



# Policy:

## HR010 Parenting Leave (Maternity, Adoption, Paternity and Partner Leave)

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### **Policy Version and advice on document history, availability and storage**

This is V.2. of the Parenting Leave (Maternity, Adoption, Paternity and Partner Leave) Policy. This policy will be available to all staff via the Sheffield Health & Social Care NHS Foundation Trust Intranet and on the Trust's website. The previous version will be removed from the Intranet and Trust website and archived. Any copies of the previous policy held separately should be destroyed and replaced with this version.



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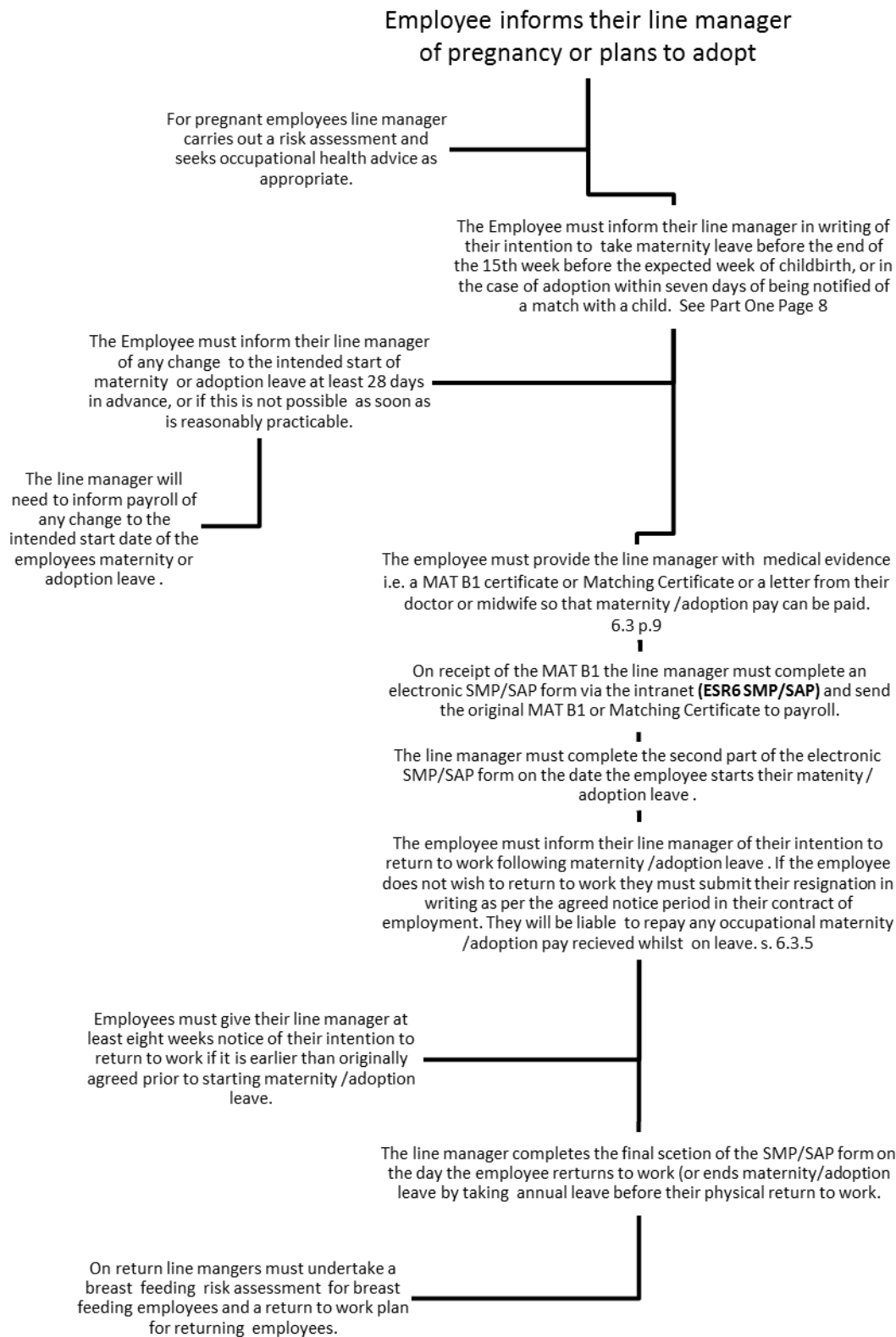
All letter templates and documents associated with this policy are found in the document:

***Parenting Leave Policy (Maternity, Adoption, Paternity and Partner Leave) Letter Templates and Standard Documents.***

These must be used as they comply with the correct legal format for notices



## Flowchart – Maternity/Adoption Leave Process for Managers



## **1. Introduction**

This policy explains the arrangements required by employees and managers in relation to the various forms of leave available to parents and prospective parents.

It provides details of maternity, adoption, paternity and parental leave and pay, including the eligibility criteria required. It also advises on notification requirements and timeframes.

## **2. Scope of this policy**

This policy applies to all employees who have or are expected to have parental responsibilities, including pregnant mothers, adopting parents, partners, same sex couples and single parents.

## **3. Definitions**

### **Adoption Matching Week**

This is the week (starting Sunday) in which you are notified the child will be placed with you for adoption

### **Adoptive Parent**

The person who has been matched with a child for adoption, or part of a couple who have been matched jointly.

### **Continuous NHS Service**

Dates of employment with one or more NHS employers without a break in service of three months or more.

### **Expected Week of Childbirth (EWC)**

Expected Week of Childbirth – This is the week (starting Sunday) in which the baby is due to be born.

### **Keep In Touch Days (KIT Days)**

These are days which can be taken during maternity/adoption leave to facilitate your return to work. A maximum of 10 KIT Days can be worked.

### **Matching Certificate**

This is the document that you receive from the adoption agency which proves you are suitable to adopt.

### **Maternity Allowance (MA)**

If you do not qualify for Statutory Maternity Pay you may be entitled to receive this through the Department for Work and Pensions



**MAT B1**

This is the document given to you by your midwife or GP around weeks 20-25 of your pregnancy, which provides medical confirmation of your pregnancy including the Expected Week of Childbirth.

**NI**

National Insurance

**Occupational Maternity Pay / Occupational Adoption Pay (OMP / OAP)**

Occupational Maternity Pay / Occupational Adoption Pay – payment made to you by the Trust during the first 26 weeks of maternity/adoption leave, provided you have 12 months' continuous service. You can only receive this if you are returning to work for at least 3 months after your maternity/adoption leave.

**Ordinary Maternity Support (Paternity/Partner) leave**

Two weeks leave to be taken within eight weeks of the baby's birth taken by the father, partner or adoptive partner

**Additional Maternity Support (Paternity/Partner) leave**

Two to twenty-six weeks leave commencing from twenty weeks after the baby is born

**Shared Parental Leave (SPL)**

Statutory provision enabling eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption.

**Parental Leave**

Separate provision from maternity or maternity support (paternity/partner ) or adoption leave providing a right to at least 18 weeks unpaid leave.

**Occupational Paternity Pay (OPP)**

Payment made to employee during period of one or two weeks' ordinary paternity leave.

**Parent**

For the purposes of Parental Leave, a parent refers to any member of staff who is the natural or adoptive parent of a child and has nominated caring responsibility for a child under 14 years of age, or in the case of adoption or a disabled child 18 years of age.

**Partner**

A person, whether of a different sex or the same sex, who lives with the mother and the child in an enduring family relationship but is not a relative of the mother ("relative" for these purposes includes the mother's parents, grandparents, sisters, brothers, aunts or uncles).

**Primary Adopter**

The member of a couple who elects to take adoption leave.

## **Qualifying Week**

This is the 11<sup>th</sup> week before the EWC, or in the case of adoption 26 weeks' continuous service continuing into the matching week.

## **Shared Parental Pay (ShPP)**

Receivable during Shared Parental Leave.

## **Statutory Maternity Pay / Statutory Adoption Pay (SMP / SAP)**

A Government payment made to the mother/adopter by the Trust, provided they meet the minimum earnings and continuous service criteria

## **4. Purpose of this policy**

The purpose of this policy is to provide employees with all the necessary information relating to their statutory and occupational requirements in relation to maternity, adoption, paternity and parental leave. It describes the process to be followed by employees and managers at all the stages of planning and taking leave, and highlights key timeframes and actions required.

It covers what needs to be taken into consideration and what documentation is required in order for the leave to be granted and any payments to be made.

## **5. Duties**

- 5.1. The Executive Director of Human Resources will take overall executive responsibility for and lead on the implementation of the policy.
- 5.2. The pregnant employee should inform their manager of the pregnancy so that a risk assessment can be carried out. In the case of adoption, the employee should inform their manager of their plans to adopt a child.
- 5.3. In the case of pregnancy, the Line Manager is responsible for carrying out a risk assessment and seeking Occupational Health advice as appropriate.
- 5.4. Employees must complete appropriate forms in line with the requirements set out in this policy
- 5.5. Line managers must respond to the requirements of processes set out in this policy
- 5.6. Human Resources will provide advice on the policy and its related procedures.

## **6. Process**

### **Part One: Maternity and Adoption Leave**

#### **6.1. Maternity / Adoption Leave entitlement**

All staff are entitled to take up to 52 weeks' (1 year) maternity/adoption leave this is made up of:

- 26 weeks of ordinary maternity leave (OML) and

- 26 weeks of additional maternity leave (AML), beginning the day after OML finishes.

During this period, you will continue to be employed by the Trust and will receive all your contractual benefits except your normal wages or salary.

To qualify for maternity leave you must legally give written notice by the end of the 15th week before your EWC, stating:

- That you are pregnant;
- That you intend to take maternity leave, and;
- When you intend to begin your maternity leave.

## **6.2. Compulsory Maternity Leave**

Legislation prohibits mothers from working during the two-week period immediately following the birth of their child.

## **6.3. Arranging Maternity /Adoption Leave**

- 6.3.1. The employee must inform their Manager in writing of their intention to take maternity leave before the end of the 15<sup>th</sup> week before the EWC (unless this is not reasonably practicable). In the case of adoption, the employee is required to give their Manager written notification of their intention to take adoption leave no later than 7 days after the date on which notification of the match with the child was provided by the adoption agency.
- 6.3.2. The employee must provide medical evidence, i.e. certificate of expected childbirth (MAT B1) or a letter from their doctor or midwife before maternity payments can be made. In the case of adoption, the employee must provide evidence of their entitlement to adoption leave and pay by producing a matching certificate from the adoption agency.
- 6.3.3. The Manager, upon receipt of the MAT B1/matching certificate, must complete the SMP/SAP form via the 'Electronic Forms' page on the Trust intranet (form ESR6 SMP/SAP) and send the original MAT B1 to payroll without delay.
- 6.3.4. The Manager must complete the next part of the electronic SMP/SAP form on the date that the employee starts maternity/adoption leave.
- 6.3.5. The employee should inform their Manager of their intention to return to work following maternity/adoption leave. If the employee does not intend to return to work, they must submit their resignation in writing, as per the agreed notice period stated in their contract of employment.
- 6.3.6. The employee must inform their Manager of any change to the intended start of maternity/adoption leave date at least 28 days in advance, or if this is not possible, as soon as is reasonably practicable.

6.3.7. The employee must give their Manager at least 8 weeks' notice of their intention to return to work if earlier than originally agreed prior to starting maternity/adoption leave.

6.3.8. The Manager must complete the final part of the electronic SMP/SAP form on the date that the employee returns to work (or ends their maternity/adoption leave by taking annual leave prior to the planned physical return to work).

#### **6.4. Commencement of Maternity Leave**

6.4.1. You can start your maternity leave any time following the Sunday at the beginning of the 11th week before the expected week of childbirth. Alternatively, you can work right up to the date of delivery providing you are well enough to do so. Your manager may seek occupational health advice if there are concerns about your fitness to continue working. If you choose to work up to the date of delivery your maternity leave will start the following day after you have given birth.

6.4.2. If your baby is born before the date you planned to start maternity leave it will automatically begin the following day after you have given birth. You should inform your line manager of the actual date of birth as soon as possible so that they can notify Payroll Services.

6.4.3. In the event of absence from work for any pregnancy related illness during the four weeks prior to the beginning of the EWC, maternity leave will automatically commence on the day after the first day of the employee's absence from work.

#### **6.5. Changing the Start Date of Maternity/Adoption Leave**

If you wish to change the date that you intend to start your maternity/adoption leave you must notify your manager at least 28 days before the new date (or if this is not possible as soon as is reasonably practicable). Your manager will need to amend your SMP/SAP form in order to notify Payroll Services of this change.

#### **6.6. Obtaining a MAT B1**

6.6.1. At around 20 to 25 weeks into your pregnancy your midwife or GP will provide you with a MAT B1 certificate. This will confirm the expected date of childbirth. Your maternity pay cannot be paid without your MAT B1.

6.6.2. You should give the original MAT B1 to your manager who will scan and upload this when completing your electronic SMP form. The manager should then send the original MAT B1 to Payroll Services, this will inform them of when you plan to start your maternity leave.

## **6.7. Application and Notification Process for Adoption Leave**

- 6.7.1. If you intend to apply for adoption leave, you must notify your line manager of your intention to take adoption leave within 7 days (or as soon as is reasonably practical) of being notified by the adoption agency that you have been matched with a child/children for adoption.
- 6.7.2. Adoption leave may start from the date of the child's placement (whether this is earlier or later than expected) or from a fixed date which can be up to 14 days before the expected date of placement.
- 6.7.3. If you are the primary adopter, you should notify your line manager of this in writing
- 6.7.4. When applying for adoption leave you will be required to express your intention to return to work or not following adoption leave. You should state the date which the child/children is/are expected to be placed with you, and when you wish the adoption leave to start.
- 6.7.5. You must provide your line manager with a matching certificate which is issued by the adoption agency, confirming you are suitable to adopt. This provides the Trust with documentary evidence for the purposes of taking adoption leave, and is also required to receive any adoption pay you may be entitled to. The matching certificate contains the following information:
- The name and address of the adoption agency;
  - Your name and address;
  - The date on which you have been notified that you have been matched with a child/children and;
  - The date on which the agency expects to place the child with you or, if the placement has already occurred, the date of the placement.
- 6.7.6. You can change your mind about when you want the adoption leave to start, provided you inform your line manager at least 28 days in advance. Your line manager has 28 days in which he/she must respond to the notification of adoption leave plans. Your line manager must write to you to confirm details.
- 6.7.7. You must continue to be employed until the child becomes available for placement.
- 6.7.8. Where the partner of an adoptive parent employed by the Trust is in receipt of similar leave from an external organisation, or is able to take the role of primary adopter by virtue of being at home, then the individual employed by the Trust will only be eligible for consideration under the provisions of Maternity Support (Paternity) and Partner Leave.
- 6.7.9. If the child's placement is terminated during your adoption leave, you will continue to be entitled to adoption leave and pay (if applicable) for up to 8 weeks

after the placement ends. As you will be returning to work earlier than intended, you should give 8 weeks' notice of the early return in writing to your manager.

## **Part Two: Maternity and Adoption Pay**

### **6.8. Eligibility for Occupational Maternity / Adoption Pay (OMP/OAP)**

6.8.1. The pay that you will be entitled to as a Trust employee depends upon length of NHS service and intention to return to work following maternity/adoption leave. The last 13 weeks of maternity/adoption leave is unpaid leave if an employee chooses to take the maximum 52 weeks. Appendix G sets out details of eligibility dependant on type of contract.

6.8.2 Occupational Maternity/Adoption Pay (OMP/OAP) is paid during the first 26 weeks of maternity/adoption leave and applies to all employees regardless of the number of hours worked per week. To be eligible for OMP/OAP you must meet the following criteria:

- a. You have 12 months' continuous service with one or more NHS employers at the beginning of the 11<sup>th</sup> week before the expected week of childbirth (EWC), or in the case of adoption 12 months' continuous service as at the week in which the notification of matching is given by the adoption agency.
- b. You notify your manager in writing of your intention to take maternity/adoption leave before the end of the 15<sup>th</sup> week before the EWC (or if this is not possible, as soon as is reasonably practicable thereafter), or in the case of adoption no later than 7 days after the date on which notification of the match with the child is provided by the adoption agency. You should also give notice of the date you wish to start your maternity/adoption leave.
- c. You intend to return to work with the same or another NHS employer for a minimum period of 3 months after your maternity/adoption leave has ended. Failure to do so means you will be liable to repay this money back.
- d. You provide a MAT B1 certificate from your midwife or GP giving the expected date of childbirth or in the case of adoption provide a matching certificate from the adoption agency giving the expected date of placement.

6.8.2. If your contract expires you will not be entitled to Occupational Maternity Pay (OMP). However, you may still be able to get Statutory Maternity Pay (SMP) if you meet the qualifying conditions. This payment is received through Payroll Services.

### **6.9. Eligibility for Statutory Maternity / Adoption Pay (SMP/SAP)**

To qualify for 39 weeks' Statutory Maternity/Adoption Pay (SMP/SAP), you must satisfy all of the following conditions:

- a. You must be employed by the Trust continuously for 26 weeks up to and including the 15<sup>th</sup> week (qualifying week) before the EWC, or in the case of adoption for 26 weeks as at the week in which notification of matching is given by the adoption agency.
- b. Your average earnings must meet the lower earnings level for NI contributions, during the 8 weeks up to and including the qualifying week.
- c. You must not work for any other employer during the SMP/SAP pay period. If you do work, you will lose SMP for the whole week during which you work, even if you only work for part of that week.
- d. You must notify your manager in writing of your intention to take maternity leave before the end of the 15<sup>th</sup> week before the EWC (unless this is not reasonably practicable), or in the case of adoption no later than 7 days after the date on which notification of the match with the child is provided by the adoption agency. You should also confirm your EWC or expected date of placement and when you expect your maternity/adoption leave to start. You can change the date you start maternity/adoption leave provided you give 28 days' notice of the revised date.
- e. You must provide medical evidence before payment can be made, i.e. MAT B1 certificate or a letter from your GP or midwife, or in the case of adoption a matching certificate.
- f. If you have not worked for the Trust for the minimum 26 weeks before the start of the 15<sup>th</sup> week before the baby is due (or in the case of adoption 26 weeks as at the week in which notification of the match is given by the adoption agency), but you were employed by another NHS Trust and worked for them continuously by the 15<sup>th</sup> week before the EDC, then your previous NHS employer should pay your SMP/SAP.
- g. If you do not qualify for SMP/SAP to be paid by SHSC or a previous NHS employer, as stated above, then Payroll Services will send you a SMP1/SAP1 form, along with your original MAT B1/matching certificate, so that you can attempt to claim Maternity/Adoption Allowance direct from the Department of Work and Pensions.

## **6.10. Fixed Term Training Contracts**

- 6.10.1. If you qualify for maternity pay, but your contract ends during the qualifying period of 11 weeks before your EWC, your contract shall be extended to enable you to receive 52 weeks' maternity leave, which includes paid contractual and Statutory Maternity Pay as detailed in the policy, and the remaining 13 weeks of unpaid maternity leave.
- 6.10.2. In the case of adoption, if you qualify for adoption pay but your contract ends during the qualifying period, your contract shall be extended to enable you to receive 26 weeks' paid adoption leave. However, your contract cannot be extended to cover unpaid adoption leave.

- 6.10.3. If there is no right to return to be exercised because the contract would have ended if pregnancy and childbirth/adoption had not occurred, the repayment provisions will not apply.

### **Part Three: During Pregnancy and Adoption**

#### **6.11. Risk Assessment**

- 6.11.1. Once you have informed your manager a risk assessment will be carried out to identify the risks to you and your baby from your work activity. Your manager will keep a record of the assessment (See Risk Assessment Appendices 1-3). More risk assessments may be completed, should you have a particularly difficult/manual job. This is not only in your interest but also in the interest of colleagues and clients' wellbeing.
- 6.11.2. A risk assessment must be completed for staff returning to work who intend to breast feed at work, this should be completed as part of the back to work plan.

#### **6.12. Antenatal Appointments and Pre-Adoption Interviews**

- 6.12.1. All pregnant women have the right to paid time off for antenatal care, including relaxation and parent-craft classes as recommended by a GP, midwife or health visitor, regardless of length of service or the number of hours worked. You may be asked to give your line manager details of appointments or produce appointment cards. You are also entitled to paid time off for fertility treatment on the production of appropriate evidence.
- 6.12.2. Accompanying partners are entitled to reasonable time-off to attend antenatal appointments with the mother and should advise their manager as soon as possible of the appointment in order to minimize any disruption to services. The amount and timing of the time off which would be reasonable in the circumstances should be agreed with their line manager.
- 6.12.3. In the case of adoption, if you require time off before the physical placement of the child to help facilitate the adoption process (including pre-adoption interviews, visits, court appearances), this should be agreed with your line manager in advance. You are allowed time off work with full pay, provided that you have made prior arrangements with your line manager and can produce the necessary evidence of required attendance.

#### **6.13. Adoption from Overseas**

If you are adopting a child from overseas, the main principles of this policy still apply. The only differences are as follows:



- 6.13.1. An official notification is defined as written notification, issued by or on behalf of the “relevant domestic authority”, that it is prepared to issue, or has already issued and sent, a certificate to the overseas authority concerned with the child’s adoption, confirming that the adopter is eligible to adopt and has been assessed and approved as being a suitable adoptive parent.
- 6.13.2. Adoption leave can start on the day on which the child enters Great Britain or on a chosen date no later than 28 days after the child enters Great Britain.
- 6.13.3. Within 28 days of the child’s entry into Great Britain you must inform the Trust of the date of entry and provide evidence of this date in the form of a plane ticket or copies of entry clearance documents.

#### **6.14. Keeping In Touch Days (KIT Days)**

- 6.14.1. An employee can agree to work (or attend training) for up to 10 days during maternity/adoption leave without that work bringing the period of maternity/adoption leave to an end and without loss of a full week’s SMP/SAP. These are known as “keeping in touch” days (KIT days) and can be taken in small blocks of days or as single days. Any days worked will not extend the maternity/adoption leave period.
- 6.14.2. You will be paid at your basic daily rate for the hours worked, less the appropriate maternity/adoption leave payment. Working for part of any day will count as one KIT day.
- 6.14.3. KIT days could help ease your eventual return to work, but whether you take advantage of these days or not is your choice. Both you and your manager should agree that you can work on these days. Your manager does not have any right to insist that you work.
- 6.14.4. If you work for more than 10 days, you will lose one week SMP/SAP for each week or part week that you work under your contract. In other words, once your KIT days have been used up, you will lose a week’s SMP/SAP for any week in which you agree to work, even if just for one day that week.
- 6.14.5. If you wish to work any KIT days you should use the KIT Days.

### **Part Four: Returning to Work**

#### **6.15. Right to Return**

- 6.15.1. You have the right to return to the post or a similar post in which you were originally employed on terms and conditions no less favourable than those, which applied before leaving, unless a redundancy situation has arisen.

- 6.15.2. If you intend to return to work at the end of your maternity/adoption leave, you are not required to give any further notification to the employer, although if you wish to return earlier than intended you must notify your manager in writing at least 8 weeks before the new intended date of return.
- 6.15.3. If you wish to return to work on different hours, then the Trust has a duty to facilitate this. If it is agreed that you will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period, this will not affect your right to return to your post or a similar post under your original contract at the end of your agreed period. For further information please refer to the *Flexible Working Policy*.

## **6.16. Re-induction following Maternity / Adoption Leave**

- 6.16.1. Managers are advised to hold a return to work induction on the employee's first day back after maternity/adoption leave.
- 6.16.2. This is an opportunity to update the employee on changes and developments which have occurred during their absence and to discuss any queries, concerns or training needs they may have. Managers should also allow for a period of adjustment on the employee's return. The demands of looking after a baby/child and the workplace are often very different, and it can be an anxious and emotional time for the returning employee.

## **6.17. Returning to Work for a Different Employer**

- 6.17.1. You can return to work for a different NHS employer following maternity/adoption leave without affecting your leave and pay provided you return within 15 months of the beginning of your maternity/adoption leave.
- 6.17.2. If you get a job working somewhere else in the NHS while you are on maternity/adoption leave you should give in your notice as usual. You should also give your manager a copy of your appointment letter, or a new contract of employment. If you do not do this, you might have to pay back your maternity/adoption pay.
- 6.17.3. Absence on maternity leave (paid or unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service.

## **6.18. Rotational Training Contracts and Posts**

If you are on a planned rotation of appointments with one or more NHS employers as part of an agreed programme of training you shall have the right to return to work in a similar post or in the next planned post irrespective of whether the contract would otherwise have ended if pregnancy and childbirth/adoption had not occurred. In such circumstances your contract will be extended to enable you to complete the agreed programme of training.

## **Part Five: Employment Rights**

You cannot be dismissed because you are pregnant or for any other reason connected with your pregnancy.

### **6.19. Redundancy during Maternity / Adoption Leave**

If a redundancy situation arises during your maternity/adoption leave, you have preferential rights and must be offered any suitable employment which is available. The offer of alternative employment must be made before the end of your employment under your existing contract. For full details please refer to the Trust's *Redeployment Policy*.

### **6.20. Entitlement to Sick Pay during Maternity Leave**

- 6.20.1. Periods of sickness that occur prior to the 4<sup>th</sup> week before the EWC will be treated in accordance with Trust sick pay regulations. You should therefore submit medical certificates in the normal way.
- 6.20.2. If you are off work ill or become ill with a pregnancy related illness during the last 4 weeks before the EWC, maternity leave will normally start at the beginning of the 4<sup>th</sup> week before the EWC or the beginning of the next week after which you last worked, whichever is the latest. If you have a pregnancy related illness prior to the last 4 weeks before the EWC, which extends into the 4<sup>th</sup> week before the EWC, then maternity leave will start from the beginning of the 4<sup>th</sup> week. Please advise your manager if this is the case, as this will alter your maternity leave dates.
- 6.20.3. If the illness is not related to your pregnancy, your absence will be treated as sick leave until you are fit to return to work or you reach the date you previously agreed to start your maternity leave
- 6.20.4. In the event of illness following the date you are due to return to work after maternity leave, normal sick leave provisions will apply.

### **6.21. Annual Leave and Bank Holidays**

- 6.21.1. Your annual leave and bank holidays will accrue during maternity/adoption leave, whether paid or unpaid. Annual leave entitlement is calculated for each complete month, irrespective of the type of substantive contract. The annual leave policy should be referred to for advice on how to calculate the monthly figure.
- 6.21.2. It may be mutually beneficial to both you and your manager for you to take annual leave before and/or after the formal (paid or unpaid) maternity/adoption leave period. If you can't take all your leave during a particular year, you can carry it over to the following year.

- 6.21.3. It is advisable to talk to your manager with the proposed dates you may wish to take well in advance of the start of your maternity/adoption leave.

## 6.22. Deductions and Increments

- 6.22.1. All the usual deductions will continue to be made for the whole period of paid maternity/adoption leave (i.e. National Insurance, Pension, Tax etc.).
- 6.22.2. If you have a car loan or participate in a salary sacrifice scheme (removed examples) then your agreement means your deductions will continue during maternity leave. Payroll will continue to take any deductions from your salary while you are on paid maternity leave. When you enter the period of SMP/SAP only, or no pay, Payroll will be unable to make the deduction as deductions cannot be made from statutory payments.
- 6.22.3. If you participate in the cycle to work, mobile phone or computer scheme, the Trust will write to you to advise you that deductions can no longer be taken and you will be given the option of either deferring the salary sacrifice payments until you return to work or paying off the outstanding balance by cheque.
- 6.22.4. From April 2017 a new government scheme, the Tax-Free Childcare (TFC).Employer Supported Childcare Scheme is in place. There is no mandated role for employers in this new scheme and staff will no longer be able to join the Trust child care voucher scheme after April 2018.
- 6.22.5. For those who in receipt of child care vouchers who joined the scheme prior to April 2018 the Trust will automatically fund the cost of your salary sacrifice during a period of SMP/SAP only or unpaid maternity/adoption leave. You will not be required to pay this money back to the Trust on return.
- 6.22.6. If you currently purchase childcare vouchers (because you already have a child and are paying for childcare) and find you are pregnant, you need to consider the following information. SMP and OMP are calculated on the amount of average weekly earnings during the 8-week period that ends 15 weeks before your baby is due (i.e. between the 17<sup>th</sup> and 25<sup>th</sup> week of pregnancy). **If you are already having childcare vouchers deducted from your pay during this qualifying period, this will show your average weekly earnings as less than they would be without the deductions.** It is your decision whether or not you cancel your salary sacrifice, or if you wish to carry on prior to and during your maternity leave period.
- 6.22.7. If you decide to continue with the salary sacrifice, you will receive a reduced amount of Occupational Maternity Pay (due to reduction of pay during your qualifying period). Payroll will continue to make the salary sacrifice deduction from your salary every month whilst there is sufficient Occupational Pay. Salary sacrifice cannot be deducted from Statutory Pay.

Once you go into Statutory Maternity Pay, or no-pay, the benefit afforded through your salary sacrifice will continue. SHSC will fund the cost of your salary sacrifice through any period of SMP or unpaid maternity leave.

- 6.22.8. The Trust is obliged to continue providing childcare vouchers if you are already receiving vouchers on the day you start your maternity leave. Therefore if you choose to opt out of the scheme before starting maternity leave, the Trust is not obliged to provide you with vouchers and you can only rejoin when your maternity leave has ended.
- 6.22.9. Maternity leave, whether paid or unpaid, shall count as service for annual increments and for the purposes of any service qualification period for additional leave.

### **6.23. Pension Payments**

- 6.23.1. You can stay in the NHS Pension Scheme during your maternity/adoption leave. Your contributions during any unpaid maternity/adoption leave will be taken out of your salary when you return to work. Your pension contributions are usually paid over the same time as you were on unpaid leave. You should contact Payroll Services about these arrangements.
- 6.23.2. You can choose not to pay NHS Pension payments during maternity/adoption leave. This will mean losing benefits upon retirement. Before you decide you should contact the Pensions Department to see how this would affect your pension.

### **6.24. Surrogacy Rights**

#### **6.24.1. Surrogate mothers**

- 6.24.1.1. Surrogates are the legal mother of any child they carry - even if they're not genetically related, until they sign a parental or adoption order following the birth of the child; this transfers their rights to the intended parents.
- 6.24.1.2. Pregnant employees have the right to 52 weeks maternity leave, and to return to their job after maternity leave. Whatever the birth mother does with the child in a surrogacy arrangement following the birth it has no impact on her right to maternity leave.

#### **6.24.2. Intended parents**

- 6.24.2.1. The intended parents can apply for a Parental Order 6 weeks after the child is born, and before the child is 6 months old if they are genetically related to the child.

- 6.24.2.2. Adoption using a registered adoption agency is necessary for intended parents to become the legal parents if neither are genetically related. Adoption leave can start the day of the birth or the day after.
- 6.24.2.3. Adoption leave and pay is available to eligible employees who become the legal parents following an application for adoption or parental order.

## **6.25. Post-natal Care / Breastfeeding**

- 6.25.1. The Trust is required to provide breastfeeding women with suitable rest facilities and a safe environment with suitable access to a private room to express and store milk. This is for new mothers who are still breastfeeding.
- 6.25.2. On your return to work, your manager should take into account the needs of a breastfeeding mother when scheduling shifts/rotas.
- 6.25.3. Women who have recently given birth and returned to work, should have paid time off for post-natal care e.g. attendance at Health Clinics. You may need to produce confirmation of these appointments to your manager.

## **Part Seven: Special Circumstances (Maternity)**

### **6.26. If your baby is born prematurely**

- 6.26.1. If your baby is born prematurely, you will be entitled to the same amount of maternity leave and pay as if your baby was born at full term.
- 6.26.2. If your baby is born before the 11<sup>th</sup> week of the EWC and you have worked during the actual week of childbirth, maternity leave will start on the first day of your absence. If you have been absent from work on certified sickness before the 11<sup>th</sup> week before EWC and your baby is born during this period, maternity leave will start at the actual week of childbirth.
- 6.26.3. If your baby is born prior to the 11<sup>th</sup> week before the EWC and the baby is in hospital, you may split your maternity leave entitlement, taking a minimum period of 2 weeks' leave immediately after childbirth and the rest of your maternity leave following your baby's discharge from hospital. You will need to discuss this with your line manager.

### **6.27. In the event of a still-born baby**

In the sad event that your baby is still-born after the 24<sup>th</sup> week of your pregnancy, you will still be entitled to the same amount of maternity leave and pay in accordance with this policy. You may wish to access the Trust's Workplace Wellbeing counselling service.

## **6.28. In the event of a miscarriage**

In the sad event that you miscarry before the end of the 24<sup>th</sup> week, sympathetic consideration should be given to the circumstances and where necessary special leave or sick leave and pay granted as appropriate on the basis of the individual circumstances. You may wish to access the Trust's Workplace Wellbeing counselling service.

## **6.29. In the event a baby dies soon after the birth or later during maternity leave**

In the sad event that your baby dies soon after the birth or later during your maternity leave, you will still be entitled to the same amount of maternity leave and pay, as initially notified. You may wish to access the Trust's Workplace Wellbeing counselling service.

## **6.30. In the event of pregnancy whilst on maternity leave**

- 6.30.1. If you discover you are pregnant whilst on maternity leave you are entitled to another 52 weeks' maternity leave for your new pregnancy. The pay you will be entitled to will depend on your average weekly earnings in the qualifying period (weeks 17 to 25 of your pregnancy). If your average earnings during this period are below the lower earnings limit you may not qualify for OMP and/or SMP maternity pay during your second period of maternity leave.
- 6.30.2. You will need to work out, based upon your expected date of childbirth whether you will return to work following your first period of maternity leave, or whether your periods of maternity leave will be consecutive.
- 6.30.3. You should inform your manager as soon as possible in these circumstances to allow you both to plan for the additional leave.

## **Part Eight: Maternity Support (Paternity) Leave**

This section provides details of the arrangements the Trust has for Maternity Support (Paternity) Leave and Parental Leave for all employees. The Maternity Support (Paternity) Leave and Parental Leave provisions ensure that the Trust supports you when your partner has just given birth, and supports adoptive parents (the individual who is not taking the adoption leave).

### **6.31. Entitlement to Maternity Support (Paternity) Leave**

- 6.31.1. All Trust employees are entitled to two weeks' (10 days) paternity/partner leave. Whether this is paid or unpaid will depend upon your continuous NHS and Trust service.
- 6.31.2. The right to Maternity Support (Paternity) Leave is available to the biological father of a child or to a person who is married to, the civil partner of, or the

partner of, the child's mother. Where a couple jointly adopt a child it is also available to the individual who does not take adoption leave and to the spouse, civil partner of, or partner of, the child's primary adopter. The definition of "partner" includes same-sex partners.

6.31.3. Maternity Support (Paternity) Leave and pay is available to surrogate parents who are genetically related to the child and who meet the qualifying conditions.

6.31.4. Maternity Support (Paternity) Leave must be taken within 56 days of the child's birth or adoption placement, or of the first day of the employee's partner's expected week of childbirth if the baby is born prematurely. This can be taken as one week, two separate working weeks' or two consecutive working weeks' leave (not odd days). You can choose to start your leave:

- From the date of the child's birth (whether this is earlier or later than expected), or
- From a chosen date within 56 days of the date of the child's birth or placement for adoption.

## **6.32. Qualifying Conditions for Maternity Support (Paternity) Leave and Pay**

6.32.1. To qualify for Maternity Support (Paternity) Leave and pay the following conditions must be satisfied:

- You must have or expect to have responsibility for the child's upbringing and;
- You are the biological father, the mother's husband or partner (including same sex couples) or one member of a couple who have jointly adopted a child, or a nominated carer, legal guardian or person who has parental responsibility for the child.
- You are a parent or partner of a still born baby that is delivered after 24 weeks of pregnancy.

6.32.2. Only one period of leave is available to an employee irrespective of whether more than one child is born as a result of the same pregnancy or adoption.

6.32.3. Maternity Support (Paternity) Leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either the adoptive father or the adoptive mother may take ordinary paternity leave where the other adoptive parent had elected to take adoption leave.



### **6.33. Arranging Maternity Support (Paternity) Leave**

- 6.33.1. The employee whose partner is pregnant should inform their manager of the pregnancy, or in the case of adoption they should inform their manager of the match for adoption.
- 6.33.2. The employee must inform their manager of their intention to take Maternity Support (Paternity) Leave at least 28 days before the chosen start date (unless this is not reasonably practicable) by completing of the application form for paternity/partner leave. In the case of an adopted child, the employee must complete this form no later than 7 days after the date on which notification of the match with the child was given by the adoption agency.
- 6.33.3. The manager, on receipt of the application form, should sign and return this to Payroll Services without delay.
- 6.33.4. The employee should inform their manager if they wish to change the date of their leave by providing written notice of the new dates at least 28 days in advance, or if this is not possible, as soon as is reasonably practicable.

### **6.34. Applying for Maternity Support (Paternity) Leave**

- 6.34.1. You must notify the Trust of your intention to take **Maternity Support (Paternity) Leave** by completing the relevant application form at least 28 days prior to the chosen start date, or in the case of adoption within 7 days of being matched with the child. It is appreciated that exact dates may be difficult to predict and managers should therefore treat requests at short notice sympathetically.
- 6.34.2. Maternity Support (Paternity) Leave can start on any day of the week, but it cannot start until after the birth or placement of the child.

### **6.35. Occupational Maternity Support (Paternity) Pay**

- 6.35.1. To be eligible to receive Occupational Maternity Support (Paternity) Pay for up to 2 weeks during Maternity Support (Paternity) Leave you will have 12 months' continuous service with one or more NHS employer at the beginning of the week in which the baby is due. In the case of adoption, you will have 12 months' continuous service as at the end of the week in which the child's primary adopter is notified of having been matched with the child for adoption.
- 6.35.2. Occupational Maternity Support (Paternity) Pay is paid at the normal rate of pay for one or two weeks and also includes an element of Statutory Maternity Support (Paternity) Pay (see Agenda for Change 35.12). This means if you are eligible you may receive full pay during the period of your

ordinary paternity / partner leave. You should check this with Payroll Services.

### **6.36. Statutory Maternity Support (Paternity) Pay**

- 6.36.1. To be eligible to receive Statutory Maternity Support (Paternity) Pay you will have 26 weeks' continuous service with one or more NHS employer by the end of the 15<sup>th</sup> week before the week in which the baby is due. In the case of adoption, you will have 26 weeks' continuous service by the week in which the child's primary adopter is notified of having been matched with the child for adoption.
- 6.36.2. If you do not meet the minimum continuous service provisions, then you may still be entitled to claim Statutory Paternity Pay from the Department of Work and Pensions.

### **6.37. Antenatal Appointments for Partners**

- 6.37.1. Employees will be allowed reasonable paid time off to attend antenatal appointments with their partner.
- 6.37.2. Employees who are the intended parents in surrogacy, who intend to apply for a parental order, are entitled to 2 unpaid antenatal appointments to enable them to accompany the birth mother.

### **6.38. Stillbirths**

In the sad event that your child is stillborn after 24 weeks of the mother's pregnancy, or if your child dies during the Maternity Support (Paternity) Pay leave period, you will still be entitled to Maternity Support (Paternity) Pay leave provided all the other conditions have been met.

## **Part Nine: Shared Parental Leave**

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

### **6.39. Eligibility for Shared Parental Leave**

- 6.39.1. SPL can only be used by two people:

The mother/adopter **and** one of the following:

The father of the child (in the case of birth) or;

The spouse, civil partner or partner of the child's mother/adopter.

- 6.39.2. Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.
- 6.39.3. Additionally an employee seeking to take SPL must satisfy each of the following criteria:
  - 6.39.3.1. The mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
  - 6.39.3.2. The employee must still be working for the organisation at the start of each period of SPL;
  - 6.39.3.3. The employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date;
  - 6.39.3.4. The employee's partner must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned an average of at least £30 a week (this is correct as of 2015 but may change annually) in any 13 of those weeks;
  - 6.39.3.5. The employee must correctly notify the organisation of their entitlement and provide evidence as required. (see section 8 above)

#### **6.40. The Shared Parental Leave Entitlement**

- 6.40.1. Eligible employees may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt in to the SPL system and take any remaining weeks as SPL.
- 6.40.2. A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to *curtail* their leave at a specified future date.
- 6.40.3. If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 weeks. If they do this, their partner may be entitled to up to 50 weeks

of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

#### **6.41. Taking Shared Parental Leave**

- 6.41.1. The mother can take SPL after she has taken the compulsory two weeks of maternity leave immediately following the birth of the child.
- 6.41.2. The adopter can take SPL after taking at least two weeks of adoption leave.
- 6.41.3. The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).
- 6.41.4. Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.
- 6.41.5. SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see 8.7 and 8.11 below).
- 6.41.6. If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period (see 8.12 below).
- 6.41.7. SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

#### **6.42. Notifying the Trust of an Entitlement to Shared Parental Leave**

- 6.42.1. An employee entitled and intending to take SPL must give their line manager notification of their entitlement and intention to take to SPL, at least 8 weeks before they can take any period of SPL.
- 6.42.2. Part of the eligibility criteria requires the employee to provide the organisation with correct notification. Notification must be in writing and provided using a format which meets the statutory requirements for notification (see section 8 above)
- 6.42.3. The employee must provide the organisation with a signed declaration from their partner using the correct format (see section 8 above)

#### **6.43. Requesting Further Evidence of Eligibility**

- 6.43.1. The Trust may, within 14 days of the SPL entitlement notification being given, request:

- The name and business address of the partner's employer (where the employee's partner is no longer employed or is self-employed their contact details must be given instead);
- In the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth);
- In the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption.

6.43.2. In order to be entitled to SPL, the employee must produce this information within 14 days of the employer's request.

#### **6.44. Fraudulent Claims**

The organisation can, where there is a suspicion that fraudulent information may have been provided or where the organisation has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual company investigation and disciplinary procedures, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

#### **6.45. Discussions Regarding Shared Parental Leave**

- 6.45.1. An employee considering/taking SPL is encouraged to contact the HR department to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the Trust to support the individual.
- 6.45.2. The manager may, upon receiving a notification of entitlement to take SPL, seek to arrange an informal discussion with the employee to talk about their intentions and how they currently expect to use their SPL entitlement.
- 6.45.3. Upon receiving a leave booking notice the manager will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can without further discussion be approved in the terms stated in the employee's notice booking leave, a meeting may not be necessary.
- 6.45.4. Where a meeting is arranged it should take place in private and be arranged in advance. If the initial date is problematic then another date will be arranged if possible. If an alternative date cannot be arranged then the meeting can be held over the telephone.

- 6.45.5. At the meeting the employee may, if they wish, be accompanied by a workplace colleague, trade union representative or even a personal friend or family member.
- 6.45.6. The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the Trust, and what the outcome may be if no agreement is reached.

#### **6.46. Booking Shared Parental Leave**

- 6.46.1. In addition to notifying the Trust of entitlement to SPL/ShPP, an employee must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.
- 6.46.2. The employee has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either (a) a single period of weeks of leave; or (b) two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.
- 6.46.3. SPL can only be taken in complete weeks but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.
- 6.46.4. The employee must book SPL by giving the correct notification at least 8 weeks before the date on which they wish to start the leave (see section 8 above) and (if applicable) receive ShPP.

#### **6.47. Continuous Leave Notifications**

- 6.47.1. A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).
- 6.47.2. An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the employer has been given at least 8 weeks' notice.
- 6.47.3. An employee may submit up to three separate notifications for continuous periods of leave.

## **6.48. Discontinuous Leave Notifications**

- 6.48.1. A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).
- 6.48.2. Where there is concern over accommodating the notification, the Trust or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the Trust (see 8.6 above).
- 6.48.3. The organisation will consider a discontinuous leave notification but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

## **6.49. Responding to a Shared Parental Leave Notification**

- 6.49.1. Once the manager receives the leave booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th day after the leave request was made.
- 6.49.2. All notices for continuous leave will be confirmed in writing.
- 6.49.3. All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the employee and to the Trust against any adverse impact to the service.
- 6.49.4. Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.
- 6.49.5. The employee will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th day after the leave notification was made. The request may be granted in full or in part: for example, the Trust may propose a modified version of the request.
- 6.49.6. If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given, or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than 8 weeks from the date the original notification was submitted. If the employee does not choose a start

date then the leave will begin on the first leave date requested in the original notification.

#### **6.50. Variations to Arranged Shared Parental Leave**

- 6.50.1. The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the manager in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than 8 weeks from the date of the variation request.
- 6.50.2. Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the Trust requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the Trust.

#### **6.51. Statutory Shared Parental Pay (ShPP)**

- 6.51.1. Eligible employees may be entitled to take up to 37 weeks' ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.
- 6.51.2. ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.
- 6.51.3. In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:
  - The mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
  - The employee must intend to care for the child during the week in which ShPP is payable;
  - The employee must have an average weekly earnings for the period of 8 weeks leading up to and including the 15<sup>th</sup> week before the child's expected due date/matching date are not less than the lower earnings limit in force for National Insurance contributions;
  - The employee must remain in continuous employment until the first week of ShPP has begun;
  - The employee must give proper notification in accordance with the rules set out below.
- 6.51.4. Where an employee is entitled to receive ShPP they must, at least 8 weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be



included at the same time as completing the notice of entitlement to take SPL.

- 6.51.5. Notification must be in writing and provided using the appropriate format. The employee must provide the organisation with a signed declaration from their partner using the correct format.
- 6.51.6. Any ShPP due will be paid at a rate set by the Government for the relevant tax year. (see section 8 above)

## **6.52. Terms and Conditions during Shared Parental Leave**

- 6.52.1. During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a company car, computer or mobile phone) will continue and contractual annual leave entitlement will continue to accrue.
- 6.52.2. Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the organisation's contributions will be based on the salary that the employee would have received had they not been taking SPL. You should contact the Pensions Department for guidance.

## **6.53. Annual Leave**

SPL is granted in addition to an employee's normal annual holiday entitlement. You should ensure that wherever possible annual leave is taken in the leave year that it is earned. Where an SPL period overlaps two leave years you should consider how your annual leave entitlement can be used to ensure that you do not lose any annual leave entitlement at the end of the leave year. Leave entitlement should be calculated as per section 5.20 of this policy.

## **6.54. Contact during Shared Parental Leave**

Before an employee's SPL begins, your manager will discuss the arrangements for them to keep in touch with you during your leave. The Trust reserves the right in any event to maintain reasonable contact with you from time to time during your SPL. This may be to discuss your plans to return to work, to ensure you are aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease your return to work, or simply to update you on developments at work during your absence.

## **6.55. Shared Parental Leave in Touch Days (SPLIT Days)**

- 6.55.1. An employee can agree to work or attend training for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as Shared Parental Leave In

Touch or SPLIT days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

- 6.55.2. The Trust has no right to insist that you carry out any work, and is under no obligation to offer you any work, during your SPL. Any work undertaken is a matter for agreement between you and your line manager.
- 6.55.3. An employee taking a SPLIT day will receive full pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively 'topped up' so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of SPL.
- 6.55.4. An employee, with the agreement of the organisation, may use SPLIT days to work part of a week during SPL. The manager and the employee may use SPLIT days to effect a gradual return to work by the employee towards the end of a long period of SPL, or to trial a possible flexible working pattern.
- 6.55.5. SPLIT days you should be requested /recorded using the appropriate form.

## **6.56. Returning to Work after Shared Parental Leave**

- 6.56.1. The employee will have been formally advised in writing by the organisation of the end date of any period of SPL. The employee is expected to return on the next working day after this date, unless they notify the organisation otherwise. If they are unable to attend work due to sickness or injury, the organisation's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.
- 6.56.2. If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the organisation at least 8 weeks' notice of their date of early return. This will count as one of the employee's notifications. If they have already used their three notifications to book and/or vary leave then the Trust does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.
- 6.56.3. On returning to work after SPL, the employee is entitled to return to the same job if the employee's aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, he or she will return to the same job. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.
- 6.56.4. If you wish to return to work on different hours, then the Trust has a duty to facilitate this. If it is agreed that you will return to work on a flexible basis,

including changed or reduced hours, for an agreed temporary period, this will not affect your right to return to your post or a similar post under your original contract at the end of your agreed period. For further information please refer to the *Flexible Working Policy*.

- 6.56.5. If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.
- 6.56.6. If the employee also takes a period of unpaid parental leave of 4 weeks or less (see section 7) this will have no effect on the employee's right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.
- 6.56.7. If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

## **6.57. Special Circumstances and Further Information**

In certain situations an employee's rights and requirements regarding SPL and ShPP may change. In these circumstances the Trust will abide by any statutory obligations and an employee should clarify any issues or queries with the Human Resources department as appropriate. The Trust will refer to technical guidance published by the Department for Business Innovation and Skills in considering any queries on SPL /ShPP not referred to in this policy.

## **Section Ten: Parental Leave**

Parental leave is a right to take up to 18 weeks' **unpaid** leave to look after a child or make arrangements for the child's welfare. Employees can use it to spend more time with children and strike a better balance between their work and family commitments. **Please note this is not the same as Shared Parental Leave**

## **6.58. Entitlement to Parental Leave**

- 6.58.1. All employees with 12 months or more continuous NHS service are entitled to take up to 18 weeks' unpaid parental leave (pro rata for part time staff) for each child up to the age of 18 .You must have nominated caring responsibility for that child.

- 6.58.2. You can take leave in blocks of one week or more, up to a maximum of **four weeks** per calendar year in respect of each child.
- 6.58.3. If you have a child entitled to a disability allowance you can take leave in days or periods shorter than a week.
- 6.58.4. If both parents are employed by the Trust, each parent has an individual right to parental leave, which cannot be transferred between partners.
- 6.58.5. You will retain all of your contractual rights, except remuneration during Parental Leave. Periods of parental leave should be regarded as continuous service.
- 6.58.6. At the end of parental leave you are guaranteed the right to return to the same job as before or if that is not practicable, to a similar job which has the same or better status terms and conditions as the old job. Where the leave taken is for a period of four weeks or less, you will be entitled to go back to the same job.

#### **6.59. Notice Provisions**

You should try to give your manager at least 21 days' notice of your intention to take parental leave, giving the dates when the leave is to commence and end. Where possible you should provide this notice in writing.

#### **6.60. Postponement Provisions**

- 6.60.1. The Trust will only postpone parental leave in exceptional circumstances. If your parental leave is postponed your line manager will set out the new dates of parental leave. The length of this leave will be equivalent to that of your original leave request.
- 6.60.2. You may also postpone or cancel leave which has been booked subject to the agreement of your manager.
- 6.60.3. If you apply to take parental leave immediately after the birth or adoption of your child, parental leave cannot be postponed. Parental leave may also be added to periods of maternity/adoption leave.

#### **6.61. Record Keeping**

The Trust is not required to keep records of any parental leave taken. However, line managers are advised to do so in order to keep track of the 18 week entitlement.

#### **6.62. Keeping in Touch**

During parental leave it is good practice for you and your line manager to agree a process of keeping in touch whilst you are on parental leave.

### **6.63. Superannuation**

You are advised to contact the Pensions Department to discuss the implications of taking unpaid leave and how this may affect your pension.

## **7. Dissemination, storage and archiving (Control)**

7.1. The policy is available on the Trust's intranet and available to all staff.

7.2. It will be disseminated as an updated HR policy.

7.3. Links to the policy will be placed on relevant HR intranet pages

7.4. Previous versions will be deleted and archiving and storage new and previous versions will be held locally in the HR Resource Shared File.

## **8. Training and other resource implications**

8.1. Training will be facilitated through integration into existing training

8.2. The policy will be communicated through HR Directorate Assistants and partners.

8.3. There are no new cost implications associated with this policy.

## 9. Audit, monitoring and review

Monitoring Compliance Template						
Minimum Requirement	Process for Monitoring	Responsible Individual/group/committee	Frequency of Monitoring	Review of Results process (e.g. who does this?)	Responsible Individual/group/committee for action plan development	Responsible Individual/group/committee for action plan monitoring and implementation
Meeting statutory requirements associated with the policy.	<p><b>System:</b> ESR and payroll Records and local management</p> <p><b>Overview:</b> Directorate Partners and Advisors and service managers.</p>	<p>Head of Equality and Inclusion.</p> <p>Operational – HR Directorate Partners</p>	On-going	<p>HR Directorate Partners</p> <p>Managers locally</p>	N/A	N/A



Action / Task	Responsible Person	Deadline	Progress update
Upload new policy onto intranet	Head of Communications	December 2017	
Communicate the new policy through HR Business partners and advisors and Trust Comms	Head of Equality and Inclusion	December 2017	
Ensure updated set of templates and guidance is available with the policy on the intranet.	Head of Equality and Inclusion	December 2017	

## 11. Links to Other Policies

- Career Break Scheme
- Equal Opportunities and Dignity at Work Policy
- Flexible Working Policy and Procedure
- Leave Policy
- Leaver Guidance
- Managing Sickness Absence Policy
- Redeployment Policy
- Redundancy Policy
- Organisational Change Policy

## 12. Contact Details

- **The Human Resources:**  
Available for support and advice:  
Please contact 0114 226 3277 and ask to speak to a HR Advisor or HR Directorate Partner.
- **For Payroll Services:**  
Please contact Victoria Pay Services on 0114 305 2220. Their address is Victoria Pay Services, Coleridge House, Northern General Hospital, and Herries Road, Sheffield S5 7AU.
- **For queries about your pension:**  
Please contact the Pensions department on 0114 271 4407 or 0114 305 2432.
- **For Department for Work and Pensions:**  
Call 0845 606 0265.
- **Policy Queries:**  
Head of Equality and Inclusion – extension 16703

### 13. References

- Employment Act 2002
- Employment Equality (Age) Regulations 2006 SI 2006/1031
- Employment Rights Act 1996
- Employment Relations Act 1999
- Maternity and Parental Leave and the Paternity and Adoption Leave (Amendment) Regulations 2008 SI 2008/1966
- Paternity and Adoption Leave Regulations 2003/921
- Social Security Contributions and Benefits Act 1992
- Statutory Maternity Pay (General) (Amendment) Regulations 2005 SI 2005/729
- Statutory Maternity Pay, Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) (Amendment) Regulations 2006 SI 2006/2379
- Statutory Paternity Pay and Statutory Adoption Pay (General ands Weekly Rates)
- Work and Families Act 2006
- NHS Terms and Conditions of Service (Amendment Number 30), Pay Circular (Agenda for Change) 1/2014
- NHS Terms and Conditions of Service (Amendment Number 3/2015)
- Parents/Money and Work Entitlements/Work and Families/Parental Leave and Flexible Working: [www.direct.gov.uk](http://www.direct.gov.uk)
- Paternity / Partner Leave and Advice (Work and Families) [www.direct.gov.uk](http://www.direct.gov.uk)
- ACAS: A Guide to Paternity Leave and Pay [www.acas.org.uk](http://www.acas.org.uk)
- NHS Employers Agenda for Change Pay Circular 1/2011 [www.nhsemployers.org](http://www.nhsemployers.org)
- Department for Business Innovation and Skills – Shared Parental Leave and Pay – Employers Technical Guide to Shared Parental Leave and Pay – December 2014  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/417505/bis-14-1329-Employers-technical-guide-to-shared-parental-leave-and-pay-1.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417505/bis-14-1329-Employers-technical-guide-to-shared-parental-leave-and-pay-1.pdf)
- The Shared Parental Leave Regulations 2014
- The Shared Parental Pay (General) Regulations 2014
- The Maternity and Adoption Leave (Curtailement of Statutory Rights to Leave) Regulations 2014
- Employment Rights Act 1996



- Child and Families Act 2014
- Equality Act 2010
- Surrogacy: legal rights of parents and surrogates Gov.uk <https://www.gov.uk/legal-rights-when-using-surrogates-and-donors>

## Appendix A – Version Control and Amendment Log

Version No.	Type of Change	Date	Description of change(s)
V 2.0	Update	December 2017	<p>Changes as follows:</p> <ul style="list-style-type: none"> <li>- Tables moved into appendix</li> <li>- Risk assessment taken out of the appendix a more up to date document to be put on the intranet with the policy</li> <li>- section on definitions updated</li> <li>- A number of sections repeated 'duties' duplicated sections removed.</li> <li>- Information added on the following areas that was missing: <ul style="list-style-type: none"> <li>- Surrogacy</li> <li>- Risk assessments re breast feeding</li> <li>- Re the section on partner leave (paternity) h changed to <b>maternity support leave (paternity)</b> Whole section out of line with A4C T&amp;C's which say that all staff are entitled to two weeks Maternity support (paternity) leave – amended</li> </ul> </li> <li>- Amended the section on staff need to take holiday entitlement the previous policy limited when this could be taken which had been challenged and agreed this should be changed.</li> <li>- Moved some sections round to have a bit more flow.</li> <li>- flow chart updated</li> <li>- I have updated the salary sacrifice section in line with new provisions</li> <li>- Updated the section on parental leave as this was out of date i.e. re ages of children</li> <li>- Link to organisational change policy added.</li> <li>- Updated to take account of changes due to tax free childcare government scheme from April 2017.</li> <li>- Removed duplicated sections on 'duties'</li> <li>- Agenda for Change T&amp;C notes you do accrue Bank Holidays during maternity leave this is reflected in a change in s.6.21.1</li> </ul>

<p><b>V 1.0 Parenting Leave Policy</b> <b>(Maternity, Adoption, Paternity and Partner Leave)</b></p>	<p>New policy consolidated from previous versions below and updated to take account of shared parental leave legislation.</p>	<p>June 2015</p>	<p>New policy to incorporate the previous Trust policies for Maternity Leave, Adoption Leave, Paternity and Partner Leave and Parental Leave. It also incorporates legislation for the new shared parental leave provisions. Letter templates and notifications in statutory formant are now found in the supplementary document. Parenting Leave Policy - Letter Templates and Standard Documents</p>
<p><b>Paternity and Partner Leave Policy</b></p>	<p>Response to change in legislation</p>	<p>Ratified 24th March 2011</p>	<p>Policy updated to comply with new legislation affecting staff whose baby was due to be born on or after 3 April 2011, or in the case of adoption staff who are notified of having been matched with the child on or after 3 April 2011.</p>
<p><b>Maternity Policy and Procedure</b></p>	<p>Updated</p>	<p>March 2009</p>	
<p><b>Partner and Antenatal Leave Policy</b></p>	<p>Updated</p>	<p>September 2005</p>	

## Appendix B – Dissemination Record

<b>Version</b>	<b>Date on website (intranet and internet)</b>	<b>Date of “all SHSC staff” email</b>	<b>Any other promotion/ dissemination (include dates)</b>
2.0	December 2017	December 2017	Through Staff Side December 2017

## Appendix C – Stage One Equality Impact Assessment

### Equality Impact Assessment Process for Policies Developed Under the Policy on Policies

**Stage 1** – Complete draft policy

**Stage 2 – Relevance** - Is the policy potentially relevant to equality i.e. will this policy potentially impact on staff, patients or the public? If **NO** – No further action required – please sign and date the following statement. If **YES** – proceed to stage 3.

This policy does not impact on staff, patients or the public (insert name and date)

**Stage 3 – Policy Screening** - Public authorities are legally required to have ‘due regard’ to eliminating discrimination , advancing equal opportunity and fostering good relations , in relation to people who share certain ‘protected characteristics’ and those that do not. The following table should be used to consider this and inform changes to the policy (indicate yes/no/ don’t know and note reasons). Please see the SHSC Guidance on equality impact assessment for examples and detailed advice. This is available by logging-on to the Intranet first and then following this link

	<b>Does any aspect of this policy actually or potentially discriminate against this group?</b>	<b>Can equality of opportunity for this group be improved through this policy or changes to this policy?</b>	<b>Can this policy be amended so that it works to enhance relations between people in this group and people not in this group?</b>
<b>AGE</b>	No	No	No
<b>DISABILITY</b>	No	No	No
<b>GENDER REASSIGNMENT</b>	No	No	No
<b>PREGNANCY AND MATERNITY</b>	No – the policy is in line with current legislation	No	No
<b>RACE</b>	No	No	No
<b>RELIGION OR BELIEF</b>	No	No	No
<b>SEX</b>	No the policy is in line with current legislation	No the policy is in line with good practice which reflects the diversity of parents and parental roles	No
<b>SEXUAL ORIENTATION</b>	No	No – the policy is in line with good practice which reflects the diversity of parents and parental roles	No

**Stage 4 – Policy Revision** - Make amendments to the policy or identify any remedial action required (action should be noted in the policy implementation plan section)

Please delete as appropriate: Policy Amended / Action Identified / no changes made.

Impact Assessment Completed by (insert name and date)

Liz Johnson – Head of Equality and Inclusion November 2017

## Appendix D - Human Rights Act Assessment Form and Flowchart

You need to be confident that no aspect of this policy breaches a person's Human Rights. You can assume that if a policy is directly based on a law or national policy it will not therefore breach Human Rights.

If the policy or any procedures in the policy, are based on a local decision which impact on individuals, then you will need to make sure their human rights are not breached. To do this, you will need to refer to the more detailed guidance that is available on the SHSC web site

<http://www.justice.gov.uk/downloads/human-rights/act-studyguide.pdf>

(relevant sections numbers are referenced in grey boxes on diagram) and work through the flow chart on the next page.

### 1. Is your policy based on and in line with the current law (including case law) or policy?

- Yes. No further action needed.**  
 **No. Work through the flow diagram over the page and then answer questions 2 and 3 below.**

### 2. On completion of flow diagram – is further action needed?

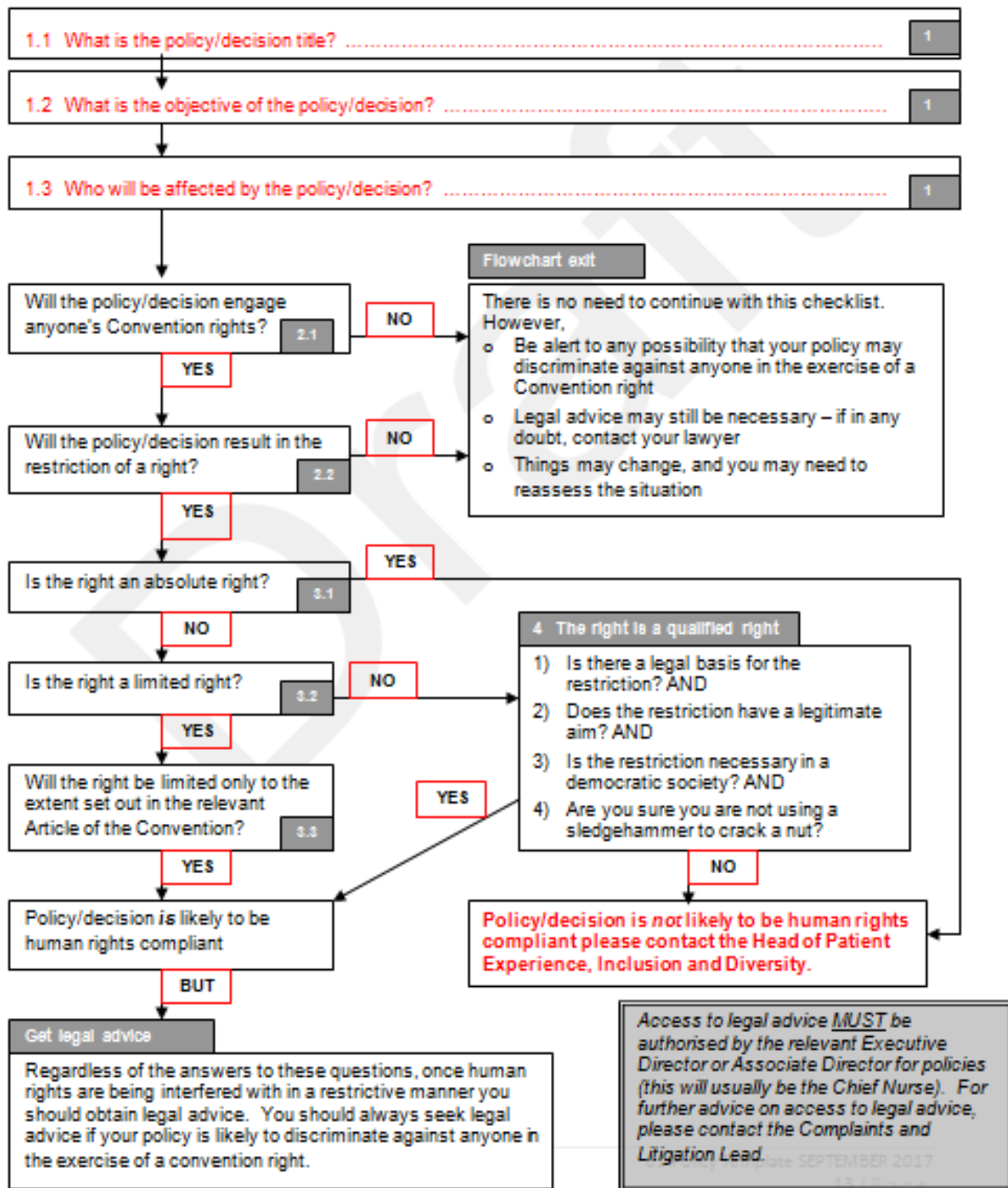
- No. No further action needed.**  
 **Yes. Go to question 3**

### 3. Complete the table below to provide details of the actions required

Action required	By what date	Responsible Person

## Human Rights Assessment Flow Chart

Complete text answers in boxes 1.1 – 1.3 and highlight your path through the flowchart by filling the YES/NO boxes red (do this by clicking on the YES/NO text boxes and then from the Format menu on the toolbar, choose 'Format Text Box' and choose red from the Fill colour option). Once the flowchart is completed, return to the previous page to complete the Human Rights Act Assessment Form.





## **Appendix E – Development, Consultation and Verification**

- The Joint Policy Group (Staff Side Representatives) were consulted on changes and these were agreed.
- HR Business Partners and senior staff were consulted and provided information about changes required in the policy.
- The policy was updated in line with legislation and updates in Agenda for Change Terms and conditions through consulting the Agenda for Change NHS terms and Conditions Handbook and Government Guidance.
- A change was made following a complaint to the HR department about when staff could take leave during pregnancy and maternity.
- See Appendix A – Version Control and Amendment Log – Description of changes for full details of changes made following the above process.

## Appendix F –Policies Checklist

### 1. Cover sheet

All policies must have a cover sheet which includes:

- The Trust name and logo x
- The title of the policy (in large font size as detailed in the template) x
- Executive or Associate Director lead for the policy x
- The policy author and lead x
- The implementation lead (to receive feedback on the implementation) x
- Date of initial draft policy x
- Date of consultation x
- Date of verification x
- Date of ratification
- Date of issue
- Ratifying body x
- Date for review x
- Target audience x
- Document type x
- Document status x
- Keywords x
- Policy version and advice on availability and storage x

### 2. Contents page

3. Flowchart x

4. Introduction x

5. Scope x

6. Definitions x

7. Purpose x

8. Duties x

9. Process x

10. Dissemination, storage and archiving (control) x

11. Training and other resource implications x

12. Audit, monitoring and review X

<b>13. Implementation plan</b>	X
<b>14. Links to other policies (associated documents)</b>	X
<b>15. Contact details</b>	X
<b>16. References</b>	X
<b>17. Version control and amendment log (Appendix A)</b>	X
<b>18. Dissemination Record (Appendix B)</b>	X
<b>19. Equality Impact Assessment Form (Appendix C)</b>	X
<b>20. Human Rights Act Assessment Checklist (Appendix D)</b>	X
<b>21. Policy development and consultation process (Appendix E)</b>	X
<b>22. Policy Checklist (Appendix F)</b>	X

## Appendix G - Pay Entitlements

### 1. Legal Minimum

Gov.UK, the government information site, has a web page where you can check your entitlements to maternity, paternity or shared parental leave and how much pay you are entitled to get if you take leave. This site provides details of the legal minimum and is particularly useful for calculating shared parental leave. This can be found at <https://www.gov.uk/pay-leave-for-parents>

### 2. SHSC staff on Agenda for Change Terms & Conditions and Doctors on National Contracts

Length of continuous NHS service at the 11 <sup>th</sup> week before EWC (or in the case of adoption the week notification of matching is received)	12 months or over		26 weeks to 12 months		Less than 26 weeks	
	Yes	No	Yes	No	Yes	No
Returning to Work following Maternity/Adoption Leave						
Full Pay	8 weeks	N/A	N/A	N/A	N/A	N/A
½ Pay plus SMP/SAP	18 weeks	N/A	N/A	N/A	N/A	N/A
90% of Average Pay	N/A	6 weeks	N/A	N/A	N/A	N/A
SMP/SAP only	13 weeks	33 weeks	39 weeks	39 weeks	N/A	N/A
<b>Total Paid Leave:</b>	<b>39 weeks</b>	<b>39 weeks</b>	<b>39 weeks</b>	<b>39 weeks</b>	*	*

\*If less than 26 weeks' service, you are still entitled to take up to 52 weeks' maternity/adoption leave, but you would not receive pay through the Trust – therefore showing N/A (not applicable). You may qualify for Maternity/Adoption Allowance paid from Job Centre Plus or the Department of Work and Pensions. Payroll Services will send you the relevant claim forms upon receipt of your MAT B1/matching certificate.

\*\*If ½ Pay plus SMP/SAP exceeds Full Pay then payment up to Full Pay will only be made.

\*\*\* To qualify for the payment of SMP/SAP you must have been employed by the Trust for 26 weeks continuously by the 15<sup>th</sup> week before the baby is due (or in the case of adoption for 26 weeks continuously ending with the week in which you are notified of having been matched with a child for adoption). You must also qualify under the earnings criteria to qualify, i.e. you must have earnings not less than the lower earnings limit for the payment of NI contributions during the qualifying period.

### 3. SHSC staff on Local Terms & Conditions who have not accepted Agenda for Change Contracts

Length of continuous NHS service at the 11 <sup>th</sup> week before EWC (or in the case of adoption the week notification of matching is received)	12 months or over		26 weeks to 12 months		Less than 26 weeks	
	Yes	No	Yes	No	Yes	No
Returning to Work following Maternity/Adoption Leave						
Full Pay	10 weeks	N/A	N/A	N/A	N/A	N/A
½ Pay plus SMP/SAP	12 weeks	N/A	N/A	N/A	N/A	N/A
90% of Average Pay	N/A	6 weeks	N/A	N/A	N/A	N/A
SMP/SAP only	17 weeks	33 weeks	39 weeks	39 weeks	N/A	N/A
<b>Total Paid Leave:</b>	<b>39 weeks</b>	<b>39 weeks</b>	<b>39 weeks</b>	<b>39 weeks</b>	*	*

\*If less than 26 weeks' service, you are still entitled to take up to 52 weeks' maternity/adoption leave, but you would not receive pay through the Trust – therefore showing N/A (not applicable). You may qualify for Maternity/Adoption Allowance paid from Job Centre Plus or the Department of Work and Pensions. Payroll Services will send you the relevant claim forms upon receipt of your MAT B1/matching certificate.

\*\*If ½ Pay plus SMP/SAP exceeds Full Pay then payment up to Full Pay will only be made.

1. \*\*\* To qualify for the payment of SMP/SAP you must have been employed by the Trust for 26 weeks continuously by the 15<sup>th</sup> week before the baby is due (or in the case of adoption for 26 weeks continuously ending with the week in which you are notified of having been matched with a child for adoption). You must also qualify under the earnings criteria to qualify, i.e. you must have earnings not less than the lower earnings limit for the payment of NI contributions during the qualifying period.

## SHSC Staff on Sheffield City Council Terms & Conditions

Length of continuous NHS service at the 11 <sup>th</sup> week before EWC (or in the case of adoption the week notification of matching is received)	12 months or over		26 weeks to 12 months		Less than 26 weeks	
	Yes	No	Yes	No	Yes	No
Returning to Work following Maternity/Adoption Leave	Yes	No	Yes	No	Yes	No
Full Pay	13 weeks	N/A	N/A	N/A	N/A	N/A
½ Pay plus SMP/SAP	13 weeks	N/A	N/A	N/A	N/A	N/A
90% of Average Pay	N/A	6 weeks	N/A	N/A	N/A	N/A
SMP/SAP only	13 weeks	33 weeks	39 weeks	39 weeks	N/A	N/A
<b>Total Paid Leave:</b>	<b>39 weeks</b>	<b>39 weeks</b>	<b>39 weeks</b>	<b>39 weeks</b>	*	*

\*If less than 26 weeks' service, you are still entitled to take up to 52 weeks' maternity/adoption leave, but you would not receive pay through the Trust – therefore showing N/A (not applicable). You may qualify for Maternity/Adoption Allowance paid from Job Centre Plus or the Department of Work and Pensions. Payroll Services will send you the relevant claim forms upon receipt of your MAT B1/matching certificate.

\*\*If ½ Pay plus SMP/SAP exceeds Full Pay then payment up to Full Pay will only be made.

\*\*\* To qualify for the payment of SMP/SAP you must have been employed by the Trust for 26 weeks continuously by the 15<sup>th</sup> week before the baby is due (or in the case of adoption for 26 weeks continuously ending with the week in which you are notified of having been matched with a child for adoption). You must also qualify under the earnings criteria to qualify, i.e. you must have earnings not less than the lower earnings limit for the payment of NI contributions during the qualifying period.