

- Reference Number:** FOI202223/072
- From:** Private Individual
- Date:** 01 June 2022
- Subject:** Terminology of individuals giving birth, introduction of such terminology, number of births to individuals who do not identify as women and number of births to individuals who identify as men or as trans-men
- Q1 In the Trust's written material, either external or internal, how are individuals who are pregnant referred to? e.g. As 'women', as 'pregnant people', as 'women and pregnant people' etc. Also, please provide this material or link(s) to it.
- A1 Pregnant individuals are referred to as women, pregnant women or pregnant employees within the Maternity Leave Policy.
- Please see attached document: *Maternity Leave Paternity Leave Adoption and Shared Leave v2.0*
- Q2 If using any wording other than solely 'women', 'women and girls' or 'females', when was such terminology introduced and why?
- A2 No other wording other than employees which is long standing wording.
- Q3 Since April 2020 (i.e. the start of the 2020-2021 financial year), how many births in total have taken place at the Trust (including home births if relevant)? Please stipulate by financial year, i.e. 2020-21, 2021-22, financial year 2022-23 to date this FOI request was received.
- A3 Information not held - Liverpool Heart and Chest Hospital NHS Foundation Trust is a specialist cardiothoracic centre and therefore does not have a maternity ward or any maternity related services.
- Q4 Since April 2020 (i.e. the start of the 2020-2021 financial year), how many births at the Trust (including home births if relevant) have been to individuals who do not identify as women? Please stipulate by financial year, i.e. 2020-21, 2021-22, and financial year 2022-23 to date this FOI request was received.
- A4 Information not held - Liverpool Heart and Chest Hospital NHS Foundation Trust is a specialist cardiothoracic centre and therefore does not have a maternity ward or any maternity related services.
- Q5 Since April 2020 (i.e. the start of the 2020-2021 financial year), how many births at the Trust (including home births if relevant) have been to individuals who identify as men or as trans-men? Please stipulate by financial year, i.e. 2020-21, 2021-22, financial year 2022-23 to date this FOI request was received.
- A5 Information not held - Liverpool Heart and Chest Hospital NHS Foundation Trust is a specialist cardiothoracic centre and therefore does not have a maternity ward or any maternity related services.

Maternity, Paternity, Adoption & Shared Parental Leave

Guidelines and Processes

For completion by Author			
Author(s) Name and Title:	Emma Hill, HR Adviser and Rachael McDonald, Business Partner		
Scope:	Trust Wide	Classification:	Human Resources
Version Number:	2.0	Review Date:	01/04/23
Replaces:	v1.4		
To be read in conjunction with the following documents:	Flexible Working Special Leave		
Document for public display:	Yes		
Executive Lead	Karen Nightingall		

For completion by Approving Committee			
Equality Impact Analysis Completed:		Y	
Endorsement Completed:	No	Record of Changes	No
Authorised by:	People Delivery Group	Authorisation date:	23/06/21

For completion by Document Control					
Unique ID No:	TW11(08)	Issue Status:	Approved	Issue Date:	27/08/2021
After this document is withdrawn from use it must be kept in archive for the lifetime of the Trust, plus 6 years.					
Archive:	Document Control	Date Added to Archive:			
Officer responsible for Archive:	Document Control Administrator				

Contents

STATEMENT	3
1. Aims of Guidance.....	3
2. Roles and Responsibilities	3
3. Maternity and Pay and Leave	4
4. Paternity Leave and Paternity Pay	10
5. Adoption Leave and Adoption Pay	14
6. Miscellaneous Provisions.....	18
7. Shared Parental Leave.....	21
8. Glossary of Terms.....	33
9. Equality Analysis.....	34
10. Endorsed by:	40
11. Record of Changes to Document.....	41

STATEMENT

The Liverpool Heart and Chest Hospital NHS Foundation Trust are committed to ensuring that all employees are treated in a fair and equitable manner in line with current employment legislation.

This guidance takes into account all the rights contained within The Work and Families Act 2006, The Maternity and Parental Leave Regulations 1999 incorporating amendments in 2002 and 2008, Employment Rights Act 1996 and Agenda for Change NHS Terms and Conditions of Service.

This guidance applies to all current permanent and temporary employees of the Trust. It does not apply to agency workers or the self-employed.

1. Aims of Guidance

This guidance is designed to provide clear guidance on Maternity, Paternity and Adoption provisions including Shared Parental Leave, entitlements and the processes to be followed.

The guidance and associated procedures will ensure that staff are:

- Treated fairly and in accordance with the provisions set out in this guidance
- Advised of their entitlements with regards to maternity, paternity and adoption leave and Shared Parental Leave
- Able to return to work under the original terms and conditions of employment and on no less favourable terms and conditions
- Suffer no less favourable treatment, victimisation, discrimination or harassment as a result of requesting such leave
- Given more choice about how to balance their work and family responsibilities

2. Roles and Responsibilities

Trust

The Trust is responsible for meeting its legal obligations in relation to Maternity, Paternity, Adoption and Shared Parental Leave.

Chief People Officer

The Chief People Officer is responsible for the development and implementation of this policy.

People Committee

The People Committee will monitor performance against this policy.

People Delivery Group

This group will be responsible for ratifying and reviewing the policy through delegated responsibility from the People Committee. The group will ensure appropriate management and staff side consultation through Policy Development Group (PDG) when reviewing the policy and will monitor its applications and outcomes.

Responsibilities of the Employee

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 3 of 41
-----------------------------	---	--------------

Employees are responsible for fully engaging with their line manager in discussing their parental plans and co-operating in providing the relevant information to enable an efficient process for Maternity, Paternity, Adoption Leave or Shared Parental Leave.

Responsibility of Line Managers

Line managers will be responsible for active implementation of this guidance within their area of control and for submitting the appropriate documentation. Line Managers are responsible for ensuring work related precautions are taken as detailed below.

3. Maternity and Pay and Leave

3.1 Notification of Pregnancy

- 3.1.2 The employee should notify their line manager as soon as possible that they are pregnant. This is important as there may be health and safety considerations.

Before the end of the fifteenth week before the week that the employee expects to give birth (Qualifying week), or as soon as reasonably practical afterwards, you must tell the Trust:

- (a) That you are pregnant**
- (b) The week, starting on a Sunday, in which your doctor or midwife expects you to give birth (expected week of Childbirth); and**
- (c) The date on which you would like to start your maternity leave (intended Start Date).**

- 3.2.3 You must provide a certificate from a doctor or midwife (usually a MAT B1 form) confirming your Expected Week of Childbirth.

Health and Safety

Risk Assessments

Once the employee has notified the Trust that she is pregnant, the line manager will carry out a risk assessment, and identify any preventative and protective measures that they consider they need to take (see Toolkit). The Trust will take such steps necessary to avoid any risks identified affecting your health and safety as a new or expectant mother or that of the employee's baby. This may involve:

- Changing working conditions or hours of work
- Offering suitable alternative work on terms and conditions that are the same or not substantially less favourable (this can include work which would normally be carried out by a lower grade and protected pay arrangements will apply); or
- Suspending from duties, which will be on full pay unless the employees has unreasonably refused suitable alternative work.

The arrangements above also apply if the employee provides a medical certificate indicating that their current role or night work could affect her health or that of her unborn child.

Expectant mothers should discuss with their manager whether there are any work-related precautions that need to be taken whilst working: -

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 4 of 41
-----------------------------	---	--------------

- During the pregnancy
- For the 6 months following the birth
- Whilst breast feeding

Pregnant women are strongly advised to consult with their doctor to ensure that they can continue their duties at work without harming the baby. If the Doctor is concerned about the continuation of some or all of the duties the employee must inform their line manager immediately in order that appropriate alternative arrangements can be made.

3.1 Eligibility for Maternity Leave

In accordance with Agenda for Changes an employee of the Liverpool Heart & Chest Hospital NHS Foundation Trust working full or part time will be entitled to 52 weeks of maternity leave.

- 3.1.1 In some cases the employee and their spouse or partner may be eligible to opt into the shared parental leave (SPL) scheme which gives you more flexibility to share the leave and pay available in the first year after the birth. However, the pregnant employee must take a period of compulsory maternity leave first. Details of the Trust Shared Parental Leave are set out below (section 3.15).

‘Application for Maternity Leave Form’

Employees must complete an ‘application for maternity leave form’ (please see following hyperlink) [Maternity Leave Request Form](#) (hyperlink inserted) and ensure it is received by their manager before the end of the 15th week before the expected date of childbirth (25 weeks pregnant), or if this is not possible, as soon as reasonably practicable. The employee must confirm the following:

- a) Their intention to take maternity leave
- b) The date they wish to start their maternity leave
- c) Confirm whether they intend to return to work at the Liverpool Heart & Chest Hospital NHS Foundation Trust or another NHS employer for a minimum of three months after the maternity leave has ended
- d) Provide a MAT B1 form from their midwife or GP confirming the expected date of childbirth. Please note that Maternity Pay cannot be paid without this certificate which is available at 20 weeks pregnant.

The completed/approved maternity application documents must be forwarded to the Human Resources Team for processing. Confirmation of maternity leave entitlement and leave dates will be issued by Human Resources prior to due date.

3.2 Eligibility for Maternity Pay

3.2.1 Occupational Maternity Pay

The entitlement to Occupational Maternity Pay is agreed on the intention of you returning to work or another NHS organisation. Please see section 9.

Employees who have completed 12 months continuous service with the Trust or another NHS employer at the beginning of the 11th week before their Expected Week of Confinement (EWC), i.e. the 29th week of pregnancy, may be entitled to the following:

- 8 weeks full pay (inclusive of Statutory Maternity Pay)
- 18 weeks half pay plus Statutory Maternity Pay (if half pay plus SMP or Maternity Allowance exceeds full pay then half pay will be reduced accordingly)

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 5 of 41
-----------------------------	---	--------------

- 13 weeks statutory maternity pay or maternity allowance

Statutory Maternity Pay is paid at the rate of 90% of earnings for the first 6 weeks followed by a lower set rate for the remaining 33 weeks.

You can choose to be paid your maternity pay in one of two ways:

- 1) Be paid your entitlement as detailed above - For example, if you are entitled to OMP then you will receive full pay during the first 8 weeks of your Maternity Leave; there will be a 39 week period during which you will receive only half OMP plus any SMP.
- 2) Spread your OMP entitlement payment over the period of OMP paid leave. If you wish to be paid this way, you must indicate this on the application for maternity leave form; otherwise your pay will automatically be paid as indicated in option 1.

Calculations are available from Payroll on 0151 290 4173/4174 or LHCHpayroll@sthk.nhs.uk which should be considered before making your final decision.

3.2.2 Statutory Maternity Pay

Employees who have been employed by the Trust for at least 26 weeks into the qualifying week (15th week prior to the EWC) will only receive Statutory Maternity Pay.

The entitlement to Statutory Maternity Pay is provisional on their average weekly earnings being above the lower earnings limit for National Insurance purposes.

Statutory Maternity Pay is payable for a period of 39 weeks. It is paid at the rate of 90% of earnings for the first 6 weeks followed by a lower set rate for the remaining 33 weeks

If earnings are less than £100 per week, the rate of Statutory Maternity Pay will be 90% of earnings for the full 39 weeks.

If you have less than 26 weeks continuous service at the 15th week before your expected date of confinement, you may be entitled to Maternity Allowance for the Department of Social Security. You will need an SMP1 form from Payroll.

3.3 Staff Not Returning to Employment*

- 3.3.1 Employees are advised to take advantage of the Flexible Working Request or Career Break options rather than to resign from the employment of the Trust for maternity reasons.
- 3.3.2 Where an employee does decide to resign, the line manager will discuss with the employee reasons for resignation with them as part of the normal exit procedure. As stated in 9.1 (below), an employee will be required to repay any Occupational Maternity Pay should she not return to work or resign from her post within three months of their return to work.
- 3.3.3 For employees who do not intend to return to work after their maternity leave, their last day of employment will be calculated as 39 weeks after the last day worked.

* Maternity Leave Flow chart at Appendix ii – check appendices

3.4 Commencement of Leave

- 3.4.1 The earliest date the employee can start maternity leave is 11 weeks before the Expected Week of Childbirth (unless the baby is born prematurely before that date).

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 6 of 41
-----------------------------	---	--------------

- 3.4.2 The employee can postpone their Intended Start Date by informing their line manager in writing at least 28 days before the original 'Intended Start Date, or if that is not possible, as soon as reasonably practicable.
- 3.4.3 The employee can bring forward the Intended Start Date by informing their line manager at least 28 days before the new start date, or if that is not possible, as soon as reasonably practicable.
- 3.4.4 The maternity leave will start on the earliest of:
- (a) The employee's Intended Start Date (if notified to us in accordance with this policy).
 - (b) The day after any day on which the employee is absent for a pregnancy-related reason during the four weeks before the Expected Week of Childbirth. If this happens the employee must let their Line Manager know as soon as possible in writing. Maternity leave will be triggered unless the Trust agree to delay it.
 - (c) The day after the employee gives birth. If the employee gives birth before their maternity leave was due to start, they must let their Line Manager know the date of the birth in writing as soon as possible.
- 3.4.5 Shortly before their maternity leave starts, the Line Manager will discuss with the employee the arrangements for covering your work and the opportunities for you to remain in contact, should you wish to do so, during your leave. Unless you request otherwise, you will remain on circulation lists for internal news, job vacancies, training and work-related social events.
- 3.4.6 The law prohibits the employee from working during the two weeks following childbirth.

3.5 Premature Birth

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

Where the employee's baby is born before the 11th week before the expected date of childbirth (29 weeks pregnant), maternity leave will start on the day following the birth of the baby. The employee may choose to split her maternity leave entitlement, taking a minimum period of 2 weeks leave immediately after childbirth and the rest of the leave following the baby's discharge from hospital.

3.6 Still Birth

Where an employee has a still birth after the 24th week of pregnancy the employee will be entitled to the same amount of maternity leave and pay.

3.7 Miscarriage

Where an employee has a miscarriage before 24th week of pregnancy normal sick leave provisions will apply.

3.8 Returning to Work

By law employees are not permitted to return to work within 2 weeks of giving birth.

Employees wishing to return to work before the end of the 52 weeks leave are required to give their manager a minimum of 8 weeks' notice in writing of the date that they wish to return. Failure to provide the minimum 8 weeks' notice may result in line managers delaying the employee's return to comply with the notice period required.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 7 of 41
-----------------------------	---	--------------

Employees intending to take 52 weeks leave are not required to give further notification to their line manager; communication is advised to take place between line manager and Employee to ensure that return from maternity leave can be managed appropriately.

Employees have the right to return to their post under their original contract and on no less favourable terms and conditions.

3.9 Flexible Working

The Trust will deal with any requests from employees to change their working patterns (such as working part-time) after maternity on a case-by-case basis. There is no absolute right to insist on working part-time, but the employee has a statutory right to request flexible working and the Trust will try to accommodate those requests unless there is a justifiable reason for refusal, taking into account the needs of the Trust and the care of its patients.

Employees who wish to return to work on different hours/days etc. must inform their manager of this request, in writing, a minimum of 28 days before the intended date of return. The request will then be considered in accordance with the Trust's Flexible Working Guidance.

Line Managers must complete a verification of return from maternity leave form and forward to. (please click on the following hyperlink) [Maternity Return Form](#) and submit to HR.Changes@lhch.nhs.uk Failure to complete the form may result in a delay in salary being re-instated.

3.9 Failure to Return to Work

If you have notified the Trust of your intention to return to work and do not do so, or if you have another post with an NHS employer and have not submitted a copy of your appointment letter to the Trust, within 15 months of the beginning of your maternity leave, you will be liable to repay your Occupational Maternity Pay minus any Statutory Maternity pay you received, however, if you are unsure if you will return to work you should state this on the notification for Maternity leave.

Note that the amount to be repaid would be net of Income Tax and NHS Pension contributions but not National Insurance contributions. The DSS regulations state that National Insurance Contributions paid on maternity payments, which are required to be refunded in such circumstances must remain payable.

A return to employment is for a minimum period of three months and must be to a permanent, fixed term or temporary post. Please note that a return to work as a Bank Nurse or on an "as and when" basis is not recognised for this purpose.

3.10 Offer of a Similar Job after Maternity Leave

Where there is a reason which makes it impracticable for the employee to be taken back in her original job, a similar job must be found for her. The new job must be such that:

- The work to be done by the employee is both suitable and appropriate for her to do in the circumstances; and
- The capacity and place in which she is to be employed and the other terms and conditions of her employment are no less favourable to her than if she had continued to be employed in her old job.

3.11 Sickness

If an employee is absent or becomes ill with a pregnancy related illness during the last 4 weeks before the expected date of childbirth (36+ weeks pregnant), maternity leave will automatically

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 8 of 41
-----------------------------	---	--------------

commence at the beginning of the week the sickness occurs. The Line Manager will be responsible for notifying Payroll of this change to date and status.

Absence due to sickness prior to the last 4 weeks before the expected date of childbirth, supported by a self-certificate or medical certificate as appropriate shall be treated as sick leave in accordance with the normal sick leave provisions and the Trusts Managing Attendance at Work Guidance and procedure.

In the event of illness following the date the employee was due to return to work following maternity leave, normal sick leave provisions and the Trusts Managing Attendance Policy and procedure will apply.

3.12 Medical Suspension

If an employee provides a medical certificate indicating that their current role or night work could affect her health or that of her unborn child, then the employee should be referred to occupational health and the following options considered:

- Temporary adjustment to her working conditions and/or hours of work.
- Or if available, offer suitable alternative work. This can include work which would normally be carried out by a lower grade and protected pay arrangements will apply.
- Or if this is not feasible, exclude her from work on full pay protection (medical suspension) until commencement of maternity leave. If a member of staff unreasonably refuses alternative work they can be excluded on no pay until maternity leave commences or if this is within 11 weeks prior to the expected date of childbirth, they can commence their maternity leave.

3.13 Antenatal Care

Pregnant employees have the right to reasonable paid time off to keep appointments for antenatal care made on the advice of a registered medical practitioner, registered midwife or registered health visitor. This may include relaxation and parent craft classes if the employee's registered medical practitioner or midwife confirms in writing that these are necessary for the health and wellbeing of the mother or unborn child.

Employee's must give reasonable notice for appointments and be prepared to show their line manager upon request, appointment cards or confirmation from a medical practitioner, midwife or health visitor as proof of the appointment.

In order to minimise service disruption employees should try to arrange antenatal care around shift times or at the start or end of the working day.

3.14 Keeping in Touch Days

- 3.14.1 Keeping in Touch Days allows employees to undertake a limited amount of work under their contract of employment (up to a maximum of 10 days) without loss of a week's statutory maternity or adoption pay and without bringing their maternity or adoption leave to an end.
- 3.14.2 Keeping in Touch Days are a measure that can help ease an employee's return to work should they choose to take advantage of it. It is not compulsory to undertake the Keeping in Touch days and any work undertaken must be by agreement.
- 3.14.3 The type of work employees undertake on their Keeping in Touch days will need to be agreed locally between the line manager and employee.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 9 of 41
-----------------------------	---	--------------

- 3.14.4 There is no restriction on the timing at which Keeping in Touch days can be taken aside from the first two weeks after birth which is a period of compulsory maternity leave during which employees may not work. It is left to the line manager and employee to agree when days should be worked.
- 3.14.5 As the purpose of Keeping in Touch days is to allow the employee to work under their contract whilst on maternity or adoption leave, they will be paid for any work undertaken according to the banding of their substantive post.

Line Managers are responsible for notifying payroll of any 'Keeping in Touch Days' please click on the following hyperlink to complete the form and review the process '[Keeping in Touch Days](#)'. Forms should be forwarded to HR.Changes@lhch.nhs.uk for processing.

Access to education, training and development should be as open and flexible as possible. This includes ensuring that staffs on maternity leave are offered access to relevant training education and development opportunities that will help them to stay in touch with work and maintain their skills and knowledge. This must be done by mutual agreement between managers and staff members and managed through the use of "Keep in Touch Days".

3.15 Switching to Shared Parental Leave

- 3.15.1 In some cases the employee and their spouse or partner may be eligible to opt into the SPL scheme which gives them more flexibility to share the leave and pay available in the first year after birth. The employee's partner should check with their employer if they are eligible.
- 3.15.2 The employee would need to give at least eight weeks' written notice to end their maternity leave and opt into SPL. This notice can be given before or after the birth, but the employee must remain on maternity leave until at least two weeks after the birth. The employee would then be able to share any remaining leave with their spouse or partner. Further information about how SPL works and how to apply can be found below.

4. Paternity Leave and Paternity Pay

4.1 Eligibility for Paternity Leave and Pay

- 4.1.1 The following section outlines the employees' entitlement to paternity leave and sets out the arrangements for taking it.
- 4.1.2 No employee will be discriminated against or subjected to detriment for taking leave in accordance with this policy.
- 4.1.3 In some cases the employee may be eligible to opt into the Shared Parental Leave scheme which gives the employee and their partner more flexibility to share the leave and pay available in the first year. Further details on SPL are set out below.

4.2 Eligibility for Paternity Leave

- 4.2.1 Paternity leave is available to employees of either gender, for the purpose of caring for a child, or supporting the child's other parent, in the following cases:
- (a) On the birth of a child, where either:

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 10 of 41
-----------------------------	---	---------------

(i) the employee is the biological father and expect to have some responsibility for the child's upbringing; or

(ii) the employees is the mother's Partner and expects to have main responsibility with the mother for the child's upbringing.

(b) On the birth of a child to a surrogate mother where the employee is, or their Partner is, one of the child's biological parents, and that they expect to obtain a parental order giving the employee and their Partner responsibility for the child.

(c) Where an adoption agency places a child with the employee and/or their Partner for adoption and the employee expects to have main responsibility (with their Partner) for the child's upbringing.

(d) Where a local authority places a child with the employee and/or their Partner under a fostering for adoption arrangement and the employee expects to have main responsibility (with their Partner) for the child's upbringing.

4.2.2 To qualify for paternity leave the employee must have been continuously employed by the Trust for at least 26 weeks ending with the 15th week before the Expected Week of Childbirth or the week in which the employee or their Partner are notified by the adoption agency or local authority that you/they have been matched with a child and remain employed by the Trust on the day of childbirth (or date of placement).

4.2.3 In adoption, fostering for adoption, and surrogacy cases, the employee may wish to consider adoption leave instead (see the Adoption Leave below). Only one parent can take adoption leave so the employee should discuss this with their Partner. Employees cannot take both paternity leave and adoption leave.

4.2.4 Employees cannot take paternity leave if they have already taken shared parental leave in respect of the same child. They may be eligible to take shared parental leave after paternity leave (see the Shared Parental Leave Policy).

4.3 Entitlement to Paternity Leave and Pay

4.3.1 Employees whose meet the criteria outlined in 4.1 (above) will be eligible for the following paternity leave and pay:

- 2 weeks leave at full pay
- Employees can choose to take one or two whole weeks' pay and leave, to be taken in a single block
- Paternity Leave entitlement is in addition to Parental Leave (as detailed in section 4 of the Trust's Special Purposes Leave Policy).

4.3.2 Paternity Leave can start on any day of the week, on or following the child's birth.

4.3.3 Paternity Leave must be taken within 56 days of the actual birth of the child or, if the Child was born early, within the period from the actual date of birth up to 56 days after the expected week of the birth.

4.3.4 Only one period of leave will be available irrespective of whether more than one child is born as a result of the same pregnancy.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 11 of 41
-----------------------------	---	---------------

- 4.3.5 To apply for Paternity Leave you are required to complete the [Application for Paternity Leave Form](#) (hyperlink). This form must be accompanied by a fully completed HMRC SC3 for Ordinary Paternity Leave. This form should be sent electronically to your Line Manager for approval. Once approved Line Managers must submit the completed form to the HR Changes Team at HR.Changes@lhch.nhs
- 4.3.6 Line managers are required to record periods of Paternity or similar leave on the on the monthly roster system as appropriate which is sent to the payroll department.

4.4 Notification of Leave

- 4.3.1 To take paternity leave the employee must give written notice by the end of the 15th week before the Expected Week of Childbirth or no more than seven days after they and/or their Partner were notified of having been matched with the child, or as soon as you reasonably can, stating:
- (a) The Expected Week of Childbirth or the Expected Placement Date.
 - (b) the date they would like their leave to start (which may be a specified date after the start of the Expected Week of Childbirth or the Expected Placement Date, the actual date of birth or a specified number of days after birth); and
 - (c) Whether they intend to take one week or two weeks' leave.
- 1.2 The Trust may require a signed declaration from the employee that they are taking paternity leave to care for the child or to support the child's other parent in caring for the child.

4.3 Commencement of Leave

- 4.3.1 In accordance with the Statutory Paternity leave Regulations, Paternity Leave can start on any day of the week and qualifying employees can choose to take a single block of either one week or two consecutive weeks. There is no entitlement to split the leave into odd days or for it to be taken as two separate weeks.

Paternity leave cannot be taken before the child is born or the date of placement for adoption.

- 4.3.2 Employees can choose to start their leave:
- From the actual date of the child's birth (whether this is earlier or later than expected)
 - Or from a chosen date after the child's birth (whether this is earlier or later than expected)
 - Or from any date after the first date of the expected week of childbirth. If the baby is born later than the expected date, the employee must delay their leave until the date of the actual childbirth.
- 4.3.3 Leave must be completed within 56 days (8 weeks) of the actual birth of the child or within 56 days (8 weeks) after the first day of the expected week of childbirth, whichever is the latter. In the case of an adopted child the leave must be completed within 56 days (8 weeks) of the child's placement.
- 4.3.4 Only one period of leave is available to employees irrespective of whether more than one child is born as the result of the same pregnancy or the number of children adopted simultaneously.

4.4 Changing leave dates or cancelling leave

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 12 of 41
-----------------------------	---	---------------

4.4.1 An employee may vary the start date of their paternity leave if they give notice as follows:

(a) If they wish to start their leave on the day of the child's birth or on the day that the child is placed with you or the adopter, at least 28 days before the first day of the Expected Week of Childbirth or the Expected Placement Date.

(b) If they wish to start your leave on a specified number of days after the child's birth or placement, at least 28 days (minus the specified number of days) before the first day of the Expected Week of Childbirth or the Expected Placement Date.

(c) If they wish to start your leave on a specific date that is different to the original start date, they informed their Line Manager of, at least 28 days before that date.

4.4.2 If an employee is unable to give 28 days' written notice as set out above, they should do so as soon as you can.

4.4 Antenatal Care

4.4.1 Biological and adoptive fathers nominated carers and same sex partners have the right to reasonable paid time off to keep appointments for antenatal care made on the advice of a registered medical practitioner, registered midwife or registered health visitor. This may include relaxation and parent craft classes if the employee's registered medical practitioner or midwife confirms in writing that these are necessary for the health and wellbeing of the mother or unborn child.

4.4.2 An employee must give their Line Manager reasonable notice of forthcoming antenatal care appointments. The Line Manager should request and be shown some proof of the appointment in the form of an appointment card or confirmation from a medical practitioner, midwife or health visitor.

4.4.3 In order to minimise service disruption employees should try to arrange antenatal care around shift times or at the start or end of the working day.

4.5 Returning to Work from Paternity Leave

Dates for Paternity Leave should be agreed and approved with your Line Manager and including confirmation of return-to-work date.

4.5 Flexible Working

4.5.1 The Trust will deal with any requests by employees to change their working patterns (such as working part time) after paternity leave on a case by case basis. It will try to accommodate those requests unless there is a justifiable reason for refusal, bearing in mind the needs of the Trust and the care of its patients. It is helpful if requests are made as early as possible. The procedure for making and dealing with such requests is set out in our Flexible Working Policy.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 13 of 41
-----------------------------	---	---------------

5. Adoption Leave

5.1 Eligibility / Entitlements

5.1.1 This policy sets out the arrangements for adoption leave and pay for employees who are:

- (a) Adopting a child through a UK adoption agency.
- (b) Fostering a child with a view to possible adoption.
- (c) Having a child through a surrogate mother.

5.1.2 Arrangements for time off to attend adoption appointments are set out in our Time off Policy under Adoption Appointments.

5.1.3 In some cases an employee and their spouse or partner may be eligible to opt into the shared parental leave (SPL) scheme which gives more flexibility to share the leave and pay available in the first year after the child is placed with you. However, the employee or their partner / spouse must take at least two weeks' adoption leave first. Details of SPL are set out in our Shared Parental Leave (Adoption) Policy.

5.1.1 In adoption cases or fostering for adoption cases, the employee is entitled to adoption leave if they meet all the following conditions:

- (a) They are adopting a child through a UK adoption agency, or you are a local authority foster parent who has been approved as a prospective adopter.
- (b) The adoption agency or local authority has given the employee written notice that it has matched them with a child for adoption, or that it will be placing a child with them under a fostering for adoption arrangement, and tells them the date the child is expected to be placed into your care (Expected Placement Date).
- (c) They have notified the agency that they agree to the child being placed with them on the Expected Placement Date.

1.3 In a surrogacy case, the employee is entitled to adoption leave if all the following conditions are met:

- (a) A surrogate mother gives birth to a child who is biologically the employees' child, the child of their spouse or partner, or the child of both.
- (b) The employee expects to be given parental responsibility for the child under a parental order from the court. The child must live with the employee and the employee must apply for the parental order within six months of the child's birth.

1.4 Only one parent can take adoption leave. If the employees spouse or partner takes adoption leave with their employer the Trust employee will not be entitled to adoption leave but you may be entitled to paternity leave (see our Paternity Leave Policy) and/or shared parental leave (see our Shared Parental Leave (Adoption) Policy).

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 14 of 41
-----------------------------	---	---------------

5.2 Entitlements to Adoption Leave

- 5.2.1 Eligible employees will be entitled to 39 weeks Ordinary Adoption Leave (OAL) and up to a further 13 weeks (unpaid)
- 5.2.2 Only one period of leave is available irrespective of whether more than one child is placed for adoption as part of the same arrangement
- 5.2.3 The leave can commence on any day of the week:
- from the date of the child's placement (whether this is earlier or later than expected)
 - from a fixed date which can be up to 14 days before the expected date of placement.
- 5.2.4 If the child's placement ends during the adoption leave period, the adopter will be able to continue adoption leave for up to eight weeks after the end of the placement.

5.3 Eligibility and Entitlements to Adoption Pay

- 5.3.1 The amount of pay that eligible employees will receive will be dependent on service with the NHS.
- 5.3.2 Staff who have completed twelve month's continuous service with the Trust or other NHS employer at the beginning of the 11th week before the date of the child's placement may be entitled to Contractual Adoption Pay (CAP) as follows:
- weeks full pay (inclusive of any Statutory Adoption Pay);
 - 18 weeks half pay plus Statutory Adoption Pay;
 - 13 weeks statutory adoption pay
- 5.3.3 The granting of the Contractual Adoption Pay under this scheme is subject to an over-riding requirement that the employee agrees to return to work for at least 3 months following completion of leave granted under this scheme.
- 5.3.4 Staff who do not have enough service to qualify for CAP but who qualify for Adoption Leave (see 2.0) will be entitled to Statutory Adoptive Pay (SAP) for a period of 39 weeks.
- 5.3.5 Employees can choose to be paid adoption pay in one of two ways:
- To be paid the amount entitled to receive during each specified period. For example, if an employee is entitled to OAP they will receive full pay during the first 8 weeks of Adoption Leave, and there will be a 39 week period during which they will receive only half OAP plus any SAP.
- OR:-
- Spread the OAP entitlement payment equally over the period of OAP paid leave in several equal payments. This must be indicated on the application for adoption leave form, otherwise pay will automatically be paid as indicated in 1 above**.

Please note that the choice of payment option cannot be changed once the form has been submitted. – Check with payroll is this correct **Applies to OAP payment only.

Calculations are available from Payroll on 0151 290 4173/4174 or LHCHpayroll@sthk.nhs.uk which should be considered before making your final decision.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 15 of 41
-----------------------------	---	---------------

An employee who is not entitled to Statutory Adoption Pay may be entitled to other financial support from their local authority or from the Department of Works and Pensions.

5.4 Pre-adoption Leave

- 5.4.1 Staff who are taking the lead role in the adoption may take reasonable time off with pay for meetings about adoption arrangements. Staff who takes a secondary role will be entitled to a maximum of 2 days paid leave plus up to 3 days unpaid leave for these purposes. Further unpaid leave may be applied for and permission will not be unreasonably refused.
- 5.4.2 The Head of Department must be given reasonable notice of the need for time off and be shown proof of appointments

5.5 Notification requirements

5.5.1 Adoption cases

- 5.5.2 Not more than seven days after the agency or local authority notifies the employee in writing that it has matched them with a child (or where that is not reasonably practicable, as soon as reasonably practicable), the employee must give notice in writing of the Expected Placement Date, and your intended start date for adoption leave (Intended Start Date).
- 5.5.3 Human Resources will then write to the employee within 28 days to inform them of the date they would be due to return to work (your Expected Return Date) assuming you take your full entitlement to adoption leave.
- 5.5.4 Once the employee receives the matching certificate issued by the adoption agency, they must provide Human Resources with a copy.

5.6 Notification requirements: Surrogacy cases

- 5.6.1 In a surrogacy case, the employee must tell us in writing of their intention to take adoption leave and give the expected week of childbirth (EWC). You must give this information by the end of the 15th week before the EWC, or if that is not reasonably practicable, as soon as is reasonably practicable. [You must also complete a declaration confirming your entitlement].
- 3.2 We will write to the employee within 28 days of receiving your notification, to confirm your Expected Return Date assuming you take your full entitlement to adoption leave.
- 3.3 When the child is born you must tell us the date of birth.

5.6 Notification of Adoption Leave

- 5.5.3 Employees must complete an 'Application for Adoption Leave' and ensure it is received by their manager within 7 days of being notified of being matched with a child, or as soon as is reasonably practicable. The employee must confirm the following:
- Their intention to take adoption leave;
 - The date they wish to start their adoption leave;
 - Confirm whether they intend to return to work at the Liverpool Heart & Chest Hospital NHS Foundation Trust or another NHS employer for a minimum of three months after the adoption leave has ended;

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 16 of 41
-----------------------------	---	---------------

- Provide documentation issued by the adoption agency which contains details as per paragraph 4 above;
- Confirmation of adoption leave entitlement and leave dates will be issued within 28 days of receipt of the adoption leave application documents at the Human Resources Department.

5.5.4 A certificate of the matching is required as proof of entitlement to adoption leave and will include basic information on matching and expected placement dates.

5.5.5 Completed and approved application for Adoptions Leave and the supporting documents noted above should be submitted to the HR Changes Team Hr.Changes@lhch.nhs.uk for processing.

5.6 Commencement of Adoption Leave

The earliest an employee may take adoption leave and statutory adoption pay is no more than 14 days before the expected date of placement of a child and the latest it can generally start is the date of placement itself.

5.7 Returning to Work after Adoption Leave

5.7.1 Employees wishing to return to work before the end of the 52 weeks leave are required to give their manager a minimum of 8 weeks' notice in writing of the date that they wish to return. Failure to provide the minimum 8 weeks' notice may result in the line managers delaying the employee's return to comply with the notice period required.

5.7.2 Employees intending to take 52 weeks leave are not required to give further notification to their line manager.

5.7.3 Employees returning to work after Adoption Leave will be entitled to return to the job in which they were employed before the absence on terms and conditions not less favourable than those which would have applied if they had not been absent.

5.7.4 Employees returning to work after Adoption Leave are entitled to return to the same job or, if it is not reasonably practicable for us to provide that, to a job which is both suitable and appropriate to do in the circumstances. The terms and conditions of such employment will be the same as would have been applied to the employee if they had not been absent.

5.7.5 Employees who wish to return to work on different hours/days etc. must inform their manager of this request, in writing, a minimum of 28 days before the intended date of return. The request will then be considered in accordance with the Trust's Flexible Working Policy.

5.7.6 Line Managers must complete a verification of return from Adoption Leave form [Return from Adoption Form](#) and submit to HR.Changes@lhch.nhs.uk Failure to complete the form may result in a delay in salary being re-instated.

5.8 Failure to Return to Work

5.8.1 Employees who have notified the Trust of their intention to return to work and have received Occupational Adoption Pay, but do not return to work or have another post with an NHS employer and have not submitted a copy of the appointment letter to the Trust, within 15 months of the beginning of the adoption leave, will be liable to repay the Occupational Adoption Pay minus any Statutory Adoption pay received. However, if the employee is unsure if they will return to work it should state this on the notification for Adoption leave.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 17 of 41
-----------------------------	---	---------------

- 5.8.2 The amount to be repaid would be net of Income Tax and NHS Pension contributions but not National Insurance Contributions. The DSS regulations state that National Insurance Contributions paid on adoption payments, which are required to be refunded in such circumstances must remain payable.
- 5.8.3 A return to employment is for a minimum period of three months and must be to a permanent, fixed term or temporary post. Please note that a return to work as a Bank Nurse or on an “as and when” basis is not recognised for this purpose.

5.9 Keep in Touch Scheme

- 5.9.1 Keeping in Touch Days allows employees to undertake a limited amount of work under their contract of employment (up to a maximum of 10 days) without loss of a week's statutory maternity or adoption pay and without bringing their maternity or adoption leave to an end.
- 5.9.2 Keeping in Touch Days are a measure that can help ease an employee's return to work should they choose to take advantage of it. It is not compulsory to undertake the Keeping in Touch days and any work undertaken must be by agreement.
- 5.9.3 The type of work employees undertake on their Keeping in Touch days will need to be agreed locally between the line manager and employee.
- 5.9.4 There is no restriction on the timing at which Keeping in Touch days can be taken aside from the first two weeks after birth which is a period of compulsory maternity leave during which employees may not work. It is left to the line manager and employee to agree when days should be worked.
- 5.9.5 As the purpose of Keeping in Touch days is to allow the employee to work under their contract whilst on maternity or adoption leave they will be paid for any work undertaken according to the banding of their substantive post.

Line Managers are responsible for notifying payroll of any 'Keeping in Touch Days' please click on the following hyperlink to complete the form '[Keeping in Touch Days](#)' and submit to HR.Changes@lhch.nhs.uk

Access to education, training and development should be as open and flexible as possible. This includes ensuring that staffs on maternity leave are offered access to relevant training education and development opportunities that will help them to stay in touch with work and maintain their skills and knowledge. This must be done by mutual agreement between managers and staff members and managed through the use of “Keep in Touch Days”.

6. Miscellaneous Provisions

6.1 Premature Birth – Maternity, SPL

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

Where the employee's baby is born before the 11th week before the expected date of childbirth (29 weeks pregnant), maternity leave will start on the day following the birth of the baby. The employee may choose to split her maternity leave entitlement, taking a minimum period of 2 weeks leave immediately after childbirth and the rest of the leave following the baby's discharge from hospital.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 18 of 41
-----------------------------	---	---------------

Premature Birth – Paternity

Where a baby is born prematurely earlier than the 14th week before the expected date of childbirth (26 weeks pregnant) in order to determine length of service for eligibility of paternity leave and pay, the full term expected date of child birth will be used

6.2 Still Birth

Where an employee has a still birth after the 24th week of pregnancy the employee will be entitled to the same amount of maternity leave and pay.

6.3 Miscarriage

Where an employee has a miscarriage before 24th week of pregnancy normal sick leave provisions will apply.

6.4 Contractual rights

During maternity, paternity or adoption leave both paid and unpaid, employees retain all of their contractual rights with the exception of remuneration.

6.5 Increments and Pay Awards

Paternity leave both paid and unpaid will count as service for annual increments and for purposes of any service qualification and additional annual leave.

6.6 Where a pay award is made during the period of paternity leave, or an award is backdated to this time, the employee's paternity leave pay will be recalculated accordingly.

6.7 Annual Leave and Bank Holidays - Paternity

Annual leave and Bank Holiday entitlement will continue to accrue during both paid and unpaid paternity leave. An employee may not take annual leave during paternity leave but may take it immediately before or after paternity leave in agreement with their line manager.

6.8 Sickness

In the event of illness following the date the employee was due to return to work following maternity / adoption leave, normal sick leave provisions and the Trusts Managing Attendance Policy

6.9a An employee cannot receive sickness pay and paternity pay at the same time. Therefore, if an employee is absent due to sickness before starting their period of paternity leave and will continue to be absent due to sickness, the paternity leave should be postponed. The 56-day period within which the paternity leave should be taken is not extended.

6.9b In the event of illness following the date the employee was due to return to work normal sick leave provisions and the Trusts Managing Attendance at Work Policy and procedure will apply.

6.10 Pension

If applicable, all service including periods of unpaid leave are subject to superannuation payments. The payments in relation to any unpaid period of maternity, paternity or adoption leave will be repaid upon return to work via payroll deductions over the same period of the unpaid leave. Further information can be obtained by contacting LHCH Payroll and Pensions Services on 0151 430 1943/1115/1099 or via email on LHCHpensions@sthk.nhs.uk

6.10 Salary Deductions

Authorised salary deductions e.g., Trade Union Membership, AVCs, Medicash etc will continue to be deducted during maternity, paternity or adoption leave. The payments in relation to any unpaid period of maternity, paternity or adoption leave will be repaid upon the return to work via payroll deductions over the same period of the unpaid leave. Further information can be obtained by contacting the LHCH Payroll and Pensions Services on 0151 290 4173/4174 or via email on LHCHpayroll@sthk.nhs.uk

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 19 of 41
-----------------------------	---	---------------

6.11 Working during the Paternity Leave Period

An employee may not undertake any paid work with the Trust or any other employer during the Adoption Leave Period. If an employee does so, Adoption Leave and pay will automatically cease and the leave will be treated as unauthorised absence and action will be considered under the Trust's Disciplinary Procedure, Counter Fraud Policy, and in line with the Trust's Counter Fraud Response Plan.

6.12 Returning to Work

Employees have the right to return to their post under their original contract and on no less favourable terms and conditions.

6.13 Counter fraud

If fraudulent or corrupt activity is suspected in relation to any area of this policy, the Trust's Local Counter Fraud Specialist (LCFS) should be informed, telephoned 0151 285 4500. Alternatively, any suspicions may be reported via the confidential NHS Fraud & Corruption Reporting Line 0800 028 40 60 (free phone Mon-Fri 8am – 6pm), or via the online reporting form www.reportnhsfraud.nhs.uk. All information provided via any of these reporting lines will be treated in strictest confidence, and can be provided completely anonymously.

The Trust fully endorses the provisions of the Public Interest Disclosure Act 1998, and disclosure by anyone who has reasonable suspicions of fraud or corruption is encouraged. The Trust's Raising Concerns Policy will be rigorously enforced to ensure that no employee should suffer as a result of reporting reasonably held suspicions. Fraudulent activity in relation to this guidance could be, for example, an employee undertaking paid employment during their Maternity, Paternity, Adoption or Shared Parental Leave period; an employee submitting forged documentation as evidence of eligibility for Maternity, Paternity or Adoption Leave or antenatal appointments.

6.14 Rotational Training Contracts

Where an employee is on a planned rotation of appointments with one or more NHS employers as part of an agreed programme of training, the employee shall have the right to return to work in the same post, or in the next planned post irrespective of whether the contract would otherwise have ended if pregnancy, childbirth, adoption or SPL had not occurred.

In such circumstances, the employee's contract will be extended to enable the practitioner to complete the agreed programme of training.

6.15 Accrual of Annual Leave/Public Holidays – Maternity Leave

6.15.1 Annual leave/public holidays will continue to accrue during maternity, paternity, adoption and shared parental leave and where possible should be taken during the relevant annual leave year.

6.15.2 Where, annual leave cannot be taken within the relevant leave year, Managers can agree for annual leave to be taken at either the beginning or the end of a maternity leave period.

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

6.16 Pension

6.16.1 Pension rights and contributions will be dealt with in accordance with the provisions of the NHS Pension Scheme.

6.16.2 Pension contributions accrue, but are not payable, during periods of unpaid SPL. As a result, the amount of accrued contributions will be deducted from salary when the employee returns to work over a period equivalent to the amount of unpaid leave taken. For example, three months unpaid

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 20 of 41
-----------------------------	---	---------------

leave will amount to deductions from salary over the first three months following the employee's return to work.

6.16.3 These pension contributions are calculated from the pay received on the last day of paid leave before unpaid leave commenced.

6.16.4 The above deductions are in addition to the contributions payable by the employee from the date she returns to work.

6.16.5 Any Pension queries should be dealt with by a Pensions Department on 0151 430 1943/1115/1099 or email LHCH@Pensions@sthk.nhs.uk

6.17 Contractual rights

An employee retains all their contractual rights, except remuneration, during the shared parental leave period.

6.18 Professional Registration

An employee is responsible for ensuring that they always maintain their competence and professional registration (where applicable) during their paid and unpaid SPL.

7. Shared Parental Leave

7.1 What is Shared Parental Leave?

Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how best to care for, and bond with, their child. All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay. This policy sets out the statutory rights and responsibilities of employees who wish to take statutory Shared Parental Leave (SPL) and statutory Shared Parental Pay (ShPP).

The organisation recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. It is the Trusts policy to encourage open discussion with the employees to ensure that questions and problems can be resolved as quickly as possible. Employees should clarify the relevant procedure or process with Human Resources to ensure that they are followed.

7.1.1 Shared Parental leave replaces additional paternity leave which has been revoked from 6th April 2015. However ordinary paternity leave of two weeks after the birth or adoption of a child still applies. More information can be found in the Trusts paternity guidance.

7.1.2 Shared parental leave can only be used by two people:

- Childs Mother / adopter and
- either
 - the father or
 - the spouse, civil partner or partner of the child's mother/adopter whether the same or opposite sex

7.1.3 Shared parental leave will be created where an eligible mother/adopter chooses to bring their maternity/adoption leave or maternity allowance to an end early. This is called 'curtailing' maternity/adoption leave. It can also be created when a mother/adopter returns to work. The untaken weeks of maternity/adoption leave can be taken as shared parental leave if the mother/adopter or their partner is eligible for this.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 21 of 41
-----------------------------	---	---------------

- 7.1.4 It is the employee's responsibility to check if they are eligible for shared parental leave and/or pay. Employees can assess their entitlement at [Direct Gov.uk](https://www.direct.gov.uk). (page correct 21/07/2015)
- 7.1.5 If it is found the employee does not meet the criteria after a declaration has been made, disciplinary action may take place including dismissal
- 7.1.6 Both the mother/adopter and partner are able to take shared parental leave at the same time. The weeks taken would be added together from the total available. In this instance and if they meet the eligibility criteria, statutory shared parental pay would be paid to both parents at the same time reducing the total available as a result.

7.2 Shared Parental Leave and Pay (Eligibility)

- 7.2.1 To qualify for shared parental leave (SPL) a mother/primary adopter must:

- a) have a partner (this means a person (whether of a different sex or the same sex) who lives with the mother/primary adopter and with the child in an enduring family relationship but is not the mother/primary adopter's child, parent, grandchild, grandparent, sibling, aunt, uncle, niece or nephew).
- b) be entitled to either maternity/adoption leave or to statutory maternity/adoption pay or maternity allowance.
- c) have curtailed, or given notice to reduce their maternity/adoption leave, or their pay/allowance (if not eligible for maternity/adoption leave).

A parent intending to take SPL must:

- a) be an employee
- b) share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption.
- c) have properly notified their employer of their entitlement and have provided the necessary declarations and evidence (see 7.5.6)

- 7.2.2 In addition, a Trust employee wanting to take SPL is required to satisfy the continuity of employment test' and their partner must meet the 'employment and earnings' test.

Continuity of Employment Test	Employment and Earnings Test
The individual has worked for the same employer for at least 26 weeks at the end of the 15 th week before the child's expected due date/matching date and is still working for the trust at the start of each leave period.	In the 66 weeks leading up to the baby's expected due date/matching date, the person has worked for at least 26 weeks and earned an average of at least £30 (as of 2015) a week in any 13 weeks.

- 7.2.3 There will be occasion where only one parent is eligible. For example a self-employed parent will not be entitled themselves but they may still pass the employment and earnings test so their partner, if they are an employee, may still qualify.
- 7.2.4 In order to check eligibility, employees and/or their line manager may use the [Shared Parental Leave and pay calculator](#) available on gov.uk.

7.3 Shared Parental Leave (SPL)

- 7.3.1 Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family.

- 7.3.2 The number of weeks available is calculated using the mother's/adopter's entitlements to maternity/adoption leave (52 weeks). If the mother/adopter reduces their maternity/adoption leave entitlement, then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL. A mother/adopter reduces their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or when they give notice to curtail their leave at a specified future date.
- 7.3.3 If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 week paid period (this would only apply in cases where the partner of the Trust employee were not entitled to the leave, i.e. agency workers or self-employed). If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.
- 7.3.4 SPL can commence as follows:
- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
 - The adopter can take SPL after taking at least two weeks of adoption leave
 - The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements.
 - The father/partner cannot take paternity leave or pay once they have taken any SPL or Shared Parental Pay (ShPP).
- 7.3.5 Where a mother/adopter gives notice to curtail maternity/adoption entitlement, the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.
- 7.3.6 SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see 4.9 below) but must be taken in blocks of one week.
- 7.3.7 If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period (see "Shared Parental Pay" below).
- 7.3.8 SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

7.4 Shared Parental Pay (ShPP)

- 7.4.1 Employees who qualify for SPL will not always be entitled to ShPP.
- 7.4.2 Eligible employees may be entitled to take up to 37 weeks ShPP, the actual entitlement will depend upon the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.
- 7.4.3 ShPP may be payable during some or all of SPL. The duration is dependent up on the length and timing of the leave.
- 7.4.4 In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 23 of 41
-----------------------------	---	---------------

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

7.4.5 Any ShPP due will be paid at a rate set by the Government for the relevant tax year. Current rates can be found on www.gov.uk.

7.5 Timing of Shared Parental Leave

Notifying the organisation of curtailment of Maternity/Adoption Leave

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

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

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

7.5.3 Where the mother is claiming maternity allowance rather than statutory maternity pay, the curtailment notice must also be forwarded to the benefits office in addition to the Trust.

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

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

7.5.6 At least eight weeks before an employee can take a period of SPL or claim ShPP an employee who is intending to take SPL and/or ShPP must give their line manager;

- notification of their entitlement
- notification of their intention to take to SPL
- notification of their intention to claim ShPP

7.5.7 Notification must be in writing and provide:

- the name of the employee;
- the name of the other parent;
- the start and end dates of any maternity/adoption leave or pay, or
- maternity allowance, taken in respect of the child and the total amount
- of SPL available;
- the date on which;
 - the child is expected to be born and the actual date of birth or,
 - the employee was notified of having been matched with the child

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 24 of 41
-----------------------------	---	---------------

and the date of placement for adoption;

- the amount of SPL the employee and their partner each intend to take;
- an indication (non-binding) of when the employee expects to take the leave;
- the start and end dates of any maternity/adoption pay or maternity allowance;
- the total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP.

7.5.8 The employee must provide;

- a signed declaration confirming:
 - a) they meet, or will meet, the eligibility conditions and are entitled to take SPL and/or ShPP;
 - b) the information they have given is accurate;
 - c) where the employee is not the mother/adopter that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter;
 - d) should they cease to be eligible for either SPL or ShPP they will immediately inform the Trust.
- a signed declaration from their partner confirming:
 - a) the partners name, address and national insurance number (or a declaration that they do not have a national insurance number);
 - b) they are the mother/adopter of the child or they are the father of the child or are the spouse, civil partner or partner of the mother/adopter;
 - c) they satisfy the 'employment and earnings test' (see 3.2 above), and had at the date of the child's birth or placement for adoption the main responsibility for the child, along with the employee;
 - d) they consent to the amount of SPL that the employee intends to take;
 - e) they consent to the Trust processing information contained in their declaration form;
 - f) their agreement to the employee claiming ShPP and the Trust processing any ShPP payments to the employee;
 - g) that they will immediately inform their partner should they themselves cease to satisfy the eligibility conditions;
 - h) (in the case whether the partner is the mother/ adopter) that they have reduced their maternity/adoption pay or maternity allowance.

7.6 Booking Shared Parental Leave

- 7.6.1 In addition to notifying the line manager of their entitlement to SPL/ShPP, an employee must also provide notice to take the leave. Notice to take leave should be provided at the same time as their notice of entitlement to SPL, a form has been provided in the tool kit to fulfil notification requirements.
- 7.6.2 The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.
- 7.6.3 If the individual's right to work is via a Certificate of Sponsorship they must also notify the Human Resources Department in order that they can ensure compliance with UKBA regulations.

7.7 General Principles

- 7.7.1 The employee has the right to submit up to three separate notifications (this includes variation, cancellation notices) specifying leave periods they are intending to take. Each notification may contain either;
 - (a) a single period of weeks of leave; or
 - (b) two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.
- 7.7.2 Any variation or cancellation notification made by the employee (which must be signed by both parties where it alters the total amount of SPP each party will take), including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. Following receipt of a variation or cancellation notice the manager must copy the documentation to the Human Resources Department (within two working days).
- 7.7.3 A change as a result of a child being born early, or as a result of the organisation requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the organisation.
- 7.7.4 SPL can only be taken in complete weeks but may begin on any day of the week (i.e. if a week of SPL began on a Tuesday it would end on a Monday). Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

7.8 Continuous Leave Notifications

- 7.8.1 A notification can be for a period of **continuous leave**, i.e. several weeks taken in a single unbroken period of leave (i.e. six weeks in a row).
- 7.8.2 An employee has the right to take a continuous block of leave notified in a single notification, providing the request
 - a) does not exceed the total number of weeks of SPL available to the employee and
 - b) the employer has been given at least eight weeks' notice
- 7.8.3 An employee may submit up to three separate notifications for continuous periods of leave.

7.9 Discontinuous Leave Notifications

- 7.9.1 A single notification may also contain a request for two or more periods of **discontinuous leave**, (i.e. a set number of weeks of leave over a period, with breaks between leave periods where the employee returns to work).
- 7.9.2 The Trust will consider requests for discontinuous leave but retains the right to refuse such a request.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 26 of 41
-----------------------------	---	---------------

- 7.9.3 Where a request for discontinuous leave is made by an employee, there will be a 14 day discussion period during which the Trust and/or the employee may arrange a meeting to discuss the detail of the request. The meeting will be made with the aim of agreeing an arrangement that meets both the needs of the employee and the service.
- 7.9.4 If a discontinuous leave pattern is refused the employee may;
- a) withdraw the request without detriment on or before the 15th day after the notification was given; or
 - b) take the total number of weeks requested the notice in a single continuous block.
- 7.9.5 If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to confirm when they would wish the leave period to commence. Leave cannot commence prior to eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.
- 7.9.6 Upon receipt of such notification(s), the line manager should arrange to discuss, the request with the employee at the earliest opportunity. Where a notice is for a single period of continuous leave or where a request for discontinuous leave can be approved without further discussion a meeting may not be necessary. Where a meeting does take place, although not part of a formal procedure, the employee may request to be accompanied by a companion who is either a representative of his/her recognised staff organisation/trade union or a work colleague. The request will be considered.
- 7.9.7 Where a meeting is required it should take place in private and be arranged in advance.
- 7.9.8 The purpose of the meeting is to discuss in detail, the leave requested and what will happen while the employee is away from work. Where the request is for discontinuous leave the discussion may focus on;
- a) how the leave proposal could be agreed;
 - b) whether a modified arrangement could be agreed and;
 - c) what the outcome may be if no agreement is reached.
- 7.9.9 Once a decision is reached, the line manager must indicate on the form (in tool kit) whether the request has been accepted or rejected and forward it to Human Resources. The employee should be informed verbally by their line manager of the outcome prior to the Human Resources Department being notified.
- 7.9.10 Each request for discontinuous leave will be considered on a case-by-case basis taking into account the needs of the service. Agreement of a request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL. A request may be granted in full or part; i.e. the Trust may propose a modified version of the request for consideration.
- 7.9.11 Employees should be notified of the outcome of their request at the earliest opportunity but no later than 14 days following receipt of their notification. Line managers should do this by completing section 3 of Appendix A and giving a copy to the employee.

7.10 Withdrawing notice to end maternity or adoption leave and pay

- 7.10.1 Once the mother/adopter has given notice to end their maternity/adoption leave, there are only limited circumstances where it is possible to change their mind. They may only withdraw their notice if they have not returned to work, they have not started shared parental leave or pay, and one of the following will apply;

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 27 of 41
-----------------------------	---	---------------

- it is found that neither the mother/adopter nor their partner has any entitlement to shared parental leave or pay,
- In the event of the partners death
- If the notice was given before the birth and the mother changes her mind up to 6 weeks after the birth (but she can opt back into shared parental leave with the same partner at a later date if she wishes.)

7.11 Written confirmation

- 7.1.11 When notified, the Human Resources Department will provide written confirmation of the following:
- i. the employees paid and unpaid leave entitlement
 - ii. periods of leave agreed
 - iii. the number of booking notifications remaining to the employee (see 7.7 above).
 - iv. the need for the employee to give at least eight weeks' notice if he/she wishes to vary or cancel the agreed and booked period(s) of SPL.

7.12 Evidence of Eligibility

- 7.12.1 The Trust will require confirmation of the following, within 14 days of the SPL entitlement notification being given:
- the name and business address of the partner's employer (where the employee's partner is no longer employed or is self-employed their contact details must be provided)
 - in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth or MATB1 where the birth has not yet taken place).
 - in the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption.
- 7.12.2 In order to be entitled to SPL, the employee must produce this information within 14 days of the employer's request.

7.13 Keeping in Touch – SPLIT Days

- 7.13.1 Subject to agreement with the line manager, each employee can work up to twenty Shared Parental Leave in Touch (SPLIT) days during SPL without losing the entitlement to ShPP and without bringing the SPL to an end. Any days of work will not extend the SPL period.
- 7.13.2 Before going on SPL, the manager and the employee should agree any voluntary arrangements for keeping in touch during the employee's SPL including:
- a) any voluntary arrangements that the employee may find helpful to help him/her keep in touch with developments at work and, nearer the time of his/her return, to help facilitate his/her return to work
 - b) keeping the manager in touch with any developments that may affect his/her intended date of return
 - c) confirming how the employee will be informed of any pay rises, bonuses and job vacancies which occur during his/her period of SPL
- 7.13.3 To facilitate the process of SPLIT days it is important that the manager and employee have an early discussion to plan and plan for SPLIT days before the employee's SPL takes place.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 28 of 41
-----------------------------	---	---------------

- 7.13.4 To enable employees to take up the opportunity, the Trust will consider the scope of reimbursement of reasonable childcare costs or the provision of childcare facilities where necessary.
- 7.13.5 The SPLIT work can be consecutive days or not, and can include training (including the completion of mandatory training) or other activities which enable the employee to keep in touch with their workplace.
- 7.13.6 Any such work must be by agreement, and neither the Trust nor the employee can insist on it.
- 7.13.7 The employee will be paid a proportion of their basic daily rate, for the actual hours worked less appropriate maternity leave payment for SPLIT days worked.
- 7.13.8 Working for part of any day will count as one SPLIT day.

7.14 Health and Safety - Postnatal Care and Breast-Feeding Employees

- 7.14.1 An employee who has recently given birth (within 6 months) is entitled to paid time-off for post-natal care e.g. attendance at health clinics.
- 7.14.2 All requests for time-off for postnatal care are subject to the prior approval of the manager.
- 7.14.3 An employee should make a request with as much notice as possible to allow appropriate arrangements to be made for cover. Requests should be supported by an appointment card, or some other document showing that an appointment has been made.
- 7.14.4 The Trust has a duty under health and safety to undertake a risk assessment for such employees and to provide breast-feeding women with suitable rest facilities. The Health and Safety Executive also encourages employers to provide breastfeeding employees with suitable access to a private room to express and store milk.
- 7.14.5 This includes an employee working on a SPLIT day as described in section 9. It is the responsibility of the manager to ensure a risk assessment is undertaken as soon as possible after the manager is notified by the employee that they are returning to work within 6 months of giving birth or have provided written notification that they are breastfeeding.
- 7.14.6 If it is found following the risk assessment, taking into account any certified medical statement from a medical practitioner or a midwife that an employee or her child would be at risk were she to continue with normal duties, the manager should provide suitable alternative work for which the employee will receive her normal rate of pay.
- 7.14.7 The above provisions also apply to an employee who is breastfeeding if it is found that her normal duties would prevent her from successfully breastfeeding her child.

7.15 Special Circumstances

7.16 Early Birth

- 7.16.2 Where an employee's child is born before their expected due date and the employee had booked to take SPL (within the first eight weeks of the due date), the employee may take the same period of time off after the actual birth without having to provide eight weeks' notice. In such circumstances the employee must submit a notice to vary their leave as soon as is reasonably practicable. The notice will not count as one of the employee's three notifications.
- 7.16.3 Leave arranged after the first eight weeks of the due date remains bound by an eight-week notice requirement to vary leave dates.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 29 of 41
-----------------------------	---	---------------

7.16.4 If the child is born more than eight weeks before the due date and the notice of entitlement to SPL and/or a notice to book SPL have not yet been submitted, there is no requirement to provide eight weeks' notice prior to the start of the leave providing all other eligibility and notification criteria have been met. Notices must be given as soon as is reasonably practicable after the actual birth.

7.17 Death of the child before or during birth, or within the first year

7.17.1 If the child dies before the employee has submitted a notice of entitlement to take SPL then the employee cannot opt into SPL as the qualifying conditions include caring for a child. In such circumstances the mother/adopter will remain entitled to maternity/adoption leave and the mother's partner may still qualify for statutory paternity leave.

7.17.2 If the employee has opted into SPL and have booked leave, the employee will still be entitled to take the booked leave. No further notice to book leave can be submitted and only one variation notice can be submitted to either reduce a period of leave or to rearrange a discontinuous leave arrangement into a single block of leave.

7.17.3 An employee who is absent on SPL may cancel agreed SPL and return to work by giving the Trust eight weeks' notice of their return to work.

7.18 Partner no longer caring for the child

7.18.1 If the employee's circumstances change and the employee is no longer responsible for caring for the child (the exception is 7.17 above), the employee's entitlement to both SPL and ShPP will immediately cease. The employee is responsible for advising their line manager and Human Resources.

7.18.2 Where the employee has SPL arranged within eight weeks of their entitlement ceasing, the Trust may require the employee to take the leave where it is not reasonably practicable for the Trust to have their employee back at work, (i.e. where cover has been arranged). Any weeks of SPL arranged after eight weeks of their entitlement ceasing must be cancelled.

7.18.3 If the parent, who is no longer caring for the child has any SPL leave entitlement outstanding, the remaining parent (providing they continue to care for the child) will be able to transfer the leave into their own entitlement providing they are able to provide a signed notification from the other parent confirming a variation of leave entitlement.

7.19 Death of a parent during the child's first year

7.19.1 If either parent dies and the other parent is taking, or is entitled to SPL then they will continue to be eligible. Any SPL that was due to be taken by the deceased parent may be transferred to the other parent (subject to meeting the eligibility criteria).

7.19.2 In such circumstances it may be necessary for the remaining parent to take a further period of SPL or to vary pre-agreed SPL. Where eight weeks' notice cannot be provided then notice may be given as soon as is reasonably practicable.

7.19.3 Where the employee has already provided three notices to take leave, the employee will be allowed to submit one further notice to book/amend SPL.

7.20 Multiple births/adoptions

7.20.1 An employee is not entitled to extra SPL or ShPP if they are expecting more than one child. This also applies to multiple adoptions occurring in a single placement.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 30 of 41
-----------------------------	---	---------------

7.21 Return to Work

- 7.21.1 An employee who has notified their intention to return to work is not required to give any further notification of return.
- 7.21.2 If the employee wishes to return to work earlier than the expected return date, the employee must provide a written notice to vary the leave and must give at least eight weeks' notice.
- 7.21.3 This notice will count as one of the employee's three notifications. If the employee has already used three notifications to book and/or vary leave then the Trust is not required to accept the notice to return early but may choose to do so where reasonably practicable.
- 7.21.4 Following receipt of a notification to return early the manager must copy the documentation to the Human Resources Department (within two working days) to allow any changes to be recorded on ESR. The Human Resources Department will then forward the documentation to Payroll prior to the employee's return to work.
- 7.21.5 Following SPL the employee is entitled to return to the same job providing the employee's aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less. The same job is the job they occupied immediately before commencing leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.
- 7.21.6 If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

7.22 Fixed-Term Contracts or Training Contracts

An employee subject to a fixed-term or training contract who meets the eligibility criteria set out in section 5 above will have his/her contract extended so as to allow him/her to receive the 50 weeks Shared Parental Leave and Shared Parental Pay providing the employee has submitted the required notifications prior to the end of the fixed term contract and they continue to meet the continuity of employment test and employment and earnings test

7.23 Increments

- 7.23.1 Shared Parental leave, whether paid or unpaid, will count as service for annual increments.
- 7.23.2 An employee on Shared Parental Leave will be expected to comply with the Trusts Appraisal Procedures in the same way as other employees. Managers should take reasonable steps to ensure they are able to consider an employee's pay progression on the relevant date. This may include a review of:
- a) Previous records
 - b) Progress towards meeting their PDP
 - c) Notes of any relevant meetings between the manager and the employee
 - d) Performance and development before planned absence starts

7.24 Working whilst on Shared Parental leave

Any employee considering undertaking **any** paid work, excluding SPLIT Days (in accordance with Section 7.13 above) whilst on shared parental leave must contact Payroll to ascertain what impact this may have on the shared parental pay they receive.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 31 of 41
-----------------------------	---	---------------

7.25 Human Resources

Guidance, advice and support can be provided by the Human Resources Department.

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 32 of 41
-----------------------------	---	---------------

8. Glossary of Terms

New and Expectant Mothers - Includes women who are pregnant or have given birth within the last six months or who are breastfeeding.

Expected Week of Child Birth - This means the week beginning midnight between Saturday and Sunday, in which it is expected that the baby will be born.

Week of Child Birth - This means the week beginning midnight between Saturday and Sunday, in which the baby is actually born

Ordinary Maternity Leave (OML) - All pregnant employees regardless of service are entitled to at least 39 weeks paid OML.

Contractual Maternity Leave (CML) - Pregnant employees who have a minimum of 12 months NHS service at the beginning of the 11th week before the expected date of childbirth (29 weeks pregnant) will be entitled to CML in addition to OML

Additional Maternity Leave (AML) - All pregnant employees are entitled to an additional 13 weeks unpaid additional maternity leave which commences at the end of OML.

Adopter – The person who has been matched with a child for adoption or, if a couple has been matched jointly, the member of the couple who has chosen to take statutory adoption leave and pay.

Matching / Matched – A person is matched with a child suitable for adoption when an adoption agency decides that the person would be a suitable adoptive parent for the child, either individually or with another person.

Notification of Matching – A person is considered to be notified of having been matched with a child on the date that they receive written notification of the agency's decision that they have been matched with a child for adoption.

Official Notification – Before a child can be matched from overseas the prospective adopter must be assessed and approved by an adoption agency in the UK as being a suitable adoptive parent. The Central Authority for the UK sends a certificate of eligibility to the overseas authority concerned to confirm that the adopter has been assessed and approved.

Paternity / Parental – used in reference to those entitlements applying to either the individual who is the member of a jointly adopting couple who has chosen not to take statutory adoption leave and pay, regardless of the sex of either, or an individual adopter's partner.

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

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 33 of 41
-----------------------------	---	---------------

9. Equality Analysis

Introduction and Guidance

APPENDIX 1

The change in terminology from “equality impact assessment” to “analysis of the effects” is intended to put more focus on the quality of the analysis and how it is utilised in decision making and less on the production of a document. It is not a one-off exercise but an on-going and cyclical process.

It is important that you conduct your equality analysis (EA) from the very beginning of the process of development (be it a strategy, policy, practice, provision or decision). The person who is responsible for the development, or is advising the decision maker, needs to undertake the assessment with appropriate support. If working in partnership a collaborative approach saves time, shares expertise and knowledge and avoids duplication of effort.

You must demonstrate that:

- engagement with the appropriate stakeholders has taken place in **accessible** and **proportionate** ways
- comprehensive equality monitoring of all engagement activities that you have initiated has taken place with all stakeholders (e.g. if a particular provision is targeted at a specific group, e.g. disabled people, it is still important to monitor all equality categories)
- evidence relating to dates and venues and/or methods used to engage is available
- feedback has informed and influenced developments.

In the case of reviewing and updating current practice you must ensure that any lack of engagement or incomplete monitoring in the past is rectified during the updating process.

EA applies to all activities including analysing the cumulative effect of a number of decisions when made together, and the implementation of something that has been developed by an external body e.g. a government department.

The “**protected characteristics**” (PCs) listed in the Equality Act 2010 and covered by the Equality Duty are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Civil partnership and marriage are also covered but not for all aims of the duty. **Protected Groups** (PGs) are based on the protected characteristics. These groups must be considered during the EA process.

Please note that it is not possible to include all the required information in the boxes below. The following is a framework for noting key points within which you must refer to underlying documents and other supporting detail. When completing this you will find it helpful to refer to the “Equality Analysis Checklist” at the end of this document for additional information.

A copy must be kept within your department for audit purposes.

To keep up to date on the latest guidance go to the website of the Equality and Human Rights Commission: www.equalityhumanrights.com

Version No 2.0 June 2021	Maternity, Paternity, Adoption & Shared Parental Leave Current version is held on the Intranet Check with Intranet that this printed copy is the latest issue	Page 34 of 41
-----------------------------	---	---------------

Equality Analysis Framework

Tick Category (after completion of assessment)	Not Relevant (NR)		Relevant (R)	R
Signature of Manager/Group Responsible				
Date				

Department/Function	Human Resources
Lead person	Rachael McDonald
Contact details	0151 600 1305
Name of strategy/ policy/procedure/service to be analysed (including procurement)	Maternity, Adoption, Paternity and Shared Parental Leave Policy
Is this a new or existing strategy/policy/procedure/service?	Existing – revised to align with legislation and to introduce the Shared Parental Leave (SPL) process.
<p>1. What are the main aims and/or objectives of the strategy/ policy/procedure/service and to what extent is equality a relevant consideration? (E.g. a policy that lists the frequency of checking the temperatures of hospital fridges would have no relevance to equality (NR) but a change or cut back to a current service would have relevance (R)).</p> <p>Take account of the protected characteristics (PC's)/ groups and outline your reasons for your chosen category in as much detail as possible. Tick “R” or “NR” at the top of this page. If “NR” has been chosen finish here once your reasons have been given in the box on the right.</p>	<p>To provide information about maternity, adoption, paternity leave and Shared Parental Leave.</p> <p>Explain how to apply for the above and to ensure that the Trust meets legislative requirements. The policy is aligned with A4C provisions.</p> <p>Maternity / Disability / Sex – a risk assessment may indicate need to make adjustments for certain staff groups affected by this provisions of this policy.</p> <p>The Trust Managing Attendance Policy provides guidance on how to manage absence related to pregnancy to avoid sex discrimination.</p>

<p>2. How will you scope your equality analysis?</p> <p>Fill in details under the headings in the box on the right. You may want to involve other key people and organisations at this stage and you may find that you need to change your plans as you work through the questions.</p>	<p>How do the aims of the development relate to equality? (Consider purpose, operational context, beneficiaries, intended results and needs including those of PGs.)</p> <p>Which groups could be usefully engaged? (Consider ways by which you can engage with stakeholder groups and seek out new sources of information to help fill gaps.)</p> <p>What aspects are relevant to equality? (Consider each part of the development and any related issues.)</p> <p>Which PCs are relevant? (If potential impact on PCs could vary you may need to prioritise.)</p> <p>What equality information is available? (Consider local, regional and national data, other related information e.g. Joint Strategic Needs Assessment (JSNA), Community Strategy and anecdotal information.)</p> <p>What are your information gaps? (There is a shortage of information regarding some PCs)</p>
<p>3. How will you analyse your equality information?</p> <p>Fill in details under each heading in boxes to right</p>	<p>Using information to understand the effect on equality. (Take an overview of the information but be wary of drawing general conclusions e.g. “this benefits everyone”. It may be that outcomes will differ between PCs or targeted interventions are required.)</p> <p>Findings of your analysis. (This can result in 4 decisions: no major change / adjust what was proposed / continue as planned / stop and re-think or remove. If there is a need for an action plan at this stage develop one.)</p> <p>Documenting your analysis. (It is important to record details of your assessment and analysis. Public authorities subject to the specific duties must publish their analysis.)</p> <p>Next steps. (When you have decided on your course of action you may consider it helpful to invite views on your findings. It is important that you can validate the conclusions that you have arrived at.)</p>
<p>4. How will monitoring and review be carried out? EA is an on-going process that does not end</p>	

<p>once implementation has begun.</p> <p>Plan a review timetable taking into account any specific requirements that have been identified and enter in box to right.</p> <p>(NB Ensure that procurement activity of any size identifies the equality, diversity and human rights requirements, including evaluation, monitoring and review arrangements, within tender and contract documents)</p>	
<p>5. Are you ready to have the development signed off and publicised? Although EA is an on-going process there is a stage when adoption and signing off can occur.</p> <p>Fill in details under each heading in boxes to right</p>	<p>Decision makers must be clear about how the EA has informed and influenced content and have due regard to the findings when giving final approval.</p> <p>The specific duties require that equality information is published and recommend that the EA is published alongside the development, policy or decision that it relates to.</p>
<p>6. List the additional supporting evidence and sources of information that have informed this EA in box to the right.</p>	<p>This policy has been through management and staff side consultation.</p>

Equality Act 2010 – Background Information

Protected characteristics (PCs) are: age, disability, gender reassignment, pregnancy & maternity, race, religion or belief, sex and sexual orientation. **Marriage and civil partnership** are only covered by the first aim of the general duty outlined within the Equality Act 2010.

Those covered by the general duty must in the exercise of their functions have regard to the 3 “aims” or “arms” of the duty:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the act (*i.e. removing or minimising disadvantage suffered by people due to their PCs*)
- Advance equality of opportunity between people who share a protected characteristic and those who do not (*i.e. taking different steps to meet the needs of people from protected groups (PGs) where these are different from the needs of other people*)
- Foster good relations between people who share a protected characteristic and those who do not (*i.e. encouraging people from PGs to participate in public life or in other activities where their participation is disproportionately low.*)

Disabilities must be catered for and meeting the above requirements may involve treating some people more favourably than others.

The **general duty** applies to all Schedule 19 listed bodies e.g. health bodies, police and transport authorities, government departments. Other organisations that carry out public functions are also covered by the general duty e.g. voluntary sector or private bodies that carry out public functions. There are a few exceptions – if in doubt seek legal advice.

The **specific duties** apply to virtually all bodies listed in Schedule 19 and require the listed body to:

- Publish sufficient information to demonstrate compliance with the general duty across all functions including: information on the effect that its policies and practices have had on people who share relevant PCs, to demonstrate the extent to which it furthered the aims of the general duty for employees and for others with an interest in its functions. (*Public authorities with fewer than 150 employees are exempt from the employee provision*)
- All public authorities must **publish**: evidence of analysis that they have undertaken; details of the information considered; details of engagement they undertook; **prepare and publish** equality objectives that must meet one or more aims of the general duty.
- The published information must also be considered before preparing objectives that are specific and measurable; how progress will be measured must be stated. **Information on objectives must be published at least every 4 years** in an accessible format either separately or as part of another document. **Progress must be reported on annually** and it is recommended that this is done incrementally throughout the year.

To keep up to date on the latest guidance go to the website of the Equality and Human Rights Commission: www.equalityhumanrights.com

10. Endorsed by:

[illegible]

11. Record of Changes to Document

Issue number:

Changes approved in this document:

Date:

Section Number	Amendment (<i>shown in bold italics</i>)	Deletion	Addition	Reason