

Extra information and Flowcharts can be included in the appendix at the end of the document, these should be labelled appendix 1, 2, 3 etc.

## Maternity, Paternity & Adoption Leave Policy

### Document Summary

The purpose of this document is to meet the statutory and regulatory requirements of the Trust in providing staff with consistent ‘user friendly’ accessible policy documents and provide guidance to employees and bank workers regarding Shared Parental Leave

<b>DOCUMENT NUMBER</b>	<b>STHK0014</b>
<b>APPROVING COMMITTEE</b>	Workforce Council
<b>DATE APPROVED</b>	20 <sup>th</sup> September 2017
<b>DATE IMPLEMENTED</b>	1 <sup>st</sup> October 2017
<b>NEXT REVIEW DATE</b>	30 <sup>th</sup> September 2020 <span style="background-color: #00FFFF;">Extended to 30<sup>th</sup> November 2020</span>
<b>ACCOUNTABLE DIRECTOR</b>	Director of Human Resources
<b>POLICY AUTHOR</b>	HR Business Partner
<b>TARGET AUDIENCE</b>	Trust wide
<b>KEY WORDS</b>	Maternity Leave/Pay, Adoption Leave/Pay, Paternity Leave/Pay, Shared Parental Leave, Shared Parental Pay

### Important Note:

The Intranet version of this document is the only version that is maintained.

Any printed copies should therefore be viewed as “uncontrolled” and, as such, may not necessarily contain the latest updates and amendments

## Version History

<b>Date</b>	<b>Version</b>	<b>Author</b>	<b>Summary of Key Changes</b>
April 2011	01	HR Advisor	Entitlement for parents to share Maternity Leave included to reflect changed legislation. Requirement of HMRC checks also included in section 5.2
October 2013	02	HR Advisor	Maternity Allowance entitlement changed in line with legislation. Facilities for breastfeeding mothers added.
December 2014	03	HR Advisor	Time off for ante natal appointments added under section 6.2.3 and time off for adoption appointments added under section 6.3.6 to reflect changed legislation. Cessation of Additional Paternity leave and the introduction of Shared Parental Leave added to reflect changed legislation.
April 2015	04	HR Business Partner	Updated Policy to reflect current legislation with regard to antenatal appointments and cessation of Additional Paternity leave and introduction of Shared Parental Leave
September 17	05	HR Business Partner	Proposed small amendment is required to ensure compliance with regard to e Roster and payment of KIT days.  In the event of a change of hours the new holiday entitlement will be calculated from the date of the contractual change of hours. (This is instead of the words – the date their request is approved).

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## 1 SCOPE

This policy applies to all staff and services within St Helens and Knowsley Teaching Hospital NHS Trust.

This policy should be read in conjunction with the Shared Parental Leave policy.

## 2. INTRODUCTION

The Trust has a duty to follow legislation in relation to the amount of Maternity/Paternity/Adoption Leave that may be taken and also to follow Agenda for Change Terms and Conditions for employees with regard to eligibility for the amount and type of maternity pay.

## 3. STATEMENT OF INTENT

This policy is designed to ensure that all staff are aware of their entitlement to maternity leave and pay, and to ensure that staff who qualify understand those rights. It also covers provisions for Paternity Leave and Adoption Leave.

The Trust takes a zero tolerance approach to discrimination and will make every effort to ensure that no employee is discriminated against either directly or indirectly on the grounds of race, gender, disability, age, religion/ belief, sexual orientation, gender identity or carer status.

The objectives of the policy are to ensure that the Trust

- is legally compliant
- complies with Agenda for Change Terms and Conditions of Service
- promotes the Policy within the organisation
- provides an easily understood process for staff to follow when applying for Maternity/Paternity or Adoption leave

## 4. DEFINITIONS

The following definitions/abbreviations will be used throughout the policy:

<b>SMP:</b>	Statutory Maternity Pay
<b>OMP:</b>	Occupational Maternity Pay
<b>EDC:</b>	Expected Date of Childbirth. The date is confirmed in the MatB1 Certificate
<b>EWC:</b>	Expected Week of Childbirth. This is calculated from Sunday to Saturday, i.e. the week in which the baby is due
<b>MA:</b>	Maternity Allowance
<b>SAP:</b>	Statutory Adoption Pay

<b>OAP:</b>	Occupational Adoption Pay
<b>AA:</b>	Adoption Allowance
<b>EWM:</b>	Expected Week of Matching
<b>OPP:</b>	Occupational Paternity Pay
<b>SPP:</b>	Statutory Paternity Pay

**Qualifying Week** is the 15<sup>th</sup> week prior to your EWC (i.e. 25 weeks pregnant).

## **5. DUTIES ACCOUNTABILITIES AND RESPONSIBILITIES**

### **5.1 The Chief Executive**

The ultimate responsibility in the area of legislative adherence lies with the Chief Executive.

### **5.2 Executive Directors**

The Board are responsible for ensuring that the policy is being adhered to, both collectively and by the management and staff in their area of responsibility. The monitoring of the impact of the policy will be delegated to the Workforce Council and the auditing to the HR management team, however the HR Director and HR Council will highlight any areas of significant shortfall identified to the Board.

### **5.3 Managers**

The manager has a responsibility to ensure that the employee can take their Maternity/Paternity/Adoption leave as their entitlement. It is also the Manager's responsibility to ensure that the employee does not exceed their entitlement. Managers must ensure they complete a Risk Assessment as soon as is reasonably practicable after being informed that an employee is pregnant. A copy of this risk assessment must be passed to the Human Resources Department.

Before the individual goes on leave, managers must discuss and agree arrangements for keeping in touch during leave including developments at work, vacancies, social events, minutes of team meetings and Keeping in Touch Days. The employee must indicate their interest on the 'Keeping in Touch Days' form found in Appendix 5 on application and the manager to discuss this further before commencement of leave. This form must be placed on the individual's personal file along with any confirmation of leave letters.

### **5.4 Employee**

It is the responsibility of the employee to inform their line manager as soon as reasonably practicable and no later than 28 days before the intended start date of Maternity/Paternity/Adoption Leave that they wish to take this leave. It is also the responsibility of the employee to ensure that the relevant

documentation such as the MATB1 form, SC3 form and matching certificate is passed to the Human Resources Department to process no later than 28 days before the start of the leave.

## **5.5 Human Resources Department**

It is the responsibility of the Human Resources Department to confirm to the employee their eligibility for Occupational Maternity/ Paternity/Adoption Pay or Statutory Maternity/Paternity/Adoption pay. Human Resources must also inform the Payroll Department of any leave that is to be taken by employees so that their pay can be calculated in a timely manner.

## **5.6 Pay and Staff Services**

It is the responsibility of the Pay and Staff Services to confirm to the staff member details of the amount of pay that will be received during the period of Maternity/Paternity/Adoption Leave

# **6. POLICY INFORMATION**

## **6.1 Maternity Leave**

### **6.1.1 Eligibility**

**Occupational Maternity Pay (OMP)** may be granted to staff who have 52 weeks continuous service with the Trust or another NHS organisation at the beginning of the 11th week before the expected week of childbirth (EWC). The Trust must be notified in writing before the 15<sup>th</sup> week before the EWC stating the date she wishes to start her maternity leave; provides a MATB1 certificate and intends to return to work with the Trust or another NHS employer for a minimum period of three months.

To be eligible for **Statutory Maternity Pay (SMP)** The employee must have completed 26 weeks continuous service with the Trust by the 15<sup>th</sup> week before the expected week of childbirth.

If a mother elects to take Shared Parental Leave she will cease her Maternity Leave and will no longer be entitled to claim either OMP or SMP. Please see the Trusts Shared Parental Leave policy.

### **6.1.2 Commencement of Leave**

Maternity leave shall not normally commence prior to the 11<sup>th</sup> week before the EWC (29 weeks pregnant) but can commence at any time up to the EWC.

### 6.1.3 Entitlement

Staff who are eligible for **OMP** as outlined above will be entitled to the following:-

**For the first 8 weeks of leave** - full pay (less any SMP to which they may be entitled)

**For the next eighteen weeks of leave** - half of full pay plus SMP (reduced only to the extent that half pay and SMP do not exceed full pay)

**For the next 13 weeks of Leave** - SMP only (Extension of Maternity Pay)

**For the next 13 weeks** - staff may take additional unpaid maternity leave making a total of 52 weeks

By prior agreement with the employer this entitlement may be paid in a different way for example, a combination of full pay and half pay or a fixed amount spread equally over the maternity leave period.

Staff who are eligible for **SMP** as outlined above will be entitled to the following:-

**For the first 6 weeks of leave** - 90% of salary

**For the next 33 weeks of leave** - standard rate of SMP (currently £112.75 per week) or 90% of the employee's average weekly earnings if lower

**The additional 13 weeks** - will be unpaid

Staff who are not eligible for SMP may be entitled to **Maternity Allowance (MA)**.

MA - either 90% of your average weekly earnings (before tax) or **£136.78** per week (in the tax year 2013-14) – whichever is the lower. Maternity Allowance is tax free and you will normally also receive National Insurance credits during the period that you receive the allowance, which is important because they count towards your State Pension entitlement.

MA is paid for a maximum of **39 weeks**, and you can start claiming 11 weeks before your baby is due.

To claim Maternity Allowance, contact your Jobcentre Plus, Call Jobcentre Plus on 0800 055 6688 or download a claim form from [www.gov.uk](http://www.gov.uk).

As of 1st April 2011, mothers of babies due on or after 3rd April 2011 will be able to transfer up to six months of their maternity leave to the baby's father when they return to work. This is known as Additional Paternity Leave. The definition of father covers partners and civil partners of mothers and adoptive

mothers. Please see Section 2.2 for further information with regards to Paternity Leave.

#### **6.1.4 Calculation of Maternity Pay**

Full pay will be calculated using the average weekly earnings rules used for calculating SMP entitlements.

In the event of a pay award or annual increment being implemented before the paid maternity leave period begins, the maternity pay should be calculated as though the pay award or annual increment had effect throughout the entire SMP calculation period.

If such a pay award was agreed retrospectively, the maternity pay should be re-calculated on the same basis.

In the event of a pay award or annual increment being implemented during the paid maternity leave period, the maternity pay due from the date of the pay award or annual increment should be increased accordingly. If such a pay award was agreed retrospectively, the maternity pay should be re-calculated on a regular basis.

In the case of an employee on unpaid sick absence or on sick absence attracting half pay during the whole or part of the period used for calculating average weekly earnings in accordance with the earnings rules for SMP purposes, average weekly earnings for the period of sick absence shall be calculated on the basis of notional full sick pay.

#### **6.1.5 Childcare Vouchers and Salary Sacrifice Schemes**

Enrolment into the Childcare Voucher Scheme (or any other Salary Sacrifice Scheme i.e. Car Lease Scheme, Cycle Scheme, etc.) will have an effect on your Maternity Pay.

Statutory Maternity Pay (SMP) is calculated on your 'average weekly earnings' during the weeks 17 – 25 of your pregnancy. For the purposes of calculating SMP your lower salary (after Salary Sacrifice Scheme(s) have been deducted) will be used.

By remaining in the Salary Sacrifice Scheme throughout your pregnancy your SMP will be reduced.

You must carefully consider if you would like to remain in Salary Sacrifice Schemes and **notify Pay and Staff Services prior to the 17<sup>th</sup> week of your pregnancy** if you do not wish to continue in the Scheme(s).



### **6.1.6 Health and Safety Pre and Post Birth**

The Management of Health and Safety at Work (Amendment) Regulations 1994 requires employers to make special provision, where necessary, to safeguard the health and safety of new and expectant mothers and their babies.

Employees should have a risk assessment of their working conditions with their manager regardless of whether there are any work-related precautions that need to be taken whilst working during pregnancy.

Pregnant women are strongly advised to consult with the Health, Work and Wellbeing Department to ensure that they are capable of continuing their duties at work without harming the baby. If the Health, Work and Wellbeing Department is concerned about the continuation of some or all of the duties you must inform your manager so that appropriate alternative arrangements can be made. The Congenital Disabilities (Civil Liability) Act 1976 gives a right of action to sue for damages for an infant who has suffered damages before birth. If the Trust is not aware of the situation and circumstances then liability for damage to the unborn child may be limited.

Where alternative work is provided, the employee shall receive no less than her normal rate of pay. For further information see [www.hse.gov.uk/mothers/fags.htm](http://www.hse.gov.uk/mothers/fags.htm)

On returning from Maternity leave employees should have a further health and safety risk assessment particularly for the first six months following the birth and whilst the employee is breast feeding.

Should employees need breast feeding facilities this should be discussed with your manager prior to your return to agree a plan. There are breast feeding facilities for employees available on-site at the special care baby unit, which include access to express, feed and store milk.

### **6.1.7 Ante-Natal Leave**

Prior to the birth, pregnant employees are entitled to paid time off to attend antenatal care, which may include relaxation and parent craft classes when these cannot be arranged outside normal working hours. Employees must provide evidence for their line manager that they are attending appointments.

### **6.1.8 Sickness and Absence Prior to the Birth**

The normal sick leave provisions apply up to the commencement of maternity leave.

If a member of staff becomes ill with a pregnancy-related illness during the last four weeks before the EWC then maternity leave will normally commence.

### **6.1.9 Pension**

If you are pensionable, all service including periods of no pay will be subject to superannuation payments. This will be repaid on return to work by payroll deductions over the same period of time as the unpaid leave.

### **6.1.10 Accrual of Annual Leave**

Staff will continue to accrue annual leave during maternity leave including Bank Holidays.

If an employee wishes to return to work on different hours at the end of their maternity leave, they should discuss their requirements with their manager at the earliest opportunity (please follow the Flexible Working Policy). Their new holiday entitlement will be calculated from the date of the contractual change of hours.

If possible, employees should take any outstanding holidays before they start their Maternity Leave.

### **6.1.11 Childcare Provision**

If an employee needs to consider options for child care they can contact the HR Department who will be able to advise them on child care provision in your area.

### **6.1.12 Keeping in Touch**

Employees will, with their manager's agreement, be able to go into work for up to 10 "keep in touch" days without losing their right to Maternity Leave or a weeks Statutory Pay. Before going on leave, managers should discuss and agree any voluntary arrangements for keeping in touch during their staff's maternity leave, including anything they may find helpful with developments at work and, nearer the time to help their smooth return to work. KIT days have to be paid as work since, if an employee is receiving SMP at the time, they cannot get a full day's pay and SMP (as per HMRC regulations). Employees still receive the SMP and their day's pay is topped up to the pay they would usually get for a full day.

### **6.1.13 Premature Births**

If an employee's child is born before the elected date for the commencement of maternity leave, their maternity leave will commence the day after the birth. They should inform the Trust as soon as possible in order to ensure that appropriate payments are made.

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

If an employee's baby is stillborn after 23 weeks and 6 days of pregnancy the employee will be entitled to the same amount of maternity leave and pay as if her baby was born alive.

If an employee has a miscarriage before 24<sup>th</sup> weeks of pregnancy normal sick leave provisions will apply as necessary.

#### **6.1.14 Returning to Work**

Employees should give 8 weeks statutory notice of their return to work date or in any case a minimum of 28 days. Also see the Trust's Shared Parental Leave Policy.

#### **6.1.15 Failure to Return to Work**

If an employee fails to return to work, after they have informed the Trust that they intend to do so, or fails to provide evidence of employment with another NHS employer within 15 months of the beginning of their Maternity leave, they will be liable to repay the whole of the Maternity pay less any Statutory Pay to which they were entitled. The Trust will normally expect immediate repayment of outstanding monies.

### **6.2 Paternity Leave**

#### **6.2.1 Eligibility**

**Occupational Paternity Pay (OPP)** (Ordinary Paternity) may be granted to biological and adoptive fathers, nominated carers and partners who have 12 months continuous service with the NHS at the beginning of the expected week of childbirth or expected date of adoption.

To be eligible for **Statutory Paternity Pay (SPP)** (Ordinary Paternity) the employee must have completed 26 weeks continuous service with the Trust by the 15<sup>th</sup> week before the expected date of childbirth or expected date of adoption. The employee must also be the biological or adoptive father or the mother's husband or partner (of either sex provided they have an enduring relationship and live with the mother) who is to have or expected to have responsibility for the child's upbringing.

As of 1st April 2011, mothers of babies due on or after 3rd April 2011 will be able to transfer up to six months of their maternity leave to the baby's father when they return to work. This is known as Additional Paternity Leave. The definition of father covers partners and civil partners of mothers and adoptive mothers.

Additional Paternity Leave will be available to an employee if :-

- (i) The mother qualifies for Statutory Maternity Pay (SMP), Statutory Adoption Pay or Maternity Allowance;
- (ii) He/she is the child's father, is married to, or is the partner of, the child's mother;
- (iii) He/she expects to have parental responsibility for the child and he/she is taking the leave to care for the child;
- (iv) He/she has been continuously employed by the same employer for 26 weeks ending with the expected week of childbirth (EWC) and remains in the same employment until he/she commences Additional Paternity Leave;
- (v) His/her earnings are on average at least equal to the lower statutory earnings limit during the eight weeks prior to the Expected Week of Childbirth or Expected Date of Adoption.

HRMC will conduct randomised checks on those people opting to take additional paternity leave to ensure that their partner has returned to work.

NB: For babies due on or after 5<sup>th</sup> April 2015, the Trusts Shared Parental Leave policy will apply.

There is no right for an employee to take Paternity Leave when fostering a child.

### **6.2.2 Entitlement**

Employees who are eligible for Occupational Paternity Leave (Ordinary Paternity leave) as outlined above will be entitled to 2 weeks Ordinary Paternity Leave, paid at their normal rate of pay. This will be inclusive of any SPP to which they may be entitled. They must provide a copy of their partners MATB1 Certificate and SC3 form (which will be provided by the Human Resources Department). The leave must be taken within 56 days following the date of birth or adoption. **Note:** under Agenda for Change relatives who are nominated as carers are eligible for OPP however they are not entitled to SPP.

If employees are eligible for SPP as outlined previously they will be entitled to up to 2 weeks leave at the Statutory Paternity Leave pay rate which can be taken any time within the 56 days following the birth. This allows the leave to be taken in either a one or two week block but not two separate weeks.

Employees who are eligible for Additional Paternity Leave will be able to take up to 26 weeks leave. It must be taken in one block of time, cannot start earlier than 20 weeks after the birth and must end before the baby's first birthday. Additional Paternity Leave cannot start unless the mother has returned to work, although there can be a gap between her returning to work and the father starting his Additional Paternity Leave. The employee must

give the trust 8 weeks' notice of their intention to take additional paternity leave and cannot be taken unless this notice has been given.

If the Additional Paternity Leave is taken during the mother's 39 week statutory maternity pay period then it can be paid and this would be at the same rate as SMP. Leave taken after this period will be unpaid.

### **6.2.3 Ante-Natal Leave**

From day one of employment, an employee with a 'qualifying relationship' is entitled by law to unpaid leave to attend up to 2 appointments to 'accompany' a pregnant woman with the maximum time capped at 6.5 hours for each appointment. A 'qualifying relationship' is defined as being 'the woman's husband or civil partner, lives with the woman in an 'enduring family relationship' or is the expected child's father'. However under this policy an employee is entitled, on a non-contractual basis to claim up to six hours of this time in total across these two appointments as additional paid leave.

The employee wishing to use this leave will be asked for a written declaration stating the date and time of the appointment, the nature of the relationship between them and the expectant mother or child and for confirmation that the appointment has been made on the recommendation of a medical professional (such as a doctor, midwife or nurse). This declaration should be provided to the employee's line manager and forwarded to the Human Resources Department.

The granting of time off for additional appointments will be at the discretion of the employees' line manager and if granted will be unpaid or covered by annual leave as agreed between the two parties.

Such paid leave will be entered on ESR as ante natal leave and unpaid as additional unpaid leave hours plus 'other' in the drop down menu.

NB: The Trust can, where there is a suspicion that fraudulent information may have been provided investigate the matter further in accordance with the Trusts disciplinary policy. Providing misleading or false information including claiming eligibility where no eligibility exists could result in disciplinary action being taken up to and including an allegation of gross misconduct. In addition, the Trust reserves the right to bring any such cases to the attention of MIAA.

### **6.2.4 Contractual Benefits**

Staff are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary, throughout their paternity leave. However most staff will be entitled to SPP or OPP for this period.

## 6.2.5 General Principles

The member of staff needs to inform their line manager and the Human Resources Department that their partner is pregnant or that they are adopting a child. Employees are expected to give at least 28 days' notice of their requirement to take Paternity Leave.

The Human Resources Department will then send a Paternity Application form (Appendix 5) and Inland Revenue SC3 Form to the employee to be completed and returned to Human Resources to process. The Human Resources Department will confirm the eligibility and entitlement in writing to the employee.

The Manager documents all ante-natal/adoption support leave and Paternity leave and enters these onto the ESVL's.

## 6.3 Adoption Leave

### 6.3.1 Eligibility

**Occupational Adoption Pay (OAP)** may be granted to staff who:

- have 12 months continuous service with the Trust or another NHS organisation at the beginning of the 11<sup>th</sup> week before the expected week of matching (EWM);
- who has primary care responsibilities for that child and notifies the Trust in writing before the 15<sup>th</sup> week before the EWM stating the date they wish to start their adoption leave;
- provides a Matching certificate and intends to return to work with the Trust or another NHS employer for a minimum period of three months.

To be eligible for **Statutory Adoption Pay (SAP)** the employee must have completed 26 weeks continuous service with the Trust ending with the week in which they were notified of being matched with a child for adoption.

### 6.3.2 Commencement of Leave

Adoption leave will not normally commence prior to two weeks before the adoption.

### 6.3.3 Entitlement (incorporating commencement of leave)

Employees who are eligible for **OAP** as outlined above will be entitled to the following:-

**For the first 8 weeks of leave** - full pay (less any statutory adoption pay to which they may be entitled).

**For the next eighteen weeks of leave** - half of full pay plus SAP (reduced only to the extent that half pay and SAP do not exceed full pay).

**For the next 13 weeks of Leave** - SAP only (Extension of Adoption Pay).

**For the next 13 weeks** - staff may take additional unpaid adoption leave making a total of 52 weeks.

By prior agreement with the employer this entitlement may be paid in a different way, for example a combination of full pay and half pay or a fixed amount spread equally over the adoption leave period.

Employees who are eligible for SAP as outlined in previously will be entitled to the following:-

**For the first 6 weeks of leave** - 90% of salary

**For the next 33 weeks of leave** - standard rate of SAP (currently 2007/8 £112.75 per week) or 90% of the employee's average weekly earnings if lower

**The additional 13 weeks** - will be unpaid

Employees who are not eligible for SAP may be entitled to **Adoption Allowance (AA)**.

**Adoption Allowance** - a flat rate allowance is paid by the Department of Social Security for up to 39 weeks to individuals who are not entitled to SAP. If they do not meet the criteria for SAP but have worked at least 26 weeks in the 66-weeks ending with the week before the EWA they may be eligible for this allowance.

Employees who are entitled to AA will receive 39 weeks paid at a rate of 90% of the employee's earning, or at the lesser rate of AA (£34.90 2007/8)

### **6.3.4 Calculation of Adoption Pay**

Full pay will be calculated using the average weekly earnings rules used for calculating SAP entitlements.

In the event of a pay award or annual increment being implemented before the paid adoption leave period begins, the adoption pay should be calculated as though the pay award or annual increment had effect throughout the entire SAP calculation period.

If such a pay award was agreed retrospectively, the adoption pay should be re-calculated on the same basis.

In the event of a pay award or annual increment being implemented during the paid adoption leave period, the adoption pay due from the date of the pay award or annual increment should be increased accordingly. If such a pay award was agreed retrospectively, the adoption pay should be re-calculated on a regular basis.

In the case of an employee on unpaid sick absence or on sick absence attracting half pay during the whole or part of the period used for calculating average weekly earnings in accordance with the earnings rules for SAP purposes, average weekly earnings for the period of sick absence shall be calculated on the basis of notional full sick pay.

### **6.3.5 Childcare Vouchers and Salary Sacrifice Schemes**

Enrolment into the Childcare Voucher Scheme (or any other Salary Sacrifice Scheme i.e. Car Lease Scheme, Cycle Scheme, etc.) will have an effect on your Maternity Pay.

Statutory Maternity Pay (SMP) is calculated on your 'average weekly earnings' during the weeks 17 – 25 of your pregnancy. For the purposes of calculating SMP your lower salary (after Salary Sacrifice Scheme(s) have been deducted) will be used.

By remaining in the Salary Sacrifice Scheme throughout your pregnancy your SMP will be reduced.

You must carefully consider if you would like to remain in Salary Sacrifice Schemes and **notify Pay and Staff Services prior to the 17<sup>th</sup> week of your pregnancy** if you do not wish to continue in the Scheme(s).

### **6.3.6 Leave for Adoption Appointments**

From day one of employment an employee looking to adopt who has been notified by an adoption agency that a child is to be, or is expected to be, placed for adoption is entitled to leave to attend adoption appointments arranged by or at the request of the adoption agency which made the notification.

An employee proposing to adopt a child on either their own or jointly having elected to be the primary adopter for the purposes of the adoption is entitled take paid time off for up to 6.5 hours on each occasion to attend up to five such adoption appointments. The employee wishing to use this leave will be asked for a document showing the date and time of the appointment in question and that it has been arranged by the adoption agency.

Secondary adopters are entitled by law to unpaid leave to attend up to 2 appointments with the maximum time capped at 6.5 hours for each appointment. However under this policy an employee is entitled, on a non-



contractual basis to claim up to six hours of this time in total across these two appointments as additional paid leave.

The granting of time off for additional appointments will be at the discretion of the employees' line manager and if granted will be unpaid or covered by annual leave as agreed between the two parties.

Until ESR is modified such paid leave will be entered on ESR as ante natal leave and unpaid as additional unpaid leave hours plus 'other' in the drop down menu.

NB: The Trust can, where there is a suspicion that fraudulent information may have been provided investigate the matter further in accordance with the Trusts disciplinary policy. Providing misleading or false information including claiming eligibility where no eligibility exists could result in disciplinary action being taken up to and including an allegation of gross misconduct. In addition, the Trust reserves the right to bring any such cases to the attention of MIAA.

## 7. TRAINING

Managers have a responsibility to ensure staff have read and understood the policy. New staff will be informed of the policy as part of their local induction.

There is no mandatory training associated with this policy.

## 8. MONITORING COMPLIANCE WITH THIS DOCUMENT

### This is a Mandatory Section

The table below outlines the Trusts' Key Performance indicators and monitoring arrangements for this policy/document. The Trust reserves the right to commission additional work or change the monitoring arrangements to meet organisational needs.

### Key performance Indicators of the Policy

<b>Describe Key Performance Indicators (KPIs) Must reflect</b>	<b>Frequency of Review</b>	<b>Lead</b>
Ensure 14 day response from HR Team to individual, following receipt of application form into HR Office.	Annual	Head of HR

## Performance Management of the Policy

Aspect of compliance or effectiveness being monitored	Monitoring method	Individual responsible for the monitoring	Frequency of the monitoring activity	Group / committee which will receive the findings / monitoring report	Group / committee / individual responsible for ensuring that the actions are completed
Ensure 14 day response from HR Team to individual, following receipt of application form into HR Office.	Audit of application dates and response letter dates	HR Advisors	Annual	Workforce Committee	Head of HR

## 9. REFERENCES/ BIBLIOGRAPHY

The Trust is bound by the following legislation and guidance with regard to Maternity, Paternity and Adoption pay:

- Working Families Act 2006
- Management of Health and Safety at Work (NHSW) Regulations 1992
- Employment Rights Act 1996
- Employment Relations Act 1999
- Employment Act 2002
- Sex Discrimination Act 1975
- The Equal Pay (Amendment) Act 1986
- The Human Rights Act 1998
- EU Directive on Pregnant Workers 1994

## 10. RELATED TRUST POLICY/PROCEDURES

### Other Relevant Policies

- Recruitment and Selection Policy
- Annual Leave and Bank Holiday Policy
- Shared Parental Leave Policy

## Equality Analysis

“St Helens and Knowsley Teaching Hospitals NHS Trust is committed to creating a culture that promotes equality and embraces diversity in all its functions as both an employer and a service provider. Our aim is to provide a safe environment, free from discrimination, and a place where all individuals are valued and are treated fairly. The Trust adheres to legal requirements and seeks to mainstream the principles of equality and diversity through all its policies, procedures and processes.

The Trust takes a zero tolerance approach to all forms of discrimination, harassment and victimisation and will make every effort to ensure that no patient or employee is disadvantaged, either directly or indirectly, on the basis that they possess any of the “protected characteristics” as defined by the [Equality Act 2010](#). The protected characteristics are as follows: - race; disability; sex; religion or belief; sexual orientation; gender reassignment; marriage and civil partnership; pregnancy and maternity; and age.

This policy will be implemented with due regard to these commitments.

All authors of policy documents must include a completed equality analysis Stage 1 screening. Policy authors must refer to the Trust [Equality and Diversity Policy 2011](#) and the equality analysis toolkit and associated guidance documents (Stage 1 and Stage 2) available on the intranet.

### Equality Analysis for this policy

<b><u>Equality Analysis Stage 1 Screening</u></b>		
1	Title of Policy:	Maternity, Paternity and Adoption Leave
2	Policy Author(s):	HR Advisor
3	Lead Executive:	Director of Human Resources
4	Policy Sponsor	Deputy Director of Human Resources
5	Target Audience	Staff and Managers
6	Document Purpose:	To meet the statutory and regulatory requirements of the Trust. To provide staff with consistent ‘user friendly’ accessible policy documents
7	Please state how the policy is relevant to the Trusts general equality duties to: <ul style="list-style-type: none"> <li>eliminate discrimination</li> <li>advance equality of opportunity</li> <li>foster good relations</li> </ul>	
8	List key groups involved or to be involved in policy development (e.g. staff side reps, service users, partner agencies) and how these groups will be engaged	HR professionals, managers and staff side representatives
<p><i>NB Having read the guidance notes provided when assessing the questions below you must consider;</i></p> <ul style="list-style-type: none"> <li>Be very conscious of any indirect or unintentional outcomes of a potentially discriminatory nature</li> <li>Will the policy create any problems or barriers to any protected group?</li> </ul>		

<ul style="list-style-type: none"> <li>• Will any protected group be excluded because of the policy?</li> <li>• Will the policy have a negative impact on community relations?</li> </ul> <p>If in any doubt please consult with the Patient and Workforce Equality Lead</p>																																			
9	Does the policy <b>significantly</b> affect one group <b>less</b> or <b>more</b> favourably than another on the basis of: answer 'Yes/No' (please add any qualification or explanation to your answer particularly if you answer yes)																																		
		<table border="1"> <thead> <tr> <th></th> <th>Yes/No</th> <th>Comments/ Rationale</th> </tr> </thead> <tbody> <tr> <td>• Race/ethnicity</td> <td>No</td> <td></td> </tr> <tr> <td>• Disability (includes Learning Disability, physical or mental disability and sensory impairment)</td> <td>No</td> <td></td> </tr> <tr> <td>• Gender</td> <td>Yes</td> <td>Yes by their very nature maternity and paternity leave and pay issues largely affect one gender</td> </tr> <tr> <td>• Religion/belief (including non-belief)</td> <td>No</td> <td></td> </tr> <tr> <td>• Sexual orientation</td> <td>Yes</td> <td>Homosexuals are statistically less likely to utilise maternity and paternity leave and pay</td> </tr> <tr> <td>• Age</td> <td>No</td> <td>Age significantly affects the potential opportunity to utilise maternity and paternity leave and pay</td> </tr> <tr> <td>• Gender reassignment</td> <td>No</td> <td>Gender reassignment can affect the potential opportunity to utilise maternity and paternity leave and pay</td> </tr> <tr> <td>• Pregnancy and Maternity</td> <td>Yes</td> <td>Nature of the Leave</td> </tr> <tr> <td>• Marriage and Civil partnership</td> <td>No</td> <td></td> </tr> <tr> <td>• Carer status</td> <td>No</td> <td></td> </tr> </tbody> </table>		Yes/No	Comments/ Rationale	• Race/ethnicity	No		• Disability (includes Learning Disability, physical or mental disability and sensory impairment)	No		• Gender	Yes	Yes by their very nature maternity and paternity leave and pay issues largely affect one gender	• Religion/belief (including non-belief)	No		• Sexual orientation	Yes	Homosexuals are statistically less likely to utilise maternity and paternity leave and pay	• Age	No	Age significantly affects the potential opportunity to utilise maternity and paternity leave and pay	• Gender reassignment	No	Gender reassignment can affect the potential opportunity to utilise maternity and paternity leave and pay	• Pregnancy and Maternity	Yes	Nature of the Leave	• Marriage and Civil partnership	No		• Carer status	No	
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10	Will the policy affect the Human Rights of any of the above protected groups?	No																																	
11	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	Yes	Legal																																
12	If you have identified a negative impact on any of the above-protected groups, can the impact be avoided or reduced by taking different action?	No																																	
13	How will the effect of the policy be reviewed after implementation?	The policy will be audited at least annually in line with the key performance indicators																																	
<p>If you have entered 'yes' this policy will have an adverse effect on any of the above groups you must contact the Patient Inclusion and Experience Lead, <a href="mailto:cheryl.farmer@sthk.nhs.uk">cheryl.farmer@sthk.nhs.uk</a> ext 1042 to discuss the outcome and ascertain whether a Stage 2 Equality Analysis Assessment must be completed.</p>																																			

<b>Name of manager completing assessment: (must one of the authors)</b>	Diana Lewis
<b>Job Title of Manager completing assessment</b>	HR Business Partner
<b>Date of Completion:</b>	September 2017

**The Trust has a duty as a public body to publish all completed Equality Analysis Screening and Assessments.**

**The Patient and Workforce Equality Lead will conduct an audit on all completed Screening and Assessments every six months.**

## FREQUENTLY ASKED QUESTIONS & ANSWERS

**Q. *What is a MATB1 form?***

**A.** This is the form that officially certifies that you are pregnant and indicates your expected week of childbirth. You should receive this form from your midwife or GP around 19 weeks into your pregnancy. The original MATB1 certificate must be handed over to the:

Workforce Planning Department  
St Helens & Knowsley Teaching Hospitals Trust  
Floor 2 Court Block  
Alexandra Park  
Prescot Road  
St Helens  
WA10 3TP

It is the responsibility of the employee to ensure that the MATB1 certificate is received here and no responsibility will be accepted for documents that go missing in the post.

**Q. *What happens if I decide not to return to work?***

**A.** If you have indicated that you intended to return to work but then decide not to do so, you do not have to pay back payments made to you under Statutory Maternity Pay. However, if you have qualified for and been paid Occupational Maternity Pay you do have to return to work for at least three months, otherwise you would have to pay back those payments (minus your entitlements to SMP).

**Q. *Can I come back to reduced or flexible hours?***

**A.** Any request for consideration to changes in your contracted hours when you return to work must be discussed with your manager in accordance with the Trust's Worklife Balance Flexibility in Employment Policy. Every endeavour will be made to accommodate your request where possible, but you should remember that your manager will have to consider the needs of the service we provide, as well as your needs as a new mother. Staff should submit their application to their manager at the earliest opportunity. If the request is rejected the Trust must provide written objectively, justifiable reasons for this and staff should return to the same grade and work of a similar nature and status to that which they held prior to their maternity absence. (There is no entitlement to return to reduced or re-scheduled hours). For more information on flexible working see the Worklife Balance Flexibility in Employment policy.

**Q. *Can I change the start date for my maternity leave once I have submitted my forms?***

**A.** Yes, but you must inform your manager and the Employment Services Department as soon as possible, preferably giving them at least 28 days written notice.

**Q. *Is my incremental date affected by my going on maternity leave?***

**A.** No, your incremental date is not affected at all.

**Q. *Will I get the normal cost of living increase if it is awarded whilst I am on maternity leave?***

**A.** In the event of any pay increase being implemented whilst you are on maternity leave your pay entitlement will automatically be re-calculated to take this into account.

**Q. *Can I return to work earlier than originally planned?***

**A.** Yes. Normally 8 weeks (56 days) written notice is required before returning to work, but clearly if you are planning to return to work earlier than originally planned you should discuss this with your manager at the earliest opportunity. There is also a statutory requirement that you take at least two weeks maternity leave following the birth of your baby.

**Q. *What if I am unsure about returning for work?***

**A.** If you have over one year's continuous service but are not sure about whether or not you wish to return to work following your maternity leave, you will be paid as though you are not returning to work (see section 5.1). If you then do return to work you will then receive the difference between that and full Occupational Maternity Pay once you have been back at work for three months.

**Q. *What happens if I am on a fixed term contract that expires during my maternity leave?***

**A.** If you are employed on a temporary or fixed term contract which expires during the period from 11 weeks before your baby is due, to fifteen weeks after the expected week of childbirth, and you would have otherwise have qualified for Occupational Maternity Pay, your contract would be extended to enable you to receive that entitlement. As you would not have the right to return to work because your contract would have expired if your pregnancy had not occurred, you would not have to repay any monies to the Trust.

If you do not qualify for OMP, your contract would be extended to cover any period of SMP you are entitled to.

**Q. How much notice do I need to give of my intention to take maternity leave?**

**A.** You must give at least 28 days written notice – or if this is not possible as soon as is reasonably practicable.

**Q. *Can I return to work with another NHS employer?***

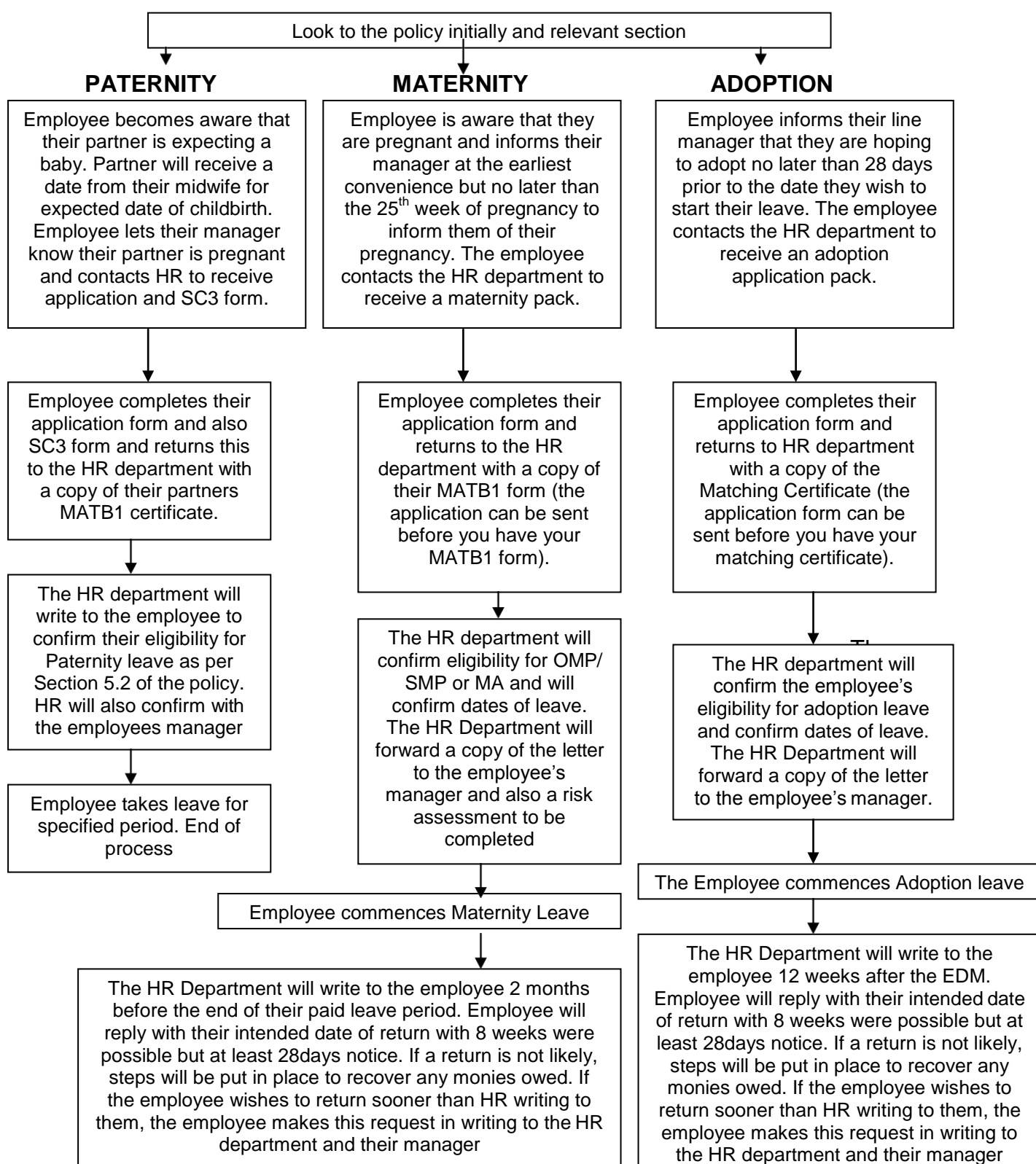
**A.** Yes. Your entitlement to maternity leave and pay is not affected if you return to work with another NHS employer rather than this Trust (the same requirement to return to work for at least three months still applies). This is dependent on your notifying the Trust of this intention no later than 21 days before your maternity leave is due to end. You would also need to provide a copy of your letter of appointment with the other NHS employer within 15 months of the start of your maternity leave. Failure to do so would result in the Trust seeking to recover any Occupational Maternity Pay that you had received.

**Q. *I am breastfeeding are there any facilities I can use?***

**A.** Yes, you must discuss the arrangements with your manager i.e. what times you are feeding etc. You and your manager will then link into the Special Care Baby Unit which has breast feeding facilities that employees can use whilst at work.



**WHAT DO I DO WHEN I FIND OUT I OR MY PARTNER IS PREGNANT/  
WHEN I WANT TO ADOPT?**



## TABLE OF ENTITLEMENTS

## Appendix 4

<p><b>Occupational Maternity Pay Entitlement</b></p> <p>By prior agreement with the employer this entitlement may be paid in a different way, for example a combination of full pay and half pay or a fixed amount spread equally over the maternity leave period</p>	<p><b>For the first 8 weeks of leave</b></p> <p>full pay (less any SMP to which they may be entitled).</p>	<p><b>For the next 18 weeks of leave</b></p> <p>half of full pay plus SMP (reduced only to the extent that half pay and SMP do not exceed full pay)</p>	<p><b>For the next 13 weeks of Leave</b></p> <p>SMP only (Extension of Maternity Pay)</p>	<p><b>For the next 13 weeks</b></p> <p>staff may take additional unpaid maternity leave making a total of 52 weeks</p>
<p><b>Statutory Maternity Pay (SMP) Entitlement</b></p>	<p><b>For the first 6 weeks of leave</b></p> <p>90% of salary</p>	<p><b>For the next 33 weeks of leave</b></p> <p>standard rate of SMP (currently £112.75 per week) or 90% of the employee's average weekly earnings if lower</p>	<p><b>The additional 13 weeks</b></p> <p>will be unpaid</p>	
<p>Staff who are not eligible for SMP may be entitled to <b>Maternity Allowance (MA)</b></p>	<p><b>Maternity Allowance</b></p> <p>a flat rate allowance is paid by the Department of Social Security for up to 39 weeks to individuals who are not entitled to SMP. Staff who do not meet the criteria for SMP but have worked at least 26 weeks in the 66-weeks ending with the week before the EWC may be eligible for this allowance</p>	<p>Employees who are entitled to MA will receive either 39 weeks paid at a rate of 90% of the employee's earning, or at the lesser rate of MA (£136.78 per week 2013/14)</p>	<p>Full pay will be calculated using the average weekly earnings rules used for calculating Statutory Maternity Pay entitlements</p>	

<b>Occupational Paternity Pay</b> (Ordinary Paternity)	<b>Ordinary Paternity leave</b>  will be entitled to 2 weeks Ordinary Paternity Leave, paid at their normal rate of pay. This will be inclusive of any statutory paternity pay to which they may be entitled	<b>Statutory Paternity Pay</b>  up to 2 weeks leave at the Statutory Paternity Leave pay rate which can be taken any time within the 56 days following the birth. This allows the leave to be taken in either a one or two week block but not two separate weeks	<b>Note</b> under Agenda for Change whereas relatives who are nominated as carers are eligible for Occupational Paternity Pay they are not entitled to SPP	
<b>Occupational Adoption Leave Adoption Leave Entitlement</b>  By prior agreement with the employer this entitlement may be paid in a different way, for example a combination of full pay and half pay or a fixed amount spread equally over the adoption leave period	<b>For the first 8 weeks of leave</b>  full pay (less any statutory adoption pay to which they may be entitled)	<b>For the next 18 weeks of leave</b>  half of full pay plus SAP (reduced only to the extent that half pay and SAP do not exceed full pay)	<b>For the next 13 weeks of Leave</b>  SAP only (Extension of Adoption Pay)	<b>For the next 13 weeks</b>  staff may take additional unpaid adoption leave making a total of 52 weeks
<b>Statutory Adoption Pay (SAP)</b>	<b>For the first 6 weeks of leave,</b>  90% of salary	<b>For the next 33 weeks of leave,</b>  standard rate of SAP (currently 2007/8 £112.75 per week) or 90% of the employee's average weekly earnings if lower	<b>The additional 13 weeks</b>  will be unpaid	

<p>If staff do not meet the criteria for <b>SAP</b> but have worked at least 26 weeks in the 66-weeks ending with the week before the EWA they may be eligible for <b>Adoption Allowance AA</b></p>	<p><b>Adoption Allowance, (AA)</b> a flat rate allowance is paid by the Department of Social Security for up to 39 weeks to individuals who are not entitled to SAP</p>	<p>Employees who are entitled to AA will receive 39 weeks paid at a rate of 90% of the employee's earning, or at the lesser rate of AA (£34.90 2007/8)</p>		
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**APPLICATION FORM**

**MATERNITY & ANTE-NATAL LEAVE  
MATERNITY SUPPORT (PATERNITY) LEAVE  
ADOPTION LEAVE**

This form should be submitted to the Human Resources Department as soon as possible and in any event **no later than 28 days before the Expected week of Childbirth (EWC)** for Maternity and Paternity Leave and you should forward the matching certificate confirming your date of matching as soon as possible but **within 7 days of matching** for Adoption Leave applications.

You are **advised to discuss the options available** and any queries regarding leave with your designated HR Advisor.

**Personal Details**

**Name** (Mr/Mrs/Miss/Ms/Dr).....

**Assignment Number** (*found on the top left corner of your payslip*).....

**Address**.....

.....

**Postcode** ..... **Home Telephone**.....

**Employment Details**

**Job Title:** ..... **Band/Grade:** .....

**Directorate** (circle as appropriate)

Surgical      Medical      Patient Access      Clinical / Non Clinical Support

**Department** ..... **Ext. No.**.....

**Base:** (circle as appropriate)

Whiston Hospital      St Helens Hospital      Alexandra Park      SOHT

**Contract Type:**      Fixed-term Temporary / Permanent

If on a fixed term temporary contract state end date: .....

**Contracted hours per week** .....

**Date of commencement of employment with this Trust**.....

**Line Manager** ..... **Ext. No** .....

If you have worked for the Trust for less than 26 weeks give name and dates of previous employment.....

From ..... To .....

**Please complete the following relevant application forms**

### Maternity Leave Application

**Expected date of childbirth:** .....

Please state at how many weeks of pregnancy you intend to commence maternity leave:

..... **weeks, Date:** .....

**MAT B1 Attached? YES / NO**

**Please note:** you must submit a MAT B1 certificate with this application form. Failure to do so could result in your application not being approved which may affect your salary.

**Are you in the Childcare Voucher Scheme or any other Salary Sacrifice Scheme?\***  
**Yes / No      \*Please circle as appropriate**

If yes, I confirm I have read the Childcare Vouchers and Salary Sacrifice Schemes element of the policy under section 6.1.5 in that my Maternity Pay will be reduced if I have not notified Pay and Staff Services that I no longer wish to remain in the Salary Sacrifice Scheme(s) prior to the 17<sup>th</sup> week of my pregnancy.

### DECLARATION

*\*Delete whichever is not applicable and tick whichever is applicable*

I confirm that I have read the guidance notes on **Maternity Leave, Pay and Conditions.**

- I intend to continue in the service of the Trust for a minimum of 3 months after the expiry of my leave.
- I intend to continue in the service of another NHS employer/Trust for a minimum period of 3 months after the expiry of my leave.

I understand that if I fail to return to work for this Trust or another NHS employer within 15 months of the beginning of my maternity leave, I will be liable to refund the maternity pay received, less my statutory entitlement.

- I do not intend to continue in the service of this or another NHS employer following the expiry of my leave

**Signed:** ..... **Date:** .....

## Paternity Leave Application

**I am:** *(Please tick as applicable)*

- The baby's biological father, **or**
- Married or in civil partnership with the mother, **or**
- Living with the mother in an enduring family relationship but am not an immediate relative
- I am the nominated carer for .....(full name)  
who is my .....

**Expected date of childbirth:** .....

**Please state when you wish your Paternity Leave to start:** .....

### DECLARATION

I confirm I have read the **Maternity, Paternity and Adoption Leave Policy** and I wish to take:

- 1 week
- 2 weeks

You cannot take your paternity leave before the baby is born.

You can choose to take one or two whole weeks leave, but not two separate weeks which must end by 56th day after the date of birth.

**MAT B1 Attached? YES / NO**

**SC3 Attached? YES / NO**

**Please note:** you must submit both of these forms with this application form. Failure to do so could result in your application not being approved.

**Signed:** ..... **Date:** .....

## Adoption Leave Application

**Expected date of Matching:** .....

**Please state when you intend to commence your Adoption Leave**

..... **weeks Date:** .....

**Are you in the Childcare Voucher Scheme or any other Salary Sacrifice Scheme?\***  
**Yes / No      \*Please circle as appropriate**

If yes, I confirm I have read the Childcare Vouchers and Salary Sacrifice Schemes element of the policy under section 6.3.5 in that my Maternity Pay will be reduced if I have not notified Pay and Staff Services that I no longer wish to remain in the Salary Sacrifice Scheme(s) prior to the 17<sup>th</sup> week of my pregnancy.

### DECLARATION

*\*Delete whichever is not applicable and tick whichever is applicable*

I confirm that I have read the guidance notes on **Adoption Leave, Pay and Conditions.**

- I am the primary adopter for the purposes of the adoption.
- I intend to continue in the service of this Trust for a minimum of 3 months after the expiry of my leave.
- I intend to continue in the service of another NHS employer/Trust for a minimum period of 3 months after the expiry of my leave.
- I understand that if I fail to return to work for this Trust, or another NHS employer within 15 months of the beginning of my adoption leave, I will be liable to refund the adoption pay received, less my statutory entitlement.
- I do not intend to continue in the service of this or another NHS employer following the expiry of my leave.

**Signed:** ..... **Date:** .....

### NOTE FOR ALL APPLICATIONS

1. This application does not confer any right to particular benefits. Your entitlements will be checked and subsequently confirmed to you in writing as soon as possible.

2. Return your completed application form to the Workforce Planning Department

Workforce Planning  
St Helens & Knowsley Teaching Hospitals Trust  
Floor 2 Court Block  
Alexandra Park  
Prescot Road



St Helens  
WA10 3TP

No responsibility will be accepted for documents that go missing in the post.

Workforce Planning Contact telephone number: **Tel: 0151 676 5321 (Internal) Ext: 5321**

### **‘Keeping in Touch’ Days (KIT Days)**

Before going on leave, you and your manager should discuss and agree any voluntary arrangements for keeping in touch during your maternity leave including anything you may find helpful with developments at work and, nearer the time of your return to help your smooth return to work.

You should also discuss if you would like to participate in any ‘Keep in Touch’ days see section 5 up to a maximum of 10 days.

Listed below are documents/ideas you may wish to request from your manager. It is important not to request too much information – please tick which is relevant for you:

- News Letters
- Team Brief
- Job Opportunities
- Minutes of Key Meetings
- Development Opportunities
- Social Events
- National Reports
- Journals/briefing papers
- Seminars
- Quarterly News ‘n’ Views Magazine
- Other please, specify: .....

You may also nominate a preferred contact/buddy who could let you know what is happening in the Trust and the department.

**My preferred contact/buddy is:** .....

**Your Name:**  
.....

**Signed:** ..... **Date:** .....

**Please note this completed form will be forwarded to your Line Manager by Human Resources for them to discuss with you before commencement of your leave.**