

Maternity/Adoption Leave Policy and Guidance for Staff

November 2007

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RELATED POLICIES AND LEGISLATION

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-	Special Leave Policy
-	Flexible Working Policy
-	Sickness Absence Policy

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1 INTRODUCTION

This policy gives guidance for staff in Yorkshire and the Humber Strategic Health Authority on the maternity leave and pay provision, in accordance with the Agenda of Change Terms and Conditions Handbook (Section 15).

The options for maternity leave are based on whether or not you wish to continue to work after the birth of your baby. The maternity leave schemes in the guide describe the leave and pay to which you may be entitled, according to your length of service.

There are other important considerations that need to be thought about. For example, the effect on pension benefits, whether you wish to return to work following your paid maternity leave or take a period of unpaid leave and the options around part-time working or job share and childcare provisions.

When your pregnancy is confirmed you need to inform your Manager and HR as soon as possible for health and safety reasons and to receive information about your maternity leave provision and establish your entitlements.

This guidance also reflects the entitlements to leave and pay if you are adopting a child. For the purposes of this policy, maternity leave and pay shall be referred to throughout the document.

Please note that there is a Glossary of terms attached at the back of this policy.

2 MATERNITY PAY

All pregnant members of staff regardless of length of service are entitled to take up to 52 weeks maternity leave.

How much maternity pay you will receive depends upon your length of service, your average earnings and whether you intend to return to work following the birth of your baby. The following sections explain the Statutory Maternity Pay (SMP) and Maternity Pay regulations and qualifying criteria.

2.1 Statutory maternity Pay (SMP)

To qualify for SMP staff must:

- Have been employed by the SHA for 24 weeks ending with the Qualifying Week (i.e. the 15th week prior to your expected week of childbirth).
- Have sufficient average earnings to have paid National Insurance Contributions.

SMP is paid for 39 weeks and cannot begin earlier than the 11th week before the expected date of your childbirth as shown on your MATB1. Payments can start any time up to the birth of your baby.

SMP is paid for a period of 39 weeks as follows:

- Higher rate – 90% Average Weekly Earnings for the first 6 weeks
- Lower rate – this changes each April and is paid for 33 weeks

If you do not qualify for SMP you should apply to the Benefits Agency for Maternity Allowance. This will be paid directly by the Job Centre. Application forms and further advice are available from Payroll.

2.2 Occupational Maternity Pay (OMP)

To qualify for the SHA's OMP you will need to have 12 months continuous NHS employment at the beginning of the 11th Week prior to the Expected Week of Childbirth. OMP is as follows:

8 Weeks	Full pay which is inclusive of SMP
18 Weeks	Half pay plus SMP (this should not exceed your normal full weeks pay)
13 Weeks	Statutory Maternity Pay only
13 Weeks	Unpaid Maternity pay

2.3 Calculation of Maternity Pay

Full pay will be calculated using the average weekly earnings rules used for calculating SMP entitlements. OMP is based on the same average earnings as SMP. Please note that:

- If a pay award or annual increment is implemented before the paid maternity leave period begins then the increase will be affected throughout the entire SMP calculation.
- If a pay award or annual increment is implemented during the paid maternity leave period, the maternity pay due from the date of the increase should be increased accordingly.

2.4 What could affect your right to paid maternity?

Both Statutory and OMP are based on your average weekly earnings over an eight week period (if monthly paid, this is the last pay day prior to the end of the 15th week date, i.e. 25th week of pregnancy and the month processing).

Therefore:

- If you are on unpaid leave during this period e.g. on an employment break or still on unpaid maternity leave from a previous pregnancy, you will not be entitled to either SMP or OMP.
- If you are in receipt of childcare vouchers or using salary sacrifice to pay for nursery fees, you are advised to withdraw from these schemes from the 17th week of your pregnancy giving a month's notice, prior to this date. Any type of salary sacrifice scheme will reduce your basic pay and therefore the tax and NI contributions, this will affect the level of maternity pay that you receive.

2.5 If you change your mind about returning

The rate of maternity pay depends on whether you wish to return to work following the birth of your baby. After your maternity leave you are required to return to the SHA or another NHS employer for three calendar months. If you have notified the SHA of your intention to return to work for the SHA

or another NHS employer and fail to do so within 15 months of the beginning of your maternity leave, you will be liable to refund the whole of your maternity pay, less any SMP received.

2.6 If you know you do not wish to return

If you have been employed by the SHA for 26 weeks ending with the Qualifying Week (i.e. the 15th week prior to your expected week of Childbirth) you will receive 39 weeks SMP. This will be paid at 90% of your average weekly earnings for the first 6 weeks of your maternity leave and then that at the lower rate of SMP or 90% of average weekly earnings, if less than lower rate of SMP for the following 33 weeks.

2.7 Unpaid Ordinary Maternity Leave

Staff who do not qualify for either OMP or SMP are entitled to take 52 weeks unpaid leave and may be entitled to Maternity Allowance which can be paid directly by the Job Centre.

3 ADOPTION

In England and Wales children may be adopted by married couples, unmarried couples and civil partners or by individuals. Where a couple are adopting jointly they can choose which of them will take the adoption leave and pay.

3.1 Overseas Adoption

For practical reasons some elements of adoption leave and pay are different for those adopting a child from overseas. The difference relate to eligibility criteria, notice and evidential requirements to take leave and when leave and pay may begin. Please check further advice from HR if you are adopting from overseas.

4 MATERNITY LEAVE OPTIONS

Options	Entitlement
Option A	
I have less than 26 weeks continuous service in the NHS at the 15 th week before the expected week of childbirth	<ul style="list-style-type: none"> • 52 weeks unpaid maternity leave • You may be entitled to maternity allowance from the Job Centre
Option B	
You have completed 26 weeks but have less than 12 months continuous service in the SHA at the 15 th week before the expected week of childbirth. My average weekly earnings are at or above the National Insurance Lower Earnings Limit (you may wish to seek further advice from payroll regarding this)	<ul style="list-style-type: none"> • SMP for 39 weeks as follows: <ul style="list-style-type: none"> - 6 weeks at 90% of average weekly earnings - 33 weeks at lower rate SMP or 90% of average weekly earnings, if less than lower rate of SMP • 13 weeks unpaid leave
Option C	
I have more than 12 month's continuous service in the NHS at the 15 th week before the expected week of childbirth. I am uncertain whether to return to work or not.	<ul style="list-style-type: none"> • SMP for 39 weeks (As above) • 13 weeks unpaid leave • If you decide to return to your post at the end of your maternity leave any outstanding money owed to you will be paid in full
Option D	
I have at least 12 months continuous service in the NHS at the beginning of the 11 th week before the expected week of childbirth. I intend to return to work.	<ul style="list-style-type: none"> • OMP for 39 weeks paid as follows: <ul style="list-style-type: none"> - 8 weeks full pay (inclusive of SMP) - 18 weeks half pay plus SMP (but not totalling more than full pay) - 13 weeks SMP • 13 weeks unpaid leave
Option E	
I do not intend to return to work and wish to resign from my post	<ul style="list-style-type: none"> • SMP for 39 weeks (as above if applicable) • If you do not qualify for SMP you may still be entitled to 6 weeks at 90% of average weekly earnings if you have had 12 months continuous NHS service.

NB: If you have taken Scheme D you must return to work in the SHA or to another NHS employer no later than 15 months from the start of your maternity leave, for a minimum of 3 months. If you do not return to work within these timescales, you will be asked to repay any monies in excess of 6 weeks at 90% of full pay (less any SMP to which you may be entitled).

5 PREPARATION FOR THE BIRTH OF YOUR BABY

5.1 Ante natal Care and Parent Craft Classes

You have a legal right to reasonable time off work to attend antenatal care. However, where possible these should be arranged outside normal working hours. After the first appointment to your class you will need to obtain an appointment card to show your Manager when you need time off.

5.2 Health and Safety

Your manager can obtain Risk Assessment Forms from Occupational Health. If it is assessed by your manager (with the support of Occupational Health) that any of the duties you are undertaking may put your's or your baby's health at risk, arrangements will be made to remove the risk. If this is not possible, your duties may be reorganised or you may be relocated for a temporary period.

Should suitable alternative work not be available within your department, your manager in conjunction with HR may seek alternatives in other departments.

Every effort will be made to find you alternative employment for a temporary period. However, in the unlikely event that there is no suitable alternative work available you will be instructed not to attend work for any period where there is an identified risk. You will continue to receive normal pay as if you are suspended on medical grounds.

Please note that if you are offered suitable alternative work and then unreasonably refuse you will be suspended on Health and Safety grounds and will lose your right to be paid during that period of suspension.

6 BEGINNING YOUR MATERNITY LEAVE

6.1 Commencement of Maternity Leave

Compulsory Maternity Leave will commence immediately after the birth.

Ordinary Maternity Leave can commence from 11 weeks before the expected week of childbirth. You may decide to commence your maternity leave on any date within the 11 week period up to the birth of your child.

You should notify your line manager and HR of your pregnancy no later than the end of the 15th week before the Expected Week of Childbirth but ideally as soon as possible for Health and Safety reasons. You are required to give 28 day's notice of when you wish your maternity pay to commence, but this can be done at the same time as your leave notification if you prefer.

6.2 Approval for Maternity Leave

Your application for maternity leave should be made as soon as possible by completing the notification of Maternity leave form at Appendix A. This should be returned to HR no later than the end of the 15th week before your baby is due, or as soon as is reasonably practicable. You should also submit to HR your Maternity Certificate of Childbirth (MATB1) which shows the expected date of your baby's birth. This is obtained from your GP or Midwife at around 20 weeks.

If you fail to give this notification of your pregnancy you may lose your entitlement to take Ordinary Maternity Leave.

The earliest day you can stop work is 11 weeks before your Expected week of Childbirth. However, if you are fit to do so you may wish to continue in your normal employment either until the birth of the baby or until you decide to begin your maternity leave.

In the following instances, however, your maternity leave may have to start earlier than the date you planned:

- If your baby is born before your maternity leave is due to begin, the date of the childbirth will be regarded as your first day of maternity leave. You must notify HR as soon as reasonably practicable that you have given birth. If you fail to give this notification you may lose your entitlement to Ordinary Maternity Leave.
- If you are absent from work after the 4th week before your expected week of childbirth and the illness is pregnancy related your maternity leave will automatically commence on the first day of absence. You must notify HR as soon as is reasonably practicable that your absence is wholly or partly because of pregnancy. If you fail to give this notification you may lose your entitlement to Ordinary maternity Leave.

6.3 Commencement of Adoption Leave

You can choose to begin your adoption leave and pay on:

- The date on which the child is placed with you for adoption
- A pre-determined date no earlier than 14 days before the expected date of placement, and no later than the expected date of placement.

You should notify your line manager and HR of your intention to take adoption leave no more than seven days after the day you are notified of having been matched with the child, or as soon as is reasonably practicable. You are required to give 28 day's notice of when you wish your adoption pay to commence, but this can be done at the same time as your leave notification if you prefer.

You can chose to change your mind about when you want your adoption leave to start as long as you give your line manger at least 28 days notice before the original date or the new date you want the leave to start, whichever is later.

6.4 Approval for Adoption Leave

Your application for adoption leave should be made as soon as possible by completing the notification of Adoption Leave form at appendix A. This should be retune to HR no later than seven days after the day you are notified as having been matched with a child, or as soon as is reasonably practicable. You should also submit to HR your Matching Certificate which shows the expected date on which the child is expected to be placed for adoption.

If you fail to give this notification of your adoption you may lose your entitlement to take Ordinary Maternity Leave.

You can chose to change your mind about when you want your adoption leave to start as long as you give your line manager at least 28 days notice before the original date or the new date you want the leave to start, whichever is later.

6.5 Sickness Absence during Pregnancy

If you are absent from work due to illness between the 11th and 4th week before your expected week of confinement, whether or not the absence is related to your pregnancy, your absence will be dealt with under the provision of paid sickness absence.

If you are absent from work after the 4th week before your expected week of childbirth and the illness is pregnancy related, your maternity leave will automatically commence on the first day of absence.

You must notify HR as soon as is reasonably practicable that your absence is wholly or partly because of pregnancy. If you fail to give this notification you may lose your entitlement to Ordinary maternity Leave.

Odd days of pregnancy related illness during this period may be disregarded if the employee wishes to continue working until the maternity leave start date previously notified to the employer.

If your sickness absence is certified as not related to pregnancy then it will be classed as sick leave and you will continue on sick leave until the date previously agreed with your manager for the commencement of your maternity leave.

6.6 Sickness following the end of Maternity Leave

In the event of illness following the date you were due to return to work then normal sick leave provisions will apply as necessary.

7 CONTACT WITH THE HUMAN RESOURCES DEPARTMENT DURING YOUR LEAVE

Upon receipt of your notification to commence Maternity leave, HR will, within 28 days, inform you of the date that you are due to return to work at the end of your Maternity Leave, including any Additional Leave if you are eligible.

If you wish to return before that date you must give at least 56 days (8 weeks) notice. If you return to work without giving this notice, your return to work date can be postponed by the difference between the notice given and the 56 days notice actually due, but not beyond the end of the maternity leave period.

If you do not wish to return to work after your Ordinary or Additional Maternity Leave, you must give the SHA the notice of termination required in your contract of employment or where there is none, statutory notice.

To help us plan your return to work it is important that you keep in touch with both HR and your line manager.

7.1 Restriction on Returning

You are not allowed to work for the first two weeks after the birth. If you wish to return within 6 weeks of the birth, the SHA will require medical evidence of your fitness to return to work.

8 FURTHER CONSIDERATIONS

8.1 Pay Issues

Maternity Pay is paid into your bank account as normal and your payslip can be sent to your home address on request. National Insurance Contributions and Income Tax will be deducted from your salary/wage as normal.

8.2 NHS Pension Contributions

NHS Pension Contribution are payable on all maternity leave as follows:

Paid Leave: Contributions are based on payment actually made.

Unpaid Leave: Members of the Pension Scheme will be required to make contributions based on the amount payable on the last day of maternity pay. These

contributions will be collected on return to duty over a period of time equal to the length of unpaid leave.

You may opt out of the scheme while on maternity leave but you will lose your pensionable service for this time. You are advised to seek pension advice from payroll.

8.3 Salary Sacrifice Schemes / Childcare Vouchers

If you are in receipt of childcare vouchers or using salary sacrifice to pay for nursery fees, you are advised to withdraw from these schemes from the 17th week of your pregnancy, or you must cancel these prior to commencing maternity leave, giving a month's notice. You will be able to access these again if you return to work.

8.4 Annual Leave

If your maternity leave period runs from one annual leave year to the next you should ensure that all your annual leave is taken before the beginning of your maternity leave. (Failure to do so could result in the loss of outstanding annual leave entitlement).

Annual leave entitlement will continue to accrue throughout your maternity leave, whether paid or unpaid. You are entitled to a statutory minimum of 4 weeks annual leave in a leave year.

If you are unsure whether or not you will be returning to work after your maternity leave you should only take the leave which you are entitled to up to your expected leaving date. If you do not return you will be expected to pay back any monies received in respect of excess leave taken.

You may apply to carry forward a maximum of 5 days of your annual leave entitlement (or if you are part-time, the equivalent of one working week) from one leave year to the next. Approval for this is at the discretion of your manager and you should agree the carry over any annual leave before you commence your maternity leave.

8.5 Keeping in Touch Days (KIT Days)

These days are optional and can be full or part days. You should discuss with your line manager how you will keep in contact with your department whilst you are on maternity leave e.g. how will you be told about changes that may be happening, which could affect you, for example organisational changes.

It is possible, if you and your manager both agree, for you to work or attend training up to 10 days during your maternity leave these are known as KIT days. You will need to agree the arrangements for this with your line manager, including what you will be doing and when you will be paid and your manager will need to complete an SW2 form to notify the Payroll Department that these payments need to be made. Please note that if you opt to work part days then you will only be paid for the actual hours you have worked.

You may also wish to keep some of your Keeping In Touch (KIT) days to ease your return to work.

8.6 Reckonable Service

If you return after a break from maternity leave, your paid maternity leave and any authorised unpaid maternity leave will count as continuous service. Therefore, maternity leave will count towards the normal annual increment on your pay scale.

8.7 Returning to your job

At the end of your Ordinary Maternity Leave (OML) you will have the right to return to the job in which you were employed under your original contract of employment before your leave, unless a redundancy situation has arisen. If you are entitled to Additional Maternity Leave you are entitled to the same arrangements as at the end of OML, unless it is not reasonably practicable for you to return to your original job. In the respect you would be entitled to return to suitable alternative employment. This will ensure your pay and conditions of service will start as though you had not been away from work. In the event of a departmental review you will be offered suitable alternative employment.

9 AFTER YOUR BABY IS BORN

Returning to work often involves making choices about hours of work, childcare provisions and balancing the demands of work with the role of being a parent. Once you have notified us of your maternity leave you have the right to return to work under your original contract. However, you may decide that your previous working arrangements no longer suit your circumstances. You may wish to discuss with your manager alternative forms of working, including part-time and job sharing. This should be discussed with your line manager as soon as possible.

9.1 Sickness Absence following Childbirth

You cannot claim sick pay entitlement whilst on maternity leave. However, if you are unable to return at the end of your Maternity leave, or on the notified date, due to sickness, then normal sickness pay entitlement will apply.

9.2 Parental Leave following Maternity Leave

If you have completed one year's service with the SHA, whether before or during a period of maternity leave, you may be entitled to parental leave which could be taken immediately after Ordinary Maternity Leave.

9.3 Childcare

The Employee Care Service Team is available to offer advice and support in helping you find appropriate childcare or accessing benefits and tax credits. If you wish to contact the Employee Care Services Team then their telephone number is 0113 2063366.

10 ADDITIONAL INFORMATION

10.1 Special Circumstances

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

Where your baby is born before the 11th week before the expected week of childbirth and the baby is in hospital you may split your maternity leave entitlement, taking a minimum period of two weeks' leave immediately after childbirth and the rest of your leave following your baby's discharge from hospital.

In the event of a miscarriage before the 25th week of pregnancy normal sick leave procedures apply. In the difficult circumstances where still birth occurs at any point from the commencement of the 25th week of pregnancy you will be eligible to your original maternity leave and payment.

10.2 Employees on Fixed-Term or Training Contracts

If you are on a fixed term or training contract, which is due to expire after the 11th week date (the 29th week of pregnancy) and you satisfy the qualifying conditions, your contract will be extended to allow you to receive the 52 weeks leave and maternity pay (if applicable).

If there is no right to return to be exercised because the contract would have ended if pregnancy and confinement had not occurred, the failure to return to work provisions shall not apply.

11 EQUALITY IMPACT ASSESSMENTS

At this time an Equality Impact Assessment (EIA) has not been carried out on this policy. However, an EIA will be carried out as soon as possible and by no later than 6 months of the issue date stated on the policy cover sheet.

GLOSSARY OF TERMS – MATERNITY LEAVE

Expected Week of Childbirth (EWC) or Expected Date of Delivery (EDD)

This is the date your baby is due to be born.

Qualifying Week

The qualifying week is the 15th week prior to your expected date of delivery. It is used when calculating entitlement to Statutory Maternity Pay (SMP).

Average Earnings

Average earnings are those earnings in the 8 weeks (2 months) paid up to the end of the qualifying week. This is expressed as a weekly average.

Statutory Maternity Pay (SMP)

SMP is a legal entitlement and is the minimum level of maternity pay due to employees who meet the necessary requirements of the scheme.

Currently SMP is:

- 6 weeks at the higher rate of SMP (90% of average earnings)
- 33 weeks at the lower rate of the SMP (This amount changes each April)

Occupational Maternity Pay (OMP)

OMP, which is an NHS entitlement, is paid to staff who have been continuously employed for 12 months at the beginning of the 11th week prior to the expected week of confinement at one or more Health Authorities or Trusts **and** who intend to return to work following the birth of the baby.

OMP operates in conjunction with the SMP and is paid to staff working full or part-time.

Currently OMP is:

- 8 weeks at full pay including SMP
- 18 weeks at half pay plus SMP (to a maximum of full pay)
- 13 weeks at SMP

MATB1

A MATB1 is the official certificate supplied by your General Practitioner or Midwife to confirm your pregnancy. It should not be issued earlier than 20 weeks prior to the expected week of delivery. Your MATB1 Certificate should be sent to the Human Resources department at Blenheim House, Duncombe Street, Leeds, LS1 4PL. If you do not qualify for SMP/OMP your MATB1 Certificate will be sent to the Benefits Agency.

Maternity Allowance

Where there is no entitlement to SMP there may be an entitlement to Maternity Allowance from the Benefits Agency.

Compulsory Maternity Leave

All pregnant staff who gives birth will be obliged to take not less than 2 weeks compulsory maternity leave following the birth.

Ordinary Maternity Leave

All pregnant staff, Regardless of length of service will be entitled to 52 week maternity leave. This may be paid or unpaid depending on your entitlement.

GLOSSARY OF TERMS – ADOPTION LEAVE

Adopter

A person who has been matched with a child for adoption.

Matched

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

Notification of Matching

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

Placement

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

Appendix A - Notification of Maternity/Adoption Leave and Application for Maternity/Adoption entitlements

Surname:	Forenames:
Present Post:	
Department:	Location:
Expected date of childbirth/adoption:	
Proposed last working date before childbirth/adoption:	
Date of commencement of maternity/adoption leave:	
Proposed date of return (if known):	
Please be aware that you are required to inform us of your return to work date 28 days beforehand and give 8 weeks notice if you wish to alter your return to work date.	
The following statement must be completed by the employee:	
<input type="checkbox"/> I intend to return to work after 26 weeks Ordinary Maternity/Adoption Leave <input type="checkbox"/> I intend to return to work after 39 weeks Ordinary Maternity/Adoption Leave <input type="checkbox"/> I intend to return to work at or before the end of 13 weeks Additional Unpaid Maternity/Adoption Leave <input type="checkbox"/> I do not intend to return to work after the birth of the child/adoption	
I am aware that if I fail to return to work for this or another employing Trust/Authority for a three month period, I shall be liable to refund the Maternity Pay received, less any Statutory Maternity Pay to which I am entitled.	
Please ensure your MATB1 Certificate/Matching Certificate is attached.	
Signature.....	
Name	
Date.....	

Please return to the Human Resources department, NHS Yorkshire & the Humber, Blenheim House, Duncombe Street, Leeds, LS1 4PL.