

## APPENDIX 3

### MATERNITY SUPPORT (PATERNITY) LEAVE/PAY GUIDANCE

#### 1.0 MATERNITY SUPPORT (PATERNITY) LEAVE PROVISIONS

##### 1.1 Maternity Support (Paternity) Leave

1.1.1 Paternity Leave of up to two weeks may be available to employees and may be taken at their discretion, either at the time of the birth/adoption of a child or in the 8 weeks following the birth/adoption including surrogacy.

1.1.2 An employee is eligible for ordinary maternity support (paternity) leave if they are:

- the baby's biological father, or
- married to the mother, or
- the mother's partner (partner refers to someone who lives with the mother, either male or female, in an enduring family relationship, but who is not a blood relative)
- married to or in a civil partnership with a person adopting a child or
- the partner of a person adopting a child
- Intended parent (if they are having a baby through a surrogacy arrangement)
  - and will be responsible for the child's upbringing and
  - the reason they will take time off work is to support the mother/adopter or to care for the child.

1.1.3 An expectant father or the partner (including same sex) of a pregnant woman will be entitled to take reasonable paid time off work to accompany the woman to antenatal appointments, irrespective of length of service.

##### 1.2 Maternity Support (Paternity) Leave and Pay Entitlements

1.2.1 All employees who meet the qualifying conditions are eligible for two weeks leave, irrespective of service. This leave can start on any day and can be taken as one or two weeks consecutively, but cannot be taken as odd days off work. The leave can be taken any time up to eight weeks after the date of birth/placement. If the baby is born early they can choose to take their leave any time between the actual date of birth and the end of an eight week period running from the Sunday of the week the baby was originally due.

1.2.2 They may also be entitled to maternity support (paternity) leave with pay within the NHS contractual scheme, and/or under the ordinary statutory paternity pay (SPP) regulations, depending on hours worked and/or length of service.

### **1.3 Statutory Paternity Pay**

- 1.3.1 Statutory paternity pay (SPP) is paid for 2 weeks. SPP is the same as the flat rate for SMP or 90% of the employee's average weekly earnings, whichever is the lower. The current rate of SPP can be obtained on [www.direct.gov.uk](http://www.direct.gov.uk)

### **1.4 Qualifying conditions**

- 1.4.1 To qualify for statutory paternity pay (SPP) they must fulfil the following conditions:
- they must have been continuously employed by the Trust for at least 26 weeks ending with the 15<sup>th</sup> week before the baby is due/date of placement;
  - they must have average weekly earnings of not less than the lower earnings limit for the payment of national insurance contributions which applies in the QW;
  - they must remain in continuous employment from the end of the qualifying week up to the date of the birth/placement.
  - To check if they qualify staff can use an online calculator at the following website address: <https://www.gov.uk/pay-leave-for-parents>
- 1.4.2 If the employee is not entitled to SPP the Pay Office will still check their application and provide them with an SPP1 form.

### **1.5 NHS Contractual Maternity Support (paternity) Pay Scheme**

- 1.5.1 Occupational maternity support (paternity) pay is 2 weeks full pay less any SPP (where applicable). Occupational pay is calculated from the 8 weeks leading up to the 15<sup>th</sup> week before the EWC/date of placement.

### **1.6 Qualifying conditions**

- 1.6.1 To qualify for occupational maternity support (paternity) pay the employee must satisfy the following conditions:
- they must have 12 months continuous service or more with the NHS at the beginning of the week the baby is due/date of placement.
  - proof of the pregnancy/birth or adoption is not required for maternity support (paternity) pay.

### **1.7 Notification Requirements**

- 1.7.1 The employee should inform their manager of their intention to take leave at least 28 days before they want the leave to start. They should do this by completing the application form for maternity support (paternity) leave (appendix 3a).
- 1.7.2 If they subsequently wish to change the date from which they wish to start their leave they should notify their manager at least 28 days beforehand (or if this is not possible, as soon as is reasonably practicable beforehand). It is accepted that dates may need to be amended at short notice to coincide with the birth/placement.

## **2.0 ADDITIONAL CONTRACTUAL ARRANGEMENTS DURING MATERNITY SUPPORT (PATERNITY) LEAVE**

### **2.1 Contact During Leave**

2.1.1 Although the period of absence is up to a maximum of two weeks, it may still be helpful prior to commencing leave, for the employee and manager to discuss and agree arrangements for keeping in touch during the leave period should the need arise. This may include:

- Any arrangements that may be found helpful to keep in touch with developments at work, for example, sending newsletters, job bulletins, details of departmental or Trust changes and any other information concerning the Trust or department.
- An agreed method of communication e.g. phone, e-mail or letter.
- Keeping the manager in touch with any developments that may affect the intended date of the employees return to work.

### **2.2 Working on the Bank**

2.2.1 If the employee is a bank member as well as holding a substantive post, they cannot work on the bank during their leave. Any bank shifts worked will constitute a return to work and the end of the pay and leave period.

### **2.3 Working for Another Employer**

2.3.1 If the employee works for another employer after their baby is born (or child is adopted) and they are receiving SPP from the Trust, the SPP will be stopped with effect from the week they started working for the second employer if they were not employed by them at the 15<sup>th</sup> week before the baby was due (or during the week they were matched with a child for adoption). In these circumstances, the Trust will also cease to pay OPP/OPP. If however, they were employed by their second employer during the 15<sup>th</sup> week before the baby was due (or during the week they were matched with a child for adoption), the SPP will continue to be paid by the Trust in addition to OPP/OPP. It is the employee's responsibility to notify the Trust if they start or go back to work for another employer after the baby is born (or child is adopted). This includes Agency work.

### **2.4 Returning to Work**

2.4.1 The employee has the right to return to their job at the end of their leave under their original contract and on no less favourable terms. The only exception would be if a reorganisation that affected their job had taken place whilst they were on leave. If this happened they would be consulted about the changes whilst they were happening and they would be entitled to be considered for an appropriate alternative job.

### **2.5 Parental Leave**

- 2.5.1 The employee may take four weeks unpaid parental leave at the end of their leave period. If they wish to take this leave, where possible, they should give their manager 21 days' notice of their intention to take parental leave at the end of their leave period. During any period of parental leave, they retain all contractual rights except remuneration. Please see the Special Leave guidance notes for further information regarding parental leave.

## **2.6 Returning on Flexible Working Arrangements**

- 2.6.1 If at the end of their leave they wish to return to work on different hours their manager will try to facilitate this wherever possible. If it is not possible to accommodate their request, their manager will provide written reasons for this within 28 days of their request. Any request for flexible working will be managed in line with the Work Life Balance policy and accompanying guidance notes.

## **2.7 Annual Leave and Bank Holidays**

- 2.7.1 Annual leave will continue to accrue during leave whether paid or unpaid, and will include bank holidays. Accrual of bank holidays is calculated in real time and the annual leave calculator should be used when confirming an employee's entitlement. Any annual leave due should be taken before the commencement of leave. However it may be agreed that a period of accrued annual leave can be taken following the end of the leave period. Annual leave should be discussed and agreed with the line manager prior to the commencement of leave. If agreed, a period of accrued annual leave can be taken at the end of the leave period and this should be recorded prior to the commencement of the leave period.

## **2.8 Increments**

- 2.8.1 Absence on leave, whether paid or unpaid, counts towards service for incremental purposes. If the employee is due to progress through a KSF gateway during their leave this would automatically happen if no concerns had been raised with them about their ability to meet their KSF outline prior to their leave. If concerns have been raised they should discuss this with their manager prior to their leave commencing.

## **2.9 NHS Pension Scheme**

- 2.9.1 Leave counts as pensionable service and employees will be liable for contributions on all periods of leave if they are a member of the NHS Pension Scheme. Their contributions will be based on the amount of pay they receive rather than on their level of earnings immediately before their leave commenced.
- 2.9.2 During a period of unpaid leave employees will be liable for contributions based on their rate of pay which applied immediately prior to the period of unpaid leave. Such contributions will be calculated by Payroll department and recovered over a similar period of time on return to work.

## **2.10 Career Breaks**

2.10.1 Occupational pay is calculated from the 8 weeks leading up to the 15<sup>th</sup> week before the EWC/ date of placement.

2.10.2 If an employee's partner becomes pregnant or they plan to adopt a child whilst the employee is on a career break they may wish to consider amending their career break arrangements to avoid any possibility of their Ordinary and/or Statutory Pay not being paid. Please contact the Payroll Office for further advice.

## **2.11 Professional Registration Renewal**

2.11.1 If an employee's professional registration is due to expire during their leave it **MUST** be renewed in time as per the Trust's Professional Registration Policy. Failure to do this may result in disciplinary action being taken and may also have an impact on any Statutory or Occupational Pay being received. It is the employee's responsibility to ensure that their professional registration is always current and up to date.

## **2.12 Other Deductions from Pay**

2.12.1 If the employee currently has deductions from their pay (e.g. union membership) these will continue during the leave period. Please contact the Payroll department for further advice.

## **2.13 Incentive Bonus Scheme**

2.13.1 If the employee is receiving payments under an incentive scheme, these will continue during the weeks in which they are absent on paid leave. The rate will be the average bonus paid to them for the 12 weeks prior to their leave.

**APPENDIX 3a**

<b>APPLICATION FOR MATERNITY SUPPORT (PATERNITY) LEAVE/ PAY</b>
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**This form must be completed and sent with notification of the date you wish to commence maternity support (paternity) leave to your line manager who will forward to Human Resources.**

**PERSONAL DETAILS**

<b>NAME:</b>	
<b>ADDRESS:</b>	
<b>CONTACT TEL NO:</b>	
<b>JOB TITLE:</b>	
<b>DEPARTMENT:</b>	
<b>START DATE WITH TRUST:</b>	
<b>DATE CONTINUOUS SERVICE IN NHS BEGAN:</b>	

**LEAVE DATES**

Date matched with a child (adoption only):	
The date the baby is due on/ expected date of placement:	
Actual date of birth/ placement (if the baby has already been born/ placed):	
The date I would like my maternity support (paternity) leave to commence on:	

My maternity support leave will be for one/two week(s) (please delete as appropriate)

**Declaration**

You must be able to tick all three boxes below to receive maternity support (paternity) leave/pay. A false declaration could result in disciplinary action. I declare that:

- ☐ I am either:
  - The baby's biological father;
  - married to the mother;
  - living with the mother in an enduring family relationship, but am not an immediate relative;
  - married to or in a civil partnership with a person adopting a child or
  - living with a person adopting a child in an enduring family relationship but am not an immediate relative.
  - Intended parent (if they are having a baby through a surrogacy arrangement)
- ☐ I have responsibility for the child's upbringing
- ☐ The reason I wish to take time off work is to support the mother/adopter or care for the child

Signature..... Date.....

## APPENDIX 3b

### SUMMARY OF ENTITLEMENTS FOR MATERNITY SUPPORT (PATERNITY) LEAVE AND PAY

Your length of service	Leave Entitlement	Pay Entitlement
Less than 26 weeks continuous Trust service at the QW	2 weeks leave	May qualify for occupational ordinary maternity support (paternity) pay (full pay) if NHS service is continuously 12 months or more at the QW
Less than 12 months continuous NHS service at the beginning of the week the baby/placement is due but 26 weeks or more continuous Trust service at the QW	2 weeks leave	2 weeks Statutory Paternity Pay
12 months or more continuous NHS service at the QW	2 weeks leave	2 weeks occupational ordinary maternity support (paternity) pay (full pay). Statutory Paternity Pay is paid as part of this entitlement
Statutory Paternity Pay is 90% of your average earnings or the standard rate SPP, whichever is the lower. The current rate of SPP can be found on <a href="http://www.direct.gov.uk">www.direct.gov.uk</a>		