

HUMAN RESOURCES POLICY

MATERNITY

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1	April 2013	
2	April 2015	None.
3	October 2015	Revised application form & reference to shared parental leave added.

Equality Impact Assessment	
Date	Issues
13.12.12	None

Policy Validity Statement
<p>This policy is due for review on the latest date shown above. After this date, policy and process documents may become invalid. Policy users should ensure they are consulting the currently valid version of the documentation.</p>

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1. POLICY STATEMENT

- 1.1 This policy is designed to provide a framework across the organisation for a consistent and timely approach to the new and expectant mother
- 1.2 The policy is intended to promote an employees awareness of their rights and entitlements during, and following pregnancy and conforms to the NHS Terms and Conditions of Service, the Employment Act 2002 and other current legislation.

2. PRINCIPLES

- 2.1 Training and support will be provided to all Line Managers in the implementation and application of this policy.

Entitlement to Maternity Leave

- 2.2 All employees will be entitled to 52 weeks Maternity leave.

Entitlement to Occupational Maternity Pay under the NHS Scheme

- 2.3 An employee working full or part-time is entitled to Occupational Maternity Pay (OMP) under the NHS scheme provided that she:
 - has 12 months continuous service with one or more NHS employers and continues to be employed by the Organisation until at least the beginning of the 11th week before the expected week of childbirth (EWC); and
 - notifies the Organisation, on form M1 (Appendix 1), at least 15 weeks before her expected date of childbirth (EDC) that she intends to take Maternity Leave (or as soon as is reasonably practicable thereafter), of the date she wishes to start her maternity leave and intends to return to work for a minimum period of three months with the same or another NHS employer; and
 - submits a MAT B1 statement signed by a registered medical practitioner or a practising midwife at least 28 days before commencement of Maternity Leave, indicating the expected date of childbirth.

Entitlements under the Scheme

- 2.4 An employee who **qualifies for full benefits and intends to return to work with the same or another employing authority** will be entitled to 52 weeks Maternity Leave, paid as follows:-
 - 8 weeks at full pay including any Statutory Maternity Pay (SMP), Maternity Allowance (MA) or equivalent benefits receivable;
 - 18 weeks at half pay reduced only where half pay plus any SMP, MA or equivalent benefits payable exceeds full pay;

- 13 weeks at SMP, if payable;
- 13 weeks unpaid leave.

2.5 An employee who **qualifies for full benefits and does not intend to return to work for the same or another employing authority** will be entitled to 52 weeks Maternity Leave, paid as follows:

- 6 weeks SMP, paid as 90% of full pay (average weekly earnings);
- 33 weeks at the lesser of standard rate SMP or 90% of average weekly earnings;
- 13 weeks unpaid leave.

2.6 An employee who **does not qualify for full benefits under the NHS Scheme** but who has at least 26 weeks service by the 15th week before the EWC **and** meets the earnings rule whether or not she intends to return to work will be entitled to 52 weeks Maternity Leave, paid as follows:

- 6 weeks at 90% of full pay;
- 33 weeks at the lesser of standard rate SMP or 90% of average weekly earnings;
- 13 weeks unpaid leave.

2.7 An employee who **does not qualify for SMP**, whether or not she intends to return to work, will be entitled to 52 weeks Maternity Leave. No payments will be made during the maternity leave period although Maternity Allowance or other benefits may be payable directly from Jobcentre Plus.

2.8 By prior agreement with the employer, occupational maternity pay may be paid in a different way e.g. a combination of full pay and half pay or a fixed amount spread equally over the maternity leave period.

2.9 In exceptional circumstances, for example in the case of a multiple birth or sick pre-term babies, the unpaid element of leave may be extended beyond 13 weeks. Requests for this should be submitted in writing to the employee's line manager who may seek advice from the HR Department.

Timing of Leave

2.10 Maternity Leave may commence at any time between eleven weeks before the EWC and the expected week of childbirth, provided the required notice is given. Early childbirth and maternity related sickness absence will affect this as follows:

Early Childbirth

- 2.11 Where childbirth occurs before the 11th week before the EWC and the employee has worked during the actual week of childbirth, Maternity Leave will start on the first day of the employee's absence.
- 2.12 Where childbirth occurs before the 11th week before the EWC and the employee has been absent from work on certified sickness absence during the actual week of childbirth, Maternity Leave will start the day after the day of birth.
- 2.13 Where an employee's baby is born before the 11th week before the EWC, and the baby is in hospital, she may split her Maternity Leave entitlement, taking a minimum period of two weeks' leave immediately following the birth and the rest of her leave following the baby's discharge from hospital.
- 2.14 Where an employee has a miscarriage before the 25th week of pregnancy then normal sick leave provisions will apply.
- 2.15 In the event of a still birth after the 24th week of pregnancy the employee will be entitled to the same amount of maternity leave and pay as if her baby was born alive.
- 2.16 The organisation recognises that this will be a difficult and traumatic time and would encourage the use of counselling accessed through Occupational Health.

Sickness Absence during Pregnancy and Leave

- 2.17 Where an employee is off work ill, or becomes ill, with a pregnancy related illness during the last four weeks before the EWC, maternity leave will normally commence at the beginning of the fourth week before the expected week of childbirth or the beginning of the next week after the employee last worked, whichever is the later. Absence prior to the last four weeks before the EWC, supported by a medical certificate or self-certificate will be treated as sick leave in accordance with normal leave provisions. Normal sick leave provisions will be suspended once maternity leave has commenced.
- 2.18 Odd days of pregnancy related illness during the period may be disregarded if the employee wishes to continue working until the maternity leave start date previously agreed.
- 2.19 Where an employee is absent due to illness which is not pregnancy related then normal sick leave provisions will apply until the date previously agreed that maternity leave would commence.

Other Provisions

Ante-natal and Post-natal Care

- 2.20 Pregnant employees have the right to reasonable paid time off for ante-natal care including relaxation and parent craft classes.

- 2.21 Employees who return to work shortly after giving birth will be given paid time off for post natal care e.g. attendance at health clinics.

Calculation of Pay

- 2.22 Maternity Pay is calculated on average earnings paid for two months prior to the Qualifying week which is the 15th week before the EWC. Employees with average weekly earnings below the Lower Earnings Limit who do not qualify for SMP may be entitled to MA or other benefits.

Implementation of a Pay Award or Annual Increment

- 2.23 Absence on Maternity Leave, whether paid or unpaid, counts as service towards the normal annual increment.
- 2.24 Where a pay award and/or annual increment are implemented from a date prior to the paid Maternity Leave period, the Maternity Pay will be calculated as though the pay award had effect throughout the entire SMP calculation period. If a pay award is agreed retrospectively, the Maternity Pay will be recalculated on the same basis
- 2.25 Where a pay award and/or annual increment is implemented from a date during the paid Maternity Leave period, the Maternity Pay due from the operative date of the pay award or annual increment should be increased accordingly. Again, if such a pay award were agreed retrospectively, the Maternity Pay should be recalculated on the same basis.

Employees on a Fixed-Term or Training Contract

- 2.26 An employee who is entitled to full benefits under the NHS Scheme, i.e. who satisfies the conditions under section 2.1 and whose contract is due to end after the 11th week before the EWC, will have her contract extended to enable her to receive 52 weeks Maternity Leave which includes paid occupational and statutory maternity pay and the remaining 13 weeks of unpaid leave.

Under these circumstances, there will be no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred.

Employees who do not satisfy the conditions under section 2.1 and whose contract ends after the 15th week prior to the EWC but before the 11th week prior to the EWC, will not be entitled to maternity leave but SMP may be payable. In this case, the contract will not be extended but the organisation will be responsible for paying any SMP due. Under these circumstances, the employee must inform the organisation if she starts work for another employer following the birth of the baby and must still provide evidence of pregnancy via the MAT B1 form.

Contractual Rights

- 2.27 An employee retains all her contractual rights, except remuneration, during the Maternity Leave period.

Annual Leave

- 2.28 Annual leave will continue to accrue during maternity leave, whether paid or unpaid.
- 2.29 Where the amount of accrued leave would exceed the normal carry over provisions, the manager and employee should agree arrangements for the leave to be taken either prior to or immediately following the maternity leave period.
- 2.30 In exceptional circumstances, where leave cannot be carried over for operational reasons, payment in lieu of annual leave may be considered.
- 2.31 All maternity leave, including unpaid maternity leave, will count as service for the purpose of satisfying the service qualification for accruing additional annual leave entitlements.
- 2.32 Bank Holiday leave is not accrued whilst on paid or unpaid maternity leave.

Paternity Leave

- 2.33 The partner of the new mother may be entitled to paternity leave and pay (please refer to the HR22 Paternity Leave Policy and Procedure

Shared Parental Leave

- 2.34 The new mother and their partner may be entitled to shared parental leave and pay. The HR39 Shared Parental Leave Policy applies to all eligible employees of the CCG who have babies and their Expected Week of Childbirth (EWC) is on or after 5 April 2015 and for children who are placed for adoption on or after that date.

Pension

- 2.35 Contributions will be deducted from salary as normal during paid Maternity Leave and continue to be payable during unpaid leave. On return to work, arrears of contributions will be recovered and deducted from salary over an agreed period of time.

Pay Progression Framework

- 2.36 The expectation is that an employee on maternity leave will progress through a pay progression gateway on the due date if concerns have not been raised about the employee's capability prior to maternity leave commencing.

3. EQUALITY

- 3.1 In applying this policy, the organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and

maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

4. MONITORING & REVIEW

- 4.1 The policy and procedure will be reviewed periodically by Human Resources in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

5. ASSOCIATED DOCUMENTATION

- 5.1 The following documentation is linked to this policy:

- HR39 Shared Parental Leave Policy
- HR09 Flexible Working Policy
- HR19 Other Leave Policy
- HR03 Adoption Leave Policy

6. PROCEDURE

How to Claim Maternity Leave and Pay

- 6.1 Form M1 (see attached) should be completed no later than the end of the 15th week before the EWC and signed by the employee and their Line Manager or equivalent. The original form should be sent to Corporate Finance with a copy to Human Resources.
- 6.2 Maternity Leave can start on any day of the week. Any Annual Leave to be taken before the commencement of Maternity Leave should be taken into account.
- 6.3 On receipt of form MAT B1 from a registered medical practitioner or a practising midwife, the original should be sent to Human Resources, at least 28 days before the commencement of leave. Payroll can then determine whether the employee qualifies for SMP. If the employee does not qualify for SMP, they will be sent form SMP1 together with the Maternity Certificate MAT B1. These forms will be needed to claim Maternity Allowance from Jobcentre Plus.
- 6.4 The employee will receive written confirmation within 28 days of receipt of Form M1 of:
- their maternity entitlements, both paid and unpaid
 - her expected return date based on 52 weeks paid and unpaid leave unless an earlier return date has been given
 - details of any accrued annual leave that is to be taken at the end of the maternity leave period
 - the need for her to give at least 28 days notice if she wishes to return to work before the expected return date. Form M2 to be included with the letter.

- 6.5 If the employee subsequently decides that she wishes to change the start date of her maternity leave she must notify her Line Manager at least 28 days beforehand or where this is not possible as soon as is reasonably practicable.

Return to Work

- 6.6 If the employee wishes to take her full entitlement to Maternity Leave she need not give any further notification of her return to work. An employee has the right to return to her job under her original contract and on no less favourable terms and conditions.
- 6.7 If the employee wishes to return to work before the end of her full entitlement to leave, she must give at least 28 days notice of her date of return. Form M2 will be included with the letter mentioned in 3.4 above for use in these circumstances.
- 6.8 An employee has the right to apply to return to work on a part-time or flexible working basis. Applications should be made to their Line Manager and will be given fair and objective consideration.

Sickness Following the end of Maternity Leave

- 6.9 Where an employee is unable to return to work following the date she was due to return as a result of illness, normal sick leave provisions will apply.

Failure to return to Work

- 6.10 An employee who has notified the Organisation of her intention to return to work for a minimum of three months for the same or another NHS employer, and fails to do so within 15 months of the beginning of her maternity leave will be liable to refund the whole of her maternity pay, less any Statutory Maternity Pay received, (see paragraph 2.5).
- 6.11 In cases where the Organisation considers that to enforce this provision would cause undue hardship or distress, the organisation has the discretion to waive the right of recovery.

7. HEALTH AND SAFETY

- 7.1 Where an employee is pregnant, has recently given birth or is breastfeeding, then a risk assessment of her working conditions will be carried out. If it is found, or if a medical practitioner considers, that an employee or her child would be at risk were she to continue with her normal duties, she will be provided with suitable alternative work for which she will receive her normal rate of pay. Where it is not reasonably practicable to offer suitable alternative work, the employee will be suspended on full pay.
- 7.2 These provisions also apply to an employee who is breastfeeding if it is found that her normal duties would prevent her from successfully breastfeeding.

8. COMPULSORY PERIOD OF MATERNITY LEAVE

- 8.1 The legal minimum period of maternity leave which an employee is required to take is two weeks. This will commence on the day that the baby is born.

9. CHILDCARE VOUCHER SCHEME

- 9.1 Information on the childcare voucher scheme and provisions available locally can be obtained from the HR Team.

10. KEEPING IN TOUCH

- 10.1 Before going on maternity leave employees should discuss and agree with their Line Manager any voluntary arrangements for keeping in touch during their leave (Appendix 2). It should be noted that staff absent on maternity leave should receive details of vacancies and other pertinent business information; this is normally done via the post to the employee's home address.
- 10.2 Keeping in Touch (KIT) days allow employees to do a limited amount of work under their contract during the Maternity Pay Period without loss of SMP for the week. They are intended to facilitate a smooth return to work for women returning from maternity leave and can include training or other activities which enable the employee to keep in touch with the workplace.
- 10.3 An employee may work a maximum of 10 KIT days without bringing her maternity leave to an end. Any days of work will not extend the maternity period.
- 10.4 An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of her baby.
- 10.5 Working for part of any day will count as a whole KIT day.
- 10.6 The employee will be paid at their basic daily rate for the hours worked less appropriate maternity leave payment for KIT days worked
- 10.7 Any work must be by agreement and neither the employer nor the employee can insist upon it.
- 10.8 Employees who are breastfeeding will be risk assessed in accordance with Section 4.2 and facilities will be provided, where possible, in accordance with Section 8.2
- 10.9 In certain circumstances, the Organisation may consider the reimbursement of reasonable childcare costs in order to enable the employee to take up the opportunity to work KIT days.

11. PROVISION FOR NURSING MOTHERS

- 11.1 If you are a nursing mother returning to work, please inform your Line Manager as soon as possible so they are able to make the necessary arrangements.

- 11.2 An employee who is breastfeeding will be given suitable access to a private room to express and store milk in an appropriate refrigerator. Requests for flexible working arrangements to support breastfeeding mothers at work will be considered.

Form M1

Maternity Leave Application Form

Please refer to the HR17 Maternity Leave Policy before completing this form.

Your Details	
Surname:	
First name(s):	
Post Title:	
Department:	
Contact Telephone Number (at work)	
Employee Number (on payslip)	
Start Date with this organisation:	
Continuous Service Date in NHS:	

Dates for Pay and Leave	
Expected Date of Childbirth:	
Do you intend to return to work after Maternity Leave?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Undecided
Please note if you do not return to work in the NHS for at least 3 months following maternity leave any occupational maternity pay may be recovered by the organisation, this includes not returning to work following a career break taken at the end of maternity leave. Please see the Maternity Policy for details.	
Date intend to start Maternity Leave	
Date intend to return to work	
Dates of Annual Leave To be taken before or after Maternity Leave	

Declaration	
Additional Documentation Required: Form MATB1 (provided by GP) attached – If not, please forward to Human Resources at least 28 days prior to commencement of leave	<input type="checkbox"/> Yes <input type="checkbox"/> No
I have read and understood the maternity policy and wish to apply for maternity leave in line with the details on this form. I confirm all the information provided is accurate to the best of my knowledge. I understand that I must inform the organization in writing at least 28 days in advance should I wish to change the date of return indicated above.	
Signed (employee)	Signed (Manager)
Date	Date

Keeping in Touch Agreement

During Maternity Leave it is beneficial to maintain contact as this eases your return to work.

Please discuss, agree and record below the extent and nature of contact preferred (refer to the HR17 Maternity Policy for guidance).

Your Personal Details	
Employee Name:	
Employee number (on payslip):	
Post Title:	
Department:	
Managers Name:	
Post Title:	
Department:	

Arrangements	
Purpose for contact, e.g. department news, training events	
Form of Contact, e.g. telephone, email	
Keeping In Touch days (if applicable) – list dates and purpose	

Declaration	
Signed (Employee)	Signed (Manager)
Date	Date

Appendix 3 - Equality Analysis Initial Assessment

Title of the change proposal or policy:

Maternity Leave

Brief description of the proposal:

To ensure that the policy amends are fit for purpose, that the policy is legally compliant, complies with NHS LA Standards and takes account of best practice.

Name(s) and role(s) of staff completing this assessment:

Theresa Gavin – HR Management Trainee

Date of assessment: 13th December 2012

Please answer the following questions in relation to the proposed change:

Will it affect employees, customers, and/or the public? Please state which.

Yes it will affect female employees.

Is it a major change affecting how a service or policy is delivered or accessed?

No

Will it have an effect on how other organisations operate in terms of equality?

No

If you conclude that there will not be a detrimental impact on any equality group, caused by the proposed change, please state how you have reached that conclusion:

No anticipated detrimental impact on any equality group. The policy adheres to the NHS LA Standards, AFC Terms and Conditions, is legally compliant and takes account of best practice. Makes all reasonable provision to ensure equity of access to all staff. There are no statements, conditions or requirements that disadvantage any particular group of people with a protected characteristic.

Please return a copy of the completed form to the Equality & Diversity Manager