end of your maternity leave on no less favourable terms if you have taken statutory maternity leave under your original contract. If you are returning from occupational maternity leave you are entitled to return to the same job or a similar job with the same terms and conditions. The only exception would be if a reorganisation that affected your job had taken place whilst you were on maternity leave. If this happened you would be consulted about the changes whilst they were happening and would be entitled to be considered for an appropriate alternative job.

The date on which you would normally return from maternity leave will be the first working day 52 weeks after your maternity leave has begun. If you wish to return on this date, you are not required to confirm this with the Trust. However it would be helpful if you contacted your manager several weeks before this date to discuss your return. You also need to discuss and agree any plans for taking annual leave immediately after your maternity leave and this should be done at least eight weeks before your return to work date so that your manager can plan cover.

4.4.1 Returning Earlier than 52 Weeks/Changing Your Return Date

If you are planning to return to work early and not take your full maternity leave entitlement then you must write to your manager at least eight weeks before you are due to return to work to confirm your exact return to work date.

4.4.2 Deciding not to Return

If you change your mind about returning to work whilst you are on maternity leave it would be helpful to inform us as soon as possible. Your final payments can then be made. If you fail to return to work for three months with this Trust or fail to produce within 15 months of commencing maternity leave an offer letter confirming appointment with another NHS Trust, the Trust will seek a refund of the OMP paid to you. You will not, however, have to repay SMP.

4.4.3 Returning to Other NHS Employment

If you leave this Trust and start work with another NHS organisation within 15 months of commencing your maternity leave you will not be required to pay back any maternity pay paid to you. You must give the Trust a copy of the offer letter confirming your appointment with another NHS organisation. You should discuss this with your manager and give your contractual notice in writing along with a copy of your offer letter.

4.4.4 Returning to Work and Leaving within Three Months

If you fail to return to work for three months with this Trust or fail to produce within 15 months of commencing maternity leave an offer letter confirming appointment with another NHS Trust, the Trust will seek to reclaim from you a refund of the OMP paid to you.

4.4.5 Sickness on the Day of Return

If you are sick on the day that you are due to return to work you must telephone in accordance with normal procedure and provide sickness certificates if required.

4.4.6 Breastfeeding Mothers

If you intend to continue breastfeeding by expressing milk when you return to work, wherever possible a suitable place will be set aside. If this is required please discuss this with your manager.

5.0 Adoption Leave and Pay

Adoption leave and pay allows one member of an adoptive couple to take paid time off work when their new child starts to live with them. Maternity support (paternity) leave and pay may be available for the other member of the couple, or an adopter's partner, spouse or civil partner.

Adoption and paternity leave are available whether a child is adopted from within the UK or overseas. This guidance outlines the process and eligibility for adoption from the UK

Children may be adopted by couples who are married, civil partners or unmarried couples as well as by individuals. Where a couple are adopting jointly they can choose which of them will take adoption leave and pay, and the other (regardless of gender) may take maternity support (paternity) leave and pay. If an employee is adopting as an individual, they may be eligible for statutory adoption leave and eligible for adoption pay.

5.1 Definitions

5.1.1 Adopter

For the purposes of this policy, an adopter is an employee who has been matched with a child for adoption or, if a couple have been matched jointly, is the member of the couple who has chosen to take adoption leave and/or Statutory Adoption Pay (SAP).

5.1.2 Matched/Matching

A person is matched with a child for adoption when an adoption agency decides that the person would be a suitable adoptive parent for the child, either as an individual or with another person.

5.1.3 Matched for Adoption Date

The date on which a person is treated as having been matched for adoption is the date on which they receive notification of the agency's decision that they have been matched with a child for adoption.

5.1.4 Placement

A child is placed for adoption when the child goes to live with the adopter or adopters with a view to being adopted by them in the future.

5.2 Adoption Leave and Pay Entitlements

5.2.1. Pre-adoption Checks

If you're eligible for adoption leave, you have the right to paid time off work for 5 adoption appointments after you've been matched with a child. You will need to show your manager an appointment card or other proof.

5.2.2 Adoption Leave

To be eligible for adoption leave you must

- be [legally classed as an employee](#)
- [tell your employer](#) and give them the correct notice
- give [proof that you're adopting or fostering to adopt](#), if your employer asks for it
- in the case of a UK adoption, have notified the agency that you agree that the child should be placed with you and agreed the date of placement

You must also have been matched with a child through an adoption agency.

You're not entitled to take adoption leave for a private adoption, for example, if you're adopting or fostering to adopt a relative.

You are entitled to 52 weeks of adoption leave. You may, if you wish, take less than 52 weeks but will in this case need to give at least eight weeks' notice of your intention to return.

5.2.3 Statutory Adoption Pay (SAP)

Statutory Adoption Pay is paid for 39 weeks. This is the same as for [maternity pay](#).

Adoption pay starts when you take your adoption leave.

For the first 6 weeks

You get 90% of your average weekly earnings.

For the following 33 weeks

You get whichever is lower:

- Statutory Adoption Pay – currently £151.20 a week
- 90% of your average weekly earnings

To be Eligible for statutory adoption pay

you need to comply with all the conditions in 5.2.2 and in addition:

- notify the Trust of when you want to receive SAP at least 28 days before the date you want it to begin, or as soon as is reasonably practicable

To get Statutory Adoption Pay, you must:

- be continuously employed by your employer for at least 26 weeks
- earn at least £120 a week, before tax, for at least 8 weeks before the week you're matched with a child
- [tell your employer](#) and give them the correct notice
 - give [proof you're adopting, or fostering to adopt](#) provide a matching certificate or letter from the adoption agency confirming that you have been matched for adoption or, in the case of an overseas adoption, the official notification from the relevant UK authority confirming that you are eligible to adopt a child from overseas;
 - In addition, for overseas adoptions, you must provide evidence of the child's date of entry to the UK.

If you're not eligible for Statutory Adoption Pay, you may still qualify for adoption leave without pay.

5.2.4 Occupational Adoption Pay (OAP)

OAP is available for people who adopt a child who have primary carer responsibilities for that child. Eligibility for OAP is 12 months' continuous NHS service ending with the week in which you are notified as being matched with the child for adoption.

OAP will be paid for the same period and at the same rate as SMP detailed in section 4.1.5. You will need to return to work for an NHS employer for at least three months to be eligible for OAP. Payment of OAP will be made alongside SAP up to a maximum of your normal average wage, in the same way as SMP and SMP (section 4.1.5).

5.2.5 When Pay and Leave Can Start

For UK adoptions, the earliest that leave and OAP/SAP can begin is 14 days before the expected date of placement of the child and the latest it can start is on the date of placement itself. Pay and leave can start on any predetermined date between these two dates. For overseas adoptions, the leave and pay can start on the day the child enters the UK or on any predetermined date up to 28 days after that date.

5.2.6 How to Apply for Adoption Leave

Ideally you should discuss your plans for adoption with your manager early in the process, so that where possible plans for cover can be made.

You can apply for Adoption Leave and Pay using the form attached in Appendix 2. You need to give at least 28 days' notice to receive SAP. You can change the date you want your leave to start so long as you give the Trust 28 days' notice before the original date or the new date, whichever is the earlier.

You must tell your manager you're adopting, within 7 days of either:

- being matched with a child for adoption
- your adoption placement being confirmed, if you're fostering a child permanently and becoming their legal parent ('fostering to adopt')

You will need to provide the Trust with the following information:

You must tell your manager:

- the date the child will be placed with you
- when you want your leave to start

For UK adoptions, the proof must show:

- your name and address
- the name and address of the agency
- the date you were matched with the child
- the expected date of placement

For overseas adoptions, the proof must show the:

- relevant UK authority's 'official notification' confirming the parent is allowed to adopt
- date the child arrived in the UK, for example a plane ticket

You will need to attach the appropriate certificate or letter from the UK agency to your application form (see Appendix 2).

Your manager will send the application form to the HR team who will write confirming the dates that your leave will start and end within 28 days of receiving your application.

You should discuss 'keeping in touch' days with your manager before going on leave. These days are dealt with in the same way as for those on maternity leave (see section 4.1.12).

5.2.7 Returning Early from Leave

If you are planning to return to work earlier and not take your full adoption leave entitlement then you must write to your manager at least eight weeks before you are due to return to work to confirm your exact return to work date.

5.2.8 Deciding not to Return

If you change your mind about returning to work whilst you are on adoption leave it would be helpful to inform us as soon as possible. You are required to provide the normal notice as outlined in the contract of employment if you do not intend to return to work following leave. Your final payments can then be made. If you fail to return to work for three months with this Trust or fail to produce within 15 months of commencing adoption leave an offer letter confirming appointment with another NHS Trust, the Trust will seek a refund of the OAP paid to you. You will not, however, have to repay SAP.

5.2.9 Returning to Other NHS Employment

If you leave this Trust and start work with another NHS organisation within 15 months of commencing your adoption leave you will not be required to pay back any adoption pay paid to you. You must give the Trust a copy of the offer letter confirming your appointment with another NHS organisation. You should discuss this with your manager and give your contractual notice in writing along with a copy of your offer letter.

5.2.10 Returning to Work and Leaving within Three Months

If you fail to return to work for three months with this Trust or fail to produce within 15 months of commencing adoption leave an offer letter confirming appointment with another NHS Trust, the Trust will seek to reclaim from you a refund of the OAP paid to you.

5.2.11 Sickness on the Day of Return

If you are sick on the day that you are due to return to work you must telephone in accordance with normal procedure and provide sickness certificates if required.

6.0 Maternity Support (Paternity) and Shared Parental Leave and Pay

6.1 Maternity Support (Paternity) Leave

If your partner is pregnant or is the primary adopter, you may be eligible to up to 2 weeks Maternity Support (Paternity) Leave (MSP), that can be taken in 1-week blocks.

To request this leave you must be:

- The baby's biological father
- Married to, or in a civil partnership with the mother or primary adopter of the child
- Female partner in a same sex couple
- Have, or expect to have responsibility for the child's upbringing
- Living with the mother / primary adopter of the child in an enduring family relationship, but who is not an immediate relative
- You have or expect to have responsibility for the baby's/child's upbringing
- Partner of someone who is adopting

To be eligible for this leave you need to have 26 weeks continuous NHS service by the 15th week before the expected date for your child to be born, or before the end of the week in which you are notified of being matched.

For the purpose of calculating whether you meet the 12 months continuous service eligibility criteria with one or more NHS employer the following provisions shall apply:

- The NHS employer can include NHS Health Authorities, NHS Boards, NHS Trusts and the Northern Ireland Health Service.
- A break in service will be disregarded but the duration of the break will not contribute to your total length of service.

Employees have a right to take a maximum of two weeks paternity leave (pro-rated for part time staff) on the birth of a child for adoption. There is no entitlement to extra leave for multiple births or simultaneous placement of more than one child.

MSL cannot commence before the date the child is born, but in the event the baby is premature you may choose to take MSL at any time between the actual date of birth and the end of an 8-week period running from the Sunday of the week the baby was originally due.

In addition, they may be eligible for Occupational Paternity Pay (OPP) or Statutory Paternity Pay (SPP) (see below). If you do not fulfil the eligibility criteria for OPP and SPP, you will be entitled to two weeks' unpaid leave. You can choose to start your leave:

- from the date of your child's birth, placement for adoption or (for overseas adoptions) the child's date of entry to the UK (whether this is earlier or later than expected), or
- from a chosen number of days or weeks after the expected date of birth, placement or UK entry as appropriate, or
- from a chosen date later than the first day of the week in which the child is expected to be born, placed for adoption or to enter the UK.

You will need to have taken your leave:

- within 55 days of the actual birth, placement for adoption or UK entry date of your child, or
- if the child is born early, within the period from the actual date of birth up to 56 days after the first day of the expected week of birth.
- You can either take one week or two consecutive weeks, but not odd days.

6.2 Statutory Paternity Pay

In order to qualify all of the following must apply:

- You must be the biological father or adopter of the child or be the mother's (or adopter's) husband, partner or civil partner or have or expect to have responsibility for the child's upbringing.
- You must have worked for the Trust for at least 26 weeks by the 15th week before the baby is due, or up to and including the week your wife, partner or civil partner was matched for adoption with a child.
- You must continue to work for the Trust without a break up to the date the child is born or placed for adoption.

You must have average weekly earnings before tax must be above the Lower Earnings limit for National Insurance

To claim SPP you must:

- Tell the Trust when you want your pay and leave to start. You should do this by the 15th week before your baby is due, or within seven days of your spouse, partner or civil partner being told by the adoption agency that they have been matched with a child or, in the case of an overseas adoption, within 28 days of them being notified of their eligibility to adopt.
- You must complete an online self-certificate to be entitled to SPP using the relevant HMRC form;
 - SC3 Becoming a parent form https://public-online.hmrc.gov.uk/lc/content/xfafoms/profiles/forms.html?contentRoot=repository:///Applications/PersonalTax_iForms/1.0/SC3&template=SC3.xdp
 - SC4 Becoming an Adoptive Parent form https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/675766/SC4_01_18_v1.0.pdf

SPP is payable for one or two consecutive weeks. You will either receive a set amount (please refer to the department of work and pensions for the amount - it usually increases in April each year) or 90% of your average weekly earnings (whichever is

lower). <https://www.gov.uk/maternity-pay-leave>. SMP is paid in the same way as your wages (e.g. monthly or weekly). Tax and National Insurance will be deducted.

You do not have the right to SPP if:

- You do not have 26 weeks continuous service with the Trust by the beginning of the 15th week before the EWC
- Your earnings before tax are below the lower earnings limit for National Insurance
- You are in prison

6.3 Occupational Paternity Pay

If you have 12 months' continuous service with one or more NHS employer at the beginning of the week in which the baby is due, you will be eligible for two weeks' full pay. This will be calculated on the basis of average earnings. If you are eligible for Statutory Paternity Pay this will be paid as part of the payment.

You must complete the online self-certificate form

Bank Workers

- Bank workers are entitled to SPP if their average earnings for the period of eight weeks up to and including the 15th week before the child's expected due date/matching date.
- In order to qualify bank worker's pay must be higher than the lower earnings limit for National insurance

Bank workers are not entitled to OPP

6.4 Shared Parental Leave

Additional Paternity Leave has been replaced by Shared Parental Leave (SPL). SPL may be used if you wish to share the entitlement to Maternity or Adoption Leave. SPL can be split as you wish and can be taken together (you and your partner) or in succession as long as the total amount of leave does not exceed 52 weeks. Both parties will need to meet the eligibility criteria for either partner to take the leave.

To be eligible:

- your wife, partner or civil partner is having a baby
- you and your partner receive notification that you are matched with a child for adoption
- your spouse, civil partner or partner is adopting a child from overseas

- your spouse, civil partner or partner has been entitled to one or more of the following - Statutory Maternity Leave, Statutory Maternity Pay, Maternity Allowance or Statutory Adoption Leave or Pay
- your spouse, civil partner or partner has started working again so that any relevant pay has stopped

Additional Paternity Leave is for a maximum of 26 weeks. Once your partner has returned to work, the leave can be taken between 20 weeks and one year after your child is born or placed for adoption. You may be entitled to receive Shared Parental Leave Pay during your partner's Statutory Maternity Pay, Maternity Allowance or Adoption Pay period.

6.4.1 Process

- You can choose to end maternity and/or adoption leave to access shared parental leave.
- You must tell your manager in writing, using the relevant Application form, of your intention to take shared parental leave giving at least 8 weeks' notice. **The form can be found in Appendix 5.**
- In general, a period of leave notice should set out a single continuous block of leave. Requests for single blocks of leave cannot be refused.
- We may be willing to consider a period of notice where the SPL is split into shorter periods, with periods of work in between.
- You have the right to submit up to 3 separate notifications applying for or varying periods of SPL, although it must be given at least 8 weeks before the leave is due to start. This may enable you to take 3 separate blocks of SPL (although if you give notice to vary or cancel a period of leave this will in most cases count as a further period of leave notice). If a parent asks for discontinuous blocks of leave, the Trust can refuse and require that the total weeks of leave in the notice be taken in a single continuous block.
- Confirmed leave arrangements can be amended by the submission of a notice to vary the agreed period of leave. You can submit a notice to extend a period of leave, end it sooner than previously agreed or consolidate a number of discontinuous weeks in to a single block of leave using a variation notice. Eight weeks' notice must be given but flexibility may be given in the event of early and late births.

6.4.2 Each notification must contain:

- a single period of weeks of leave; or two or more weeks of discontinuous leave, where you intend to return to work between periods of leave
- Shared parental leave can only be taken in blocks of complete weeks (at least one week) but may begin on any day of the week. Where you may return to work between periods of shared parental leave, the next period of shared parental leave can start on any day of the week.

6.4.3 Notification of continuous leave

- A number of weeks taken in a single unbroken period of leave;
- Must not exceed the total number of weeks of SPL available;
- Must give at least 8 weeks' notice;
- May submit up to 3 separate notifications for continuous periods of leave.N
- Notification of discontinuous leave
- A set number of weeks over a period of time, with breaks between the leave where you return to work;
- Must give at least 8 weeks' notice;
- Must set out the requested pattern of leave;
- Must discuss with the manager to agree an arrangement that meets both your needs and that of the department;
- The Trust must consider the request but has the right to refuse it.
- If you request discontinuous leave the Trust will either agree to the request or start a 2-week discussion period. The Trust will confirm any agreed arrangements in writing within 2-weeks of your request. If agreement has not been reached, you will be entitled to take the full amount of requested SPL as one continuous block, starting on the start date given in your notice (for example, if you requested 3 separate periods of 4 weeks each, they will be combined into one 12-week period of leave). Alternatively, you may:

6.4.3.1 choose a new start date (which must be at least 8 weeks after the date you submitted the notice requesting split periods of leave), and confirm this date within 5 days of the end of the 2-week discussion period; or

6.4.3.2 withdraw the notice and tell the Trust within 2 days of the end of the 2-week discussion period (in which case it will not be counted as a period of leave notice, and you may submit a new one if you choose).

- In instances where you specify no date, leave will commence on the start date of the first period of discontinuous leave that was originally applied for.
- You are not entitled to withdraw a notice for a single continuous block of leave but may do so with express permission in writing from your manager/ Clinical Director.
- You may withdraw your notice to book discontinuous blocks of leave within 15 days of submitting your notice providing an agreement has not been reached with your manager/ Clinical Director about when you will be absent from work. Once the 15th day has passed, any changes to a period of leave must be made by submitting a notification in writing to vary the request and a minimum of 8 weeks' notice must be provided.
- If a notice is withdrawn it will not count towards the three booking notifications cap.
- Following discussion with you, your manager/ Clinical Director will inform the Workforce Services team who will confirm in writing:
- your paid and unpaid SPL entitlements (or statutory entitlements if you do not qualify for occupational SPL);
- the confirmed leave pattern, including start and end dates, for each block of SPL you and the Trust have agreed will be taken;

- confirmation of the notification process and the required notice periods for instances where agreed blocks of leave need to be amended; and
- whether accrued annual leave is intended to be taken following the end of SPL.

6.5 Shared Parental Leave Pay

In order to claim Additional SPP you must intend to care for the child during this period. It is only payable during the period of your partner's 39 weeks' Maternity Allowance, Statutory Maternity, Occupational Maternity or Statutory Adoption Pay period.

You and your partner may be able to get Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) if you're having a baby or adopting a child.

You can share up to 50 weeks of leave and up to 37 weeks of pay between you.

You need to share the pay and leave in the first year after your child is born or placed with your family.

You can use SPL to take leave in blocks separated by periods of work, or take it all in one go. You can also choose to be off work together or to stagger the leave and pay.

- If eligible, you may be entitled to receive up to 39 weeks (less any weeks of SMP, MA or SAP claimed by you or your partner) ShPP while taking SPL, if you have at least 26 weeks' continuous employment with QVH at the end of the Qualifying Week and your average earnings are not less than the lower earnings limit set by the government each tax year. ShPP is paid at a rate set by the government each year.
- The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/ adoption pay period or maternity allowance period. ShPP can be claimed following the birth or placement of the child, but not at the same time as the compulsory two weeks of leave following the birth or placement of the child.
- ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.
- Where you are entitled to receive ShPP you must, at least eight weeks before receiving any ShPP, give your manager written notice advising of your entitlement to ShPP.
- Where an employee intends to return to work after a period of shared parental leave, the maximum joint entitlement of an eligible couple to occupational shared parental pay will be as set out below.
- The maximum entitlement will only apply where either parent has not already received statutory or occupational maternity pay or statutory or occupational adoption pay in respect of the child. Where such pay (excluding pay during the compulsory two-week maternity/adoption leave period) has been received by either parent, the maximum joint entitlement set out below will reduce proportionate to the amount of maternity or adoption pay which has either been

taken and paid to either parent, or notified as intending to be taken by either parent.

- ShPP is paid in the same way as normal pay and is subject to deductions of income tax, national insurance contributions and superannuation, where appropriate.
- ShPP is paid at the flat rate set by the government each year or 90% of your average weekly earnings, whichever is lower.

6.6 Unpaid Shared Parental Leave

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

You will continue to be an employee throughout your Additional Paternity Leave.

6.7 Notification of Intention and Application to Take Leave

6.7.1 Maternity Support (Paternity) Leave

You must notify your manager of your intention to take Maternity Support (Paternity) Leave by the end of the 15th week before the expected week of childbirth (EWC), unless this is not reasonably practicable.

In the case of adoption you should notify your manager of your intention to take Maternity Support (Paternity) Leave within seven days of the date of matching with the child or, in the case of an overseas adoption, within 28 days of being notified of your eligibility to adopt.

You must provide the following details:

- the week the baby is expected; or
- in cases of UK adoption, the dates of notification of matching and placement for adoption; or
- in cases of overseas adoption, the date of notification of eligibility to adopt a child from overseas;
- the duration of the leave to be taken (one or two weeks); and
- the date on which the leave will start.

In addition, in cases of overseas adoption, the child's date of entry into the UK must be notified within 28 days of that date.

You may change the commencement date of leave provided you have given your manager notice of the new leave start date at least 28 days before the original or new date, whichever is the earlier. Often there will be times when this may not be possible, for example in the case of an early or overdue delivery. In these circumstances the line manager will give due consideration to the request in line with service needs.

You should complete the form attached at Appendix 3 and should attach a copy of the MATB1 certificate or, in cases of adoption, the matching certificate or equivalent documentation.

6.7.2 Shared Parental Leave

You must notify your manager of your intention to take Shared Parental Leave Additional Paternity Leave at least eight weeks before the expected week of childbirth if possible, and no later than eight weeks prior to the proposed start date of your leave, unless this is not reasonably practicable.

In the case of adoption you should notify your manager of your intention to take Shared Parental Leave within seven days of the date of matching with the child or, in the case of an overseas adoption, within 28 days of being notified of your eligibility to adopt, and no later than eight weeks prior to the proposed start date of your leave, unless this is not reasonably practicable.

You must provide the following details:

- the week the baby is expected; or
- in cases of UK adoption, the date of notification of matching for adoption; or
- in cases of overseas adoption, the date of notification of eligibility to adopt a child from overseas;
- the baby's actual date of birth; or
- in cases of UK adoption, the date of notification of placing for adoption; or
- in cases of overseas adoption, the date the child entered the UK;
- the date on which the leave will start; and
- the date the leave is expected to end.

6.8 Antenatal Care

Where an employee has demonstrated eligibility for Maternity Support (Paternity) Leave, they will also be granted the right to reasonable paid time off to accompany their partner/spouse/civil partner to antenatal appointments. You need to request this time off with your manager in advance and you will be required to produce the mother's appointment card after your first visit for subsequent visits.

6.9 Stillbirth and death of a baby

Where a stillbirth occurs after the 24th week of pregnancy you will be entitled to the same amount of paternity leave and pay as if the birth had been live. Where a baby is born alive at any point of the pregnancy but later dies, you will be entitled to the same amount of paternity leave and pay. You may also be entitled to special leave as set out in the Trust's Special leave policy.

7.0 Employees undergoing In Vitro Fertilisation (IVF) Treatment

Your manager may give consideration to allowing time off to attend appointments for IVF treatment in line with the entitlements outlines in the Special Leave Policy re medical appointments.

Any periods of absence as a result of fertility treatment within a "reasonable period" (usually 2 weeks) should be recorded and reported in accordance with the Sickness Absence Management Policy but may not be considered when reviewing trigger points.

Your manager may give consideration to allowing flexible working arrangements during fertility treatment; requests should be submitted using the Flexible Working Application form and in line with the Flexible Working Policy available on the trust intranet.

8.0 Flexible Working

The Trust recognises that a better work life balance can improve employee motivation, performance and productivity, and reduce stress. Therefore, the organisation wants to support its employees to achieve a better balance between work and their other priorities, such as caring responsibilities, domestic life, leisure activities, further learning and other interests. The organisation is committed to agreeing any flexible working arrangements, provided that the needs and objectives of both the organisation and employee can be met. An employee who thinks that they may benefit from flexible working is encouraged to organise an informal discussion with their line manager to discuss possible options.

To be eligible to make a request under the flexible working policy a person must in all cases

- Be an employee
- Have worked for the trust continuously for 26 weeks at the date the application was made; and
- Not have made another application to work flexibly under the right during the previous 12 months.

The types of changes that may be requested are

- a change to the times you are required to work;
- changes to the hours that you work
- working from home for some aspects of your work

More information is given in the Trust's Flexible Working Policy available on the Trust intranet Partnership Online, or from your manager or the HR team.

9.0 Childcare

The Trust is committed to supporting parents working in the NHS. The Flexible Working policy is available for all staff who wish to apply to work flexibly. The Trust does not

provide its own nursery but staff are able to access NHS nurseries in a variety of locations.

10.0 Childcare Vouchers

From October 2018, the Trust childcare voucher scheme closed to new joiners. Existing scheme members can continue whilst it is still run by the Trust.

Vouchers have been replaced by the Government's Tax-Free Childcare Scheme. Staff will need to register online. Details can be found here: <https://www.gov.uk/help-with-childcare-costs/childcare-vouchers>.

For further queries about childcare vouchers and related questions please contact the Health and Wellbeing Team by emailing healthandwellbeing@sussexpartnership.nhs.uk

Staff **can** re-join within the 12-month period if they have left the scheme if they wish to.

11.0 Development, Consultation and Ratification

This policy has been updated by the HR team from an earlier one developed in partnership with staff side colleagues through the HR Policies working group set up prior to the formation of the Sussex Partnership NHS Trust.

The policy was widely consulted on through the various staff side and management groups prior to ratification at the HR Executive Group.

12.0 Equality and Human Rights Impact Analysis

An Equality and Human Rights Impact Analysis was completed and the recommended changes were integrated within the policy.

13.0 Monitoring Compliance

This policy is intended to be non-discriminatory and to promote fairness and equity in the treatment of individuals and good employee relations generally. Use of, and compliance with, the policy will be monitored by the HR Department.

14.0 Dissemination and Implementation of Policy

This policy will be circulated to all employees by means of the Partnership Bulletin, disseminated through team meetings, and will be placed on the intranet and Trust website. New employees will be made aware of all Trust policies as part of their Induction. Paper copies will be made available by line managers for those without access to the intranet.

15.0 Document Control including Archive Arrangements

It will be the responsibility of the Sponsor and Author of this policy document to ensure that it is kept up to date with any changes to legislation, national or local policy. This policy will be managed in accordance with the Policy for Procedural documents.

16.0 Reference Documents

[Adoption Leave and Pay](#): Direct.gov website

[Doctors in Training – Junior Doctors Terms and Conditions](#): NHS Employers website

Flexible Working Policy: Partnership Online intranet

[Flexible Working](#): Direct.gov website

[Maternity Issues for Doctors in Training](#): NHS Employers website

[Maternity Leave and Pay](#): Direct.gov website

[New, Expectant and Nursing Mothers Risk Management Policy & Procedure](#):
Partnership Online intranet

[Paternity Leave and Pay](#): Direct.gov website

[Sickness Absence Management Policy](#): Partnership Online intranet

Special Leave Policy: Partnership Online intranet

17.0 Appendices

- 1 Summary of Entitlements
- 2 Application for Maternity Leave and Pay or Adoption Leave and Pay
- 3 Application for Maternity Support (Paternity) Leave
- 4 Application for Additional Paternity Leave and Pay
- 5 Shared Parental Leave Form

Appendix 1

Summary of Entitlements

Maternity Pay and Leave Entitlements if Returning to Work:

Length of Service	Weeks OMP	Weeks SMP	Total OMP & SMP	Duration of Maternity Leave
1 year's NHS service [at 11 weeks before EWC], of which a minimum of 26 weeks' service is at the Trust	8 weeks full pay and 18 weeks half pay	39 weeks: First 6 weeks: 90% of average weekly earnings. Remaining 33 weeks: standard rate (see https://www.gov.uk/maternity-pay-leave/pay for rate)) or 90% of average earnings. You will get whichever rate is lower.	8 weeks full pay [OMP+SMP] and 18 weeks half pay [OMP+SMP] and 13 weeks SMP at the standard rate (see https://www.gov.uk/maternity-pay-leave/pay for rate [SMP & OMP are added together but you will not be paid more than your normal full pay]	Up to 52 weeks leave
1 year's NHS service [at 11 weeks before EWC] but less than 26 weeks' service at the Trust [at 15 weeks before EWC]	8 weeks full pay and 18 weeks half pay	May be entitled to Maternity Allowance. No entitlement to SMP if less than 26 weeks employment at 15 weeks before EWC	8 weeks full pay and 18 weeks at half pay plus you may be entitled to Maternity Allowance	Up to 52 weeks leave
Less than 1 year's NHS service [at 11 weeks before EWC] but with a minimum of 26 week's	Nil	39 weeks: First 6 weeks: 90% of average weekly earnings (no upper limit). Remaining 33 weeks: standard rate (see https://www.gov.uk/maternity-pay-leave/pay for rate 90% of average earnings. You will get whichever rate is lower.	39 weeks SMP	Up to 52 weeks leave

service at the Trust [at 15 weeks before EWC]				
Length of Service	Weeks OMP	Weeks SMP	Total OMP & SMP	Duration of Maternity Leave
Less than 1 year's NHS service [at 11 weeks before EWC] and less than 26 week's service at the Trust [at 15 weeks before EWC]	Nil	May be entitled to Maternity Allowance. No entitlement to SMP if less than 26 week's employment at 15 weeks before EWC.	May be entitled to Maternity Allowance	Up to 52 weeks leave

Key

EWC = Expected Week of Childbirth

SMP = Statutory Maternity Pay

OMP = Occupational Maternity Pay

Maternity Pay Entitlements if not Returning to Work:

(The regulations apply to employees whose expected week of childbirth is on or after 3 April 2011.)

Length of Service	Weeks OMP	Weeks SMP	Total OMP & SMP
1 year's NHS service [at 11 weeks before EWC] of which a minimum of 26 week's service is at the Trust	6 weeks at 90% of full pay	39 weeks: First 6 weeks: 90% of average weekly earnings-no upper limit. Remaining 33 weeks: standard rate (see https://www.gov.uk/maternity-pay-leave/pay-for-rate-or-90-of-average-earnings). You will get whichever rate is lower.	6 weeks at 90% of full pay OMP and 33 weeks SMP standard rate
1 year's NHS service [at 11 weeks before EWC] but less than 26 week's service is at the Trust [at 15 weeks before EWC]	6 weeks 90% of full pay	May be entitled to Maternity Allowance. No entitlement to SMP if less than 26 weeks employment at 15 weeks before EWC	6 weeks at 90% of full pay and may be entitled to Maternity Allowance
Less than 1 year's NHS service [at 11 weeks before EWC] but with a minimum of 26 week's service at the Trust [at 15 weeks before EWC]	Nil	39 weeks: First 6 weeks: 90% of average weekly earnings-no upper limit. Remaining 33 weeks: standard rate (see https://www.gov.uk/maternity-pay-leave/pay-for-rate-or-90-of-average-earnings). You will get whichever rate is lower.	39 weeks SMP
Less than 1 year's NHS service [at 11 weeks before EWC] and less than 26 week's service at the Trust [at 15 weeks before EWC]	Nil	May be entitled to Maternity Allowance. No entitlement to SMP if less than 26 weeks employment at 15 weeks before EWC.	May be entitled to Maternity Allowance.

Key

EWC = Expected Week of Childbirth

SMP = Statutory Maternity Pay

OMP = Occupational Maternity Pay

Adoption Pay and Leave:

Length of Service	Weeks OAP	Weeks SAP	Total OAP & SAP	Duration of Maternity Leave
1 year's NHS service [up to matching week] of which a minimum of 26 week's service is at the Trust. (Returning to work for at least 3 months.)	26 weeks	39 weeks paid alongside OAP	26 weeks OAP, 39 weeks SAP which is inclusive of 26 weeks OAP	Up to 52 weeks leave
1 year's NHS service [up to matching week] but less than 26 week's service at the Trust. (Returning to work for at least 3 months.)	26 weeks	Nil	26 weeks OAP	Up to 52 weeks leave
Less than 1 year's NHS service [up to the matching week] but with a minimum of 26 week's service at the Trust.	Nil	39 weeks	39 weeks SAP	Up to 52 weeks leave
Less than 1 year's NHS service [up to the matching week] and less than 26 week's service at the Trust.	Nil	Nil	Nil	Up to 52 weeks leave

Key

OAP = Occupational Adoption Pay

SAP = Statutory Adoption Pay (rate is the same as SMP)

Maternity Support (Paternity) Leave:

Length of Service	Entitlement to Pay	Entitlement to Leave
1 year's NHS service of which a minimum of 26 week's service is at the Trust	2 weeks full pay (includes SPP)	2 weeks leave
1 year's NHS service [up to 15 weeks before EWC] but less than 26 week's service at the Trust	2 weeks full pay	2 weeks leave
Less than 1 year's NHS service but with a minimum of 26 week's service at the Trust [at 15 weeks before EWC]	2 weeks SPP	2 weeks leave
Less than 1 year's NHS service and less than 26 week's service at the Trust [at 15 weeks before EWC]	Nil	2 weeks leave

Additional Paternity Leave:

Eligibility Criteria – Employee	Eligibility Criteria – Mother	Entitlement to Leave	Entitlement to Pay
At least 26 week's service with the Trust by the qualifying week [EWC, matching for adoption date or date child enters UK]	Entitled to one or more of Statutory Maternity/Adoption Leave, SMP/SAP or Maternity Allowance and returned to work, with at least 2 of the 39 weeks remaining to qualify for Additional SPP.	Up to 26 weeks leave	Up to 26 weeks Additional SPP at see https://www.gov.uk/maternity-pay-leave/pay for rate) or 90% of average earnings. You will get whichever rate is lower. Can only be paid during remainder of mother's 39 weeks maternity leave period.
Less than 26 week's service with the Trust by the qualifying week [as above]	n/a	Nil	Nil

EWC = Expected Week of Childbirth

SAP = Statutory Adoption Pay

SMP = Statutory Maternity Pay

SPP = Statutory Paternity Pay

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Appendix 2

Application for Maternity Leave and Pay or Adoption Leave and Pay

Notes:

- 1 Please complete and return this form to your manager as soon as possible and no later than 15 weeks before your EWC in cases of maternity leave.
- 2 If you are not returning to work after the birth of your baby/adoption of your child, you will still need to complete this form in order to claim maternity/adoption benefits from the Trust.
- 3 If you are returning to work after maternity/adoption leave, please complete sections A and B of this form.
- 4 If you are not returning to work after the birth of your baby/adoption of your child, please complete sections A and C of this form.

SECTION A - PERSONAL DETAILS

Surname

Forenames

Home Address

Home Telephone Number

Job Title

Contract Type

Perm ☐FT/Temp ☐Rot/Trng ☐

Date contract expires

Number of hours/sessions

per week

Bank member

☐

Base/place of work

Personal Number

Date joined the Trust (including its predecessors)

Date joined NHS

Do you pay NHS pension contributions?

Yes

☐

No

☐

Expected date of delivery

OR Expected date of matching for adoption

Maternity Certificate (form MATB1) attached?

Yes

☐

No

☐

Matching certificate for adoption?

Yes

☐

No

☐

SECTION B – APPLICATION FOR MATERNITY or ADOPTION PAY AND/OR LEAVE – RETURNING TO WORK

I wish to commence my maternity leave on:

I wish to commence my adoption leave on:

Returning to work

(please give approximate date)

Please indicate a preference by ticking the relevant box

Pay over 39 weeks

Pay split equally over 52 weeks

I undertake to return for a minimum of three months with Sussex Partnership NHS Foundation Trust or with another NHS authority after my maternity/adoption leave.

If I fail to return to Sussex Partnership NHS Foundation Trust after my maternity/adoption leave, or fail to produce within 15 months of starting my maternity/adoption leave a copy of my letter of appointment to another NHS authority, I am liable to refund my maternity/adoption pay, less any SMP/SAP to which I was entitled.

Applicant's signature

Date

I have discussed the 10 'keep in touch' days with the applicant

Manager's signature

Date

SECTION C – APPLICATION FOR MATERNITY/ADOPTION PAY – NOT RETURNING TO WORK

I do not intend to return to work after my confinement. I have agreed with my manager that my last day of duty will be:

I do not intend to return to work after my adoption. I have agreed with my manager that my last day of duty will be:

Applicant's signature

Date

Manager's signature

Date

(Where member of staff is not returning to work the line Manager needs to complete a [Staff Leavers Form](#) and conduct an [Exit Interview](#).)

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Appendix 3

Application for Maternity Support (Paternity) Leave

Surname

Forenames

Home Address

Home Telephone Number

Job Title

Base/place of work

Personal Number

Date joined the Trust (including its predecessors)

Date joined NHS

Maternity:

Expected Date of Delivery

Maternity Certificate (form MATB1) attached? Yes ☐

No ☐

I wish to commence my Maternity Support (Paternity) Leave on:

Returning to work on:

Adoption:

Expected date of matching for adoption

Matching certificate for adoption attached? Yes ☐

No ☐

I wish to commence my Paternity Support (Maternity) Leave on:

Returning to work on:

Signed

Date

Authorised by Manager:

Signed

Date

Please send the completed form to the HR Coordinator.

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Appendix 4

Application for Additional Paternity Leave and Pay

Please complete and return this form to your manager, where possible at least eight weeks before your partner's EWC if she is giving birth, and in any event no later than eight weeks prior to the proposed start date of your leave. Please let your manager know the actual date of birth, placement for adoption date, or UK entry date in the case of an overseas adoption, as soon possible.

SECTION A – PERSONAL DETAILS

Surname

Forenames

Home Address

Home Telephone Number

Job Title

Contract Type Perm ☐ FT/Temp ☐ Rot/Trng ☐ Date contract expires

Number of hours/sessions

per week

Bank member?

Yes

☐

No

☐

Base/place of work

Personal Number

Date joined the Trust
(including its predecessors)

Date joined NHS

☐

Do you pay NHS pension contributions? Yes No ☐

Expected date of delivery/matching for adoption*

Actual date of birth (if known)

Date of placement for adoption* **or**
date of child's entry to UK if an overseas adoption*)

Maternity Certificate (form MATB1) attached? Yes ☐ No ☐

OR Matching certificate for adoption? Yes ☐ No ☐

Name of mother/other adoptive parent*

Do they work for Sussex Partnership Trust? Yes ☐ No ☐

The mother/other adoptive parent should complete and return Section C of this form

SECTION B – LEAVE DETAILS

I wish to commence my Additional Paternity Leave on:

[Note: this date may be changed as long as four weeks' notice is given before the original or revised date, whichever is the earlier.]

Returning to work on (please give approximate date)

I hereby apply for leave [and Additional Paternity Pay*] to care for my [partner's*] child.

Applicant's signature

Date

I have discussed the 10 'keep in touch' days with the applicant.

Manager's signature

Date

***Delete as appropriate**

Please return this form to the HR Coordinator

SECTION C – MOTHER’S/OTHER ADOPTIVE PARENT’S* PERSONAL DETAILS

Surname

Forenames

Home Address

Contact Telephone Number(s)

Name and address of employer
(if not Sussex Partnership NHS
Foundation Trust)

National Insurance Number

Date my SMP/SAP* or Maternity Allowance* starts/started*

Date of returning to work

Declarations (please delete asterisked statements that do not apply):

I am eligible for Statutory Maternity/Adoption* Pay or Maternity Allowance* starting on the date given above. I have notified my employer that I will return to work on the date given above.

***(UK Adoptions only)** The person named in Section A of this form is my spouse/partner/civil partner* who was jointly matched with me to adopt a child.

The person named in Section A of this form is the father/co-adopter of my child.

The person named in Section A of this form is my spouse/partner/civil partner.

Apart from me, the person named in Section A of this form has the main responsibility for the care of my child and is the only person to take additional paternity leave in respect of my child.

I consent to my employer supplying details of my maternity/adoption* leave and pay to Sussex Partnership NHS Foundation Trust and to the Trust processing and retaining such information and the data contained in this form.

Signature

Date

***Delete as appropriate**

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Appendix 5

Shared Parental Leave: Notice of Entitlement and Intention (mother)

Name of employee:	
Job title:	
I wish to provide the Trust with an initial indication of my proposed parental leave, as well as the required declarations from myself and my partner.	
Section A: information to be provided by employee	
My partner's name is:	
My maternity leave [started/is expected to start] on:	
My maternity leave [ended/is expected to end] on:	
My [child's expected week of birth is/child was born on]:	
The total amount of shared parental leave my partner and I have available is:	
I intend to take the following number of weeks' shared parental leave:	
My partner intends to take the following number of weeks' shared parental leave:	
I intend to take shared parental leave on the following dates (please include the start and end	

dates for each period of leave that you intend to take):	
The total amount of shared parental pay (if applicable) my partner and I have available is:	
I intend to take the following number of weeks' shared parental pay (if applicable):	
My partner intends to take the following number of weeks' shared parental pay (if applicable):	
I intend to take shared parental pay on the following dates (if applicable):	
Section B: declaration to be completed by employee	
I [satisfy/will satisfy] the following eligibility requirements to take parental leave:	
I [have/will have] 26 weeks' continuous employment ending with the 15th week before the expected week of childbirth and, by the week before any period of shared parental leave that I take, I will have remained in continuous employment with the Trust.	
At the date of the child's birth, I [have/will have] the main responsibility, apart from my partner, for the care of the child	
I am entitled to maternity leave; my maternity leave period is reduced and the remaining weeks are now available as SPL	
I have [complied with the Trust's maternity leave curtailment requirements/returned to work before the end of my statutory maternity leave period], and will comply with the Trust's shared parental leave notice and evidence requirements	

The information that I have provided is accurate	
I will immediately inform the Trust if I cease to care for the child	
Section C: declaration to be completed by employee's partner	
My name is:	
My address is:	
[My national insurance number is/I do not have a national insurance number]:	
I [satisfy/will satisfy] the following eligibility requirements to enable the mother to take shared parental leave:	
I have been employed or been a self-employed earner in at least 26 of the 66 weeks immediately preceding the expected week of childbirth	
I have average weekly earnings of at least £30 for any 13 of those 66 weeks	
At the date of the child's birth, I [have/will have] the main responsibility, apart from the mother, for the care of the child	
I am the father of the child, or am married to, the civil partner of, or the partner of, the mother	
I consent to the amount of shared parental leave that the mother intends to take	
I consent to the Trust processing the information provided in this form	

Section D: signatures	
Signed (mother):	
Dated (mother):	
Signed (partner):	
Dated (partner):	
<p>Notes</p> <p>The start date of the first period of shared parental leave that you wish to take must be at least eight weeks after you have provided this notice. Shared parental leave must be taken in blocks of at least one week.</p> <p>This notice is to allow the Trust to check that you are entitled to shared parental leave and to provide us with an initial indication of the shared parental leave pattern that you wish to take. The notice is not binding and you must give us a period of leave notice at least eight weeks before the first period of shared parental leave in that notice that you wish to take. Any periods of shared parental leave that you indicate in this notice can be changed at a later date by giving us a variation notice.</p> <p>The Trust treats personal data collected while managing your shared parental leave and pay in accordance with its data protection policy. Information about how your data is used and the basis for processing your data is provided in the Trusts employee privacy notice.</p>	