

MATERNITY, ADOPTION & SHARED PARENTAL LEAVE POLICY

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Introduction

East London NHS Foundation Trust (herein referred to as 'the Trust' is committed to supporting its staff before, during and after pregnancy, adoption or shared parental leave.

The policy outlines the process to be undertaken during staff pregnancy, adoption and shared parental leave and throughout the leave and pay entitlement. This policy also explains the steps staff need to take at each stage of pregnancy, adoption or shared parental leave.

This policy is written in accordance with Agenda for Change Terms & Conditions, the Employment Act 1993, 1996, 2002 & 2008, Social Security Contributions and Benefits Act 1998, Trade Union Reform and Employment Rights Act 1993, The Employment Relations Act 2004, the Fixed Term Employees Regulations (2008), Children's Act 1989, Human Embryology and Fertilisation Act 2008 and Work and Families Act 2006.

This policy is applicable to staff who are new or expectant mothers whose baby is due on or after 1 April 2007. It is also applicable to adoptive parents who are due to adopt a child on or after 1 April 2007 and staff requesting shared parental leave from 1 April 2015.

Scope of Policy

This Policy applies to all staff irrespective of employment terms & conditions provided qualifying conditions such as length of service are satisfied.

Glossary

Explaining the meaning of the terms used for the purpose of this policy:

- **Mother**
A women who gives birth to a child or the adopter (the adopter means the person who is eligible for adoption leave and/or pay. (They can be male or female).
- **Partner**
The child's biological father or the partner of the mother/adopter. This can be a spouse, civil partner, or a partner who is living in an enduring relationship with the mother and spouse.
- **Childbirth**
Childbirth means the live birth of a child, or a still birth after a pregnancy lasting at least 24 weeks.
- **EWC - Expected Week of Confinement/Child birth**
The EWC is the week beginning Sunday ending Saturday in which it is expected the childbirth will take place.
- **MATB1 - Maternity Benefit 1**
The official document confirming the date of confinement. This will be provided by the mid-wife or GP around the 26th week of the pregnancy. The original document is required by Human Resources in order to provide official proof of the pregnancy, and to make the appropriate arrangements for the maternity pay.

- **Ordinary Maternity Leave**

Ordinary Maternity Leave is a minimum entitlement of 39 weeks' maternity leave, irrespective of length of service and hours worked.

- **Additional Maternity Leave**

The member of staff may be entitled to take an additional maternity leave of 13 weeks, which runs from the end of ordinary maternity leave. Eligibility for Additional Maternity Leave will depend on the length of service.

- **SMP - Statutory Maternity Pay**

This is a statutory payment set by the Government, which is payable to all employees with at least 26 weeks' service by the qualifying week.

- **OMP - Occupational Maternity Pay**

If the member of staff qualifies for additional maternity leave and agrees to return to the Trust, or another NHS organisation, for at least 3 months, they will be entitled to Occupational Maternity Pay (NHS Benefit), in addition to SMP.

- **SPL – Shared Parental Leave**

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

- **ShPP – Shared Parental Pay**

Enables eligible mothers, father, partners and adopters to choose how to share the paid leave during shared parental leave

Policy Framework

The aims of the policy are to:

- Identify the contractual leave and pay entitlements of staff.
- Outline the Trust managers and member of staff's responsibilities.
- Provide guidelines for managers when dealing with Maternity, Adoption and Shared Parental Leave.
- Explain to members of staff how to request Maternity, Adoption and Shared Parental Leave.
- Ensure all staff are not discriminated against for taking Maternity, Adoption and Shared Parental Leave.

1.0 Aim

The aim of the Maternity, Adoption Shared Parental Leave Policy is to provide a clear procedure for the administration of maternity/adoption/Shared parental Leave and pay, ensuring that new or expectant mothers/fathers/Partners or adoptive parents are informed of their rights surrounding maternity or adoption, and their employment.

2.0 Responsibilities

2.1 New Expectant Mother - It is the responsibility of new or expectant mothers to:

- Inform their manager as soon as they know they are pregnant and no later than the end of the 15th week before the Expected Week of Confinement (EWC) unless this is not reasonably practicable.
- Make an application to their manager to take maternity leave by completing the Maternity Leave Notification Form (see Appendix A).
- Inform the Human Resources Officer for their directorate, as soon as they have received their MATB1 certificate from the mid-wife or GP, to arrange an appointment to discuss their maternity leave and pay entitlements. The original MATB1 certificate should be provided at the appointment.
- Inform the Human Resources Officer at the appointment of any secondary employment they have.
- Comply with requests to attend Occupational Health when necessary.
- Inform their manager and Human Resources Officer of their intentions to return to work following maternity leave.

2.2 Adoptive Parents - It is the responsibility of adoptive parents to:

- Inform the manager as soon as they have been given notification from the Adoption Agency, Local Authority or Social Services confirming their intention to adopt within 7 days of being told that they have been matched with a child for adoption. They must also advise when they expect the child to be placed with them and when they want adoption leave to commence.
- Make an application to their manager to take adoption leave by completing the Adoption Leave Notification Form (see Appendix B).
- Inform the Human Resources Officer for their directorate, as soon as they receive official notification from the Adoption Agency, Local Authority or Social Services verifying that the child has been placed with them to arrange an appointment to discuss their adoption leave and pay entitlements. The original verifying document from the Adoption Agency, Local Authority or Social Services should be provided at the appointment.
- Comply with requests to attend Occupational Health when necessary.
- Inform their manager of their intentions to return following adoption leave.

2.3 Managers - On notification by a member of staff of their pregnancy, it is the responsibility of the manager to:

- Request and/or conduct a pregnant workers risk assessment (please see Appendix D) and do what is reasonably practicable to control any risk to the health of the expectant mothers unborn child or child of a new mother who has advised is breast feeding.
- Ensure a copy of this risk assessment is sent to Human Resources to be placed on the member of staff's personal file.

- Respond to the member of staff's request for maternity/adoption leave within 28 days of receipt of the Maternity or Adoption Leave Notification Form (plus original MATB1 or official notification from the Adoption Agency or Social Services) by countersigning the form if agreed and returning a copy to the member of staff, clarifying any details of the request as necessary before doing so.
- Ensure that the expectant mother or adopter is referred to the Human Resources Officer for their directorate to discuss the leave and pay entitlements in relation to their circumstances under the Trust Maternity/Adoption/Shared Parental Leave Policy; following 26 weeks or receipt of the MAT B1.
- Keep the member of staff informed about developments in the Trust and the ward/department whilst on maternity/adoption leave, as appropriate.

2.4 Human Resources Department - On notification by a member of staff of their pregnancy, adoption or shared parental leave application, it is the responsibility of the Human Resources Department to:

- Advise the expected mother or adopter of their rights and obligations under the Trust's Maternity/Adoption and Shared Parental Leave Policy
- Inform Payroll of commencement of the mother/adopter's leave by forwarding a completed Maternity/Adoption Form along with the original MATB1 certificate or Matching Certificate (for Payroll purposes) and subsequently confirming the return to work of the member of staff.
- Advise the member of staff on their application for shared parental leave of their rights and obligations
- Inform Payroll of commencement of Shared Parental Leave

2.5 Occupational Health Department - Should there be any medical complications or issues raised via the risk assessment for expectant mothers then consideration should be given to a referral to the Occupational Health Department. The OH team will:

- Advise managers and staff of the risks involved in undertaking certain work activities while pregnant or breast feeding.
- Provide independent advice regarding maternity issues in employment.

2.6 Payroll Department - Once notified by the Human Resources Department, it is the responsibility of the Payroll Department to:

- Ensure that payments are made in line with both current Occupational and Statutory regulations.
- Ensure that the necessary data and proof of pregnancy/adoption has been collected from the expectant mother to satisfy the Department for Work and Pensions annual auditing.
- Ensure that payments are made timely in line with normal salary crediting.
- Protect the employee's membership to the NHS Pension Scheme during the full period of leave both paid and unpaid.
- Issue a Statutory Maternity/Adoption Pay (SMP1) exclusion form to staff not entitled to statutory benefits to allow possible claims direct from the Department for Work and Pensions.

3.0 Maternity Leave Provisions

- 3.1. All Trust employees have an entitlement to Maternity Leave; however, the level of pay is dependent upon their NHS service (Section 7.0 on page 17).
- 3.2. This section briefly lays out maternity entitlements for employees whilst they are employed by the Trust. Entitlements are dependent upon an employee's length of service and whether or not they intend to return to work within the NHS.

An expectant mother is entitled to take up to 52 weeks' statutory leave which is broken down into ordinary maternity leave and additional maternity leave.

- **Ordinary Maternity Leave (OML)**

Irrespective of length of service and hours worked, a member of staff is entitled to a minimum of 39 weeks' maternity leave, herein referred to as Ordinary Maternity Leave (OML). OML may begin at any time from 11 weeks before the EWC.

- **Additional Maternity Leave (AMP)**

Additional Maternity Leave follows Ordinary Maternity Leave and there must be no gap between the two periods of leave.

3.3. **Compulsory Maternity Leave**

A new mother may not return to work immediately after childbirth. There is a compulsory statutory period of two weeks' maternity leave from the birth of the child.

3.4. **Statutory Maternity Pay Provisions (SMP) – Option B**

In order to be eligible for Maternity pay under SMP provisions the employee must:

- Have been employed by the Trust for a continuous period of at least 26 weeks by the 15th week before their EWC but less than 12 months service.
- Have an average weekly earnings, during the qualifying weeks for maternity pay, at least equal to the lower earnings limit (LEL).

If these conditions are met, the employee will be entitled to 39 weeks SMP, irrespective of whether or not the employee intends to return to work. This will be made up of 6 weeks at the higher rate of SMP (90% of the employee's average weekly earnings before tax) followed by 33 weeks at lower flat rate of SMP or 90% of average weekly earnings before tax (whichever is lower).

3.3 **Occupational Maternity Pay Provisions (OMP) – Option C**

In order to be eligible for maternity pay under NHS terms and conditions the employee must:

- Have been employed within the NHS for a continuous period of at least 12 months by the start of the 11th week before their Expected Week of Childbirth (EWC).
- Return to work within the Trust or another NHS organisation for a minimum of 3 months at the end of their maternity leave.

If these conditions are met and the employee intends to return to work, the employee is entitled to 39 weeks paid Maternity Leave at the following rate, subject to Tax and National Insurance deductions:

- 8 weeks full pay (inclusive of SMP – where eligible)
- 18 weeks half pay (inclusive of SMP – where eligible)

- 13 weeks low rate SMP

Those registered on the **Staff Bank only are not** entitled to Occupational Maternity Pay though may be entitled to Statutory Maternity Pay or Maternity Allowance. (See Section 3.2 or section 3.4).

If the member of staff originally decided that they would like to return to work and later decide that they no longer wish to do so, they will be required to reimburse the Trust the Occupational Maternity Pay received.

Please note that if you participate in one of the Trust's salary sacrifice schemes your Occupational Maternity Pay will be based on your revised salary.

3.4 Maternity Allowances (MA) – Option A

All new or expectant mothers are entitled to claim a maximum of 39 weeks Maternity Allowance from the benefits agency if they:

- are employed but do not qualify for SMP; or
- have recently been employed; or
- are self employed

Entitlement to Maternity Allowance is based on the employment and earnings before the expected week of the childbirth.

Claims should be made using form MA1, copies of which are available from the Government Department of Work and Pensions and from antenatal clinics. The expectant mother may continue to work right up until the baby is born.

3.5 Antenatal Care and Pay

- 3.5.1. All employees who are pregnant have the right to paid time off to attend antenatal care appointments (plus reasonable travelling time). Employees are not required to make up any lost time for these appointments, irrespective of the employees working pattern, provided that the antenatal appointment falls within their normal working hours. unless a full day is taken. The employee may be requested to provide evidence by their line manager, for example by providing an appointment card.
- 3.5.2. It is anticipated that antenatal care will consist of attending a clinic on a monthly basis for the first 28 weeks, increasing to fortnightly, then weekly for the final 4 weeks. If an expectant mother is required to attend a clinic more frequently than this, their manager may refer the employee to Occupational Health. This will enable the manager to have an informed discussion with the expectant mother regarding their health and make reasonable adjustments to enable continuity in their job role, as appropriate.
- 3.5.3. An expectant father or the partner (including same sex) of a pregnant woman will be entitled to take unpaid time off work to accompany the woman to up to 2 of her antenatal appointments. "Partner" includes the spouse or civil partner of the pregnant woman and a person (of either sex) in a long term relationship with her. The right applies whether the child is conceived naturally or through donor insemination. It also

extends to those who will become parents through a surrogacy arrangement if they expect to satisfy the conditions for and intend to apply for a Parental Order for the child born through that arrangement.

3.6 Absence Due to Sickness

- 3.6.1. If an employee is absent due to sickness prior to the 4th week before their EWC, this shall be treated as sick leave and normal sick leave entitlements will apply, irrespective of whether their sickness is pregnancy related.
- 3.6.2. If an employee has chosen to work beyond the 4th week before their EWC and is absent due to sickness which is certified as being unrelated to pregnancy, then normal sick leave provisions will apply. However, if the sickness is pregnancy related, the commencement of their maternity leave will automatically be triggered. However, the first 3 days of the absence will be counted as sick leave and the maternity leave will commence on the 4th day.
- 3.6.3. An employee who is absent due to pregnancy-related sickness will not be subject to the formal stages of the Sickness Absence policy, however their attendance will be monitored and reviewed as normal.

3.7. Miscarriage and Still Births

- 37.1. Where an employee miscarries prior to the 24th week of pregnancy, normal sick leave provisions will apply.
- 3.7.2. When an employee's baby is still born after the 24th week of pregnancy the employee will be entitled to the same amount of Maternity Leave and Pay as if their baby had been born alive.

3.8. Premature Birth Prior to the 11th Week before EWC

- 3.8.1. Where an employee's baby is born prematurely (before the 37th week), the employee will be entitled to extend maternity, paternity or same sex partners leave by the number of days the baby was born prior to the due date at full pay.
- 3.8.2. Where childbirth occurs prior to the 11th week before expected date of childbirth maternity leave commences from the beginning of the actual week of childbirth. If the new mother has worked in the actual week of childbirth, she is entitled to payment in respect of the work done and maternity leave commences from the first day of absence in the week of childbirth. Any absence prior to childbirth, which is before the 11th week should be treated as sick leave.
- 3.8.3. Where an employee's baby is born prematurely as described above and has ongoing medical needs (for example, requiring regular hospital appointments and check-ups), the Trust will follow best practice guidance, consider formal and informal flexible working patterns and will consider offering additional paid or unpaid leave.
- 3.8.4. Employees/parents returning to work following the birth of a premature baby may be referred to Occupational Health by their line manager for support to meet their unique needs and in acknowledgement of the traumatic birth. This support will include the offer of counselling services.

- 3.8.5. Where a new mother's baby is born before the 11th week before the expected week of childbirth, and she has been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start at the beginning of the actual week of childbirth.

3.9. Death of a Child

- 3.9.1. Where the death of a child occurs after a live birth the member of staff is entitled to the full maternity leave and pay. If the death of a child should occur at the end of a maternity/adoption or shared parental leave period, managers may consider leave under the Special Leave Policy, or normal sickness arrangements may apply if absence is due to certificated sickness.

3.10. Failure to Return to Work

- 3.10.1. Employees should return to work for the Trust or another NHS organisation for a minimum period of 3 months directly at the end of their paid or unpaid maternity leave. If the employee fails to do this they will be asked to pay back their Occupational Maternity Pay.

3.11. Expectant mothers employed on Fixed-term contracts

- Staff with continuous service of 12 months or more by the start of the 11th week prior to expected date of childbirth, where the need for the post will cease after the 11th week before expected date of childbirth should have their contract extended to enable them to receive OMP during OML.
- Staff with continuous NHS service of between 26 weeks and one year's by the start of the 11th week prior to expected date of childbirth, where the need for the post will cease between the 15th week before expected date of childbirth and 26 weeks after expected date of childbirth, should have their contract extended to enable them to take up to 39 weeks' OML and to receive appropriate payment during that period.
- Staff with continuous service of less than 26 weeks by the 15th week before expected date of childbirth, where the need for the post will cease between the 14th week before expected date of childbirth and 26 weeks after expected date of childbirth, are not entitled to SMP but should have their contracts extended to enable them to take 39 weeks OML. These staff may be entitled to Maternity Allowance, and the Trust's payroll provider will be able to advise on any entitlement.
- Where a medical practitioner or other member of staff is participating in a planned rotation of appointments as part of an agreed programme of training, they have the right to return to work in the same post or in the next planned post within the Trust, irrespective of whether the contract would have ended if pregnancy and childbirth had not occurred. In such circumstances, the contract may be extended to enable the practitioner to complete the agreed programme of training.
- If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred, the repayment provisions following failure to return will not apply.

3.12. Health and Safety

- 3.12.1. Pregnancy should not be equated with ill health. Its health and safety implications can be adequately addressed by normal health and safety management procedures. Some hazards at work may affect the health and safety of new and expectant mothers. It is imperative therefore that care is taken to ensure the health and safety of the expectant mother.

3.13. Risk Assessment

- 3.13.1. An expectant mother's workplace or work activity could involve a risk to their health and safety so this is required to be assessed as soon as possible. The manager should undertake a risk assessment in accordance with the HSE guidance and should meet with the expectant mother to discuss any risks identified by the assessment. The expectant mother will be told what will be done to ensure that she will not be exposed to the risks that could cause her or the baby harm. Further guidance and templates can be found under the Risk Management section on the Trust intranet.
- 3.13.2. The expectant mother is also required to ensure their safety and that of their baby by identifying any risks within the workplace and to discuss these with their manager as soon as possible. If the expectant mother believes that there is a risk, which has not been considered in the risk assessment, the expectant mother should bring the risk to the attention of the manager. Should the expectant mother or manager require further advice they should contact the Trust H&S team.
- 3.13.3. These provisions also apply to the new/expectant mothers if they are breastfeeding or if it is found that the normal duties would prevent the new or expectant mother from successfully breastfeeding the child.

3.14. Occupational Health

- 3.14.1. Referral to Occupational Health for advice regarding pregnancy and work risk will normally be unusual. Ordinarily employees can be managed within the guidance supplied in the pregnancy regulations, there is no need for a compulsory referral once pregnancy has been advised. Referrals should only be made after the risk assessment, when specific advice is sought on medical issues.

3.15. Removal of staff from risk

- 3.15.1. If during the risk assessment a medical risk has been identified to an expectant mother, which cannot be controlled despite taking all reasonably practical measures, the manager is required to refer the employee to Occupational Health for further advice and support. If Occupational Health have made recommendations that the employee should be removed from their current role due to the potential risk, the manager should then contact their local Human Resources Advisor to discuss possible options. These options may include:
- Temporarily adjusting to her working conditions and/or hours of work; or
 - Offer of suitable alternative work in another area/department/locality if any is available on terms and conditions no less favourable than the employee's current terms and conditions. In the event that the alternative job role is at a lower grade, the expectant mothers pay will be protected; or
 - If this is not feasible, the expectant mother may be suspended from work on maternity grounds if it is considered by the manager, further to Occupational Health

guidance and consultation with Human Resources, that continued attendance, may damage the expectant mother or the baby's health. The suspension will be on health grounds and she will receive pay in accordance with the sickness and absence policy and procedure.

- If an expectant mother unreasonably refuses an alternative job role they will be suspended on no pay until maternity leave commences. If this is within 11 weeks prior to the expected date of childbirth, the expectant mother can commence their maternity leave. Any suspension from duty will be confirmed in writing by the manager.

3.15.2. Suspension will end on the commencement of maternity leave. This is from the 11th week before the EWC or the date indicated by the expectant mother from which they intended to take maternity leave date, whichever is the sooner.

3.15.3. If during the assessment it is identified that there is a potential risk for employee's whilst carrying out night duties including medical on-calls, manager's should refer the employee to Occupational Health for advice. The referral should include specific questions regarding the duties and associated risks. For on calls, the manager must inform Occupational Health whether it is residential or not. This risk assessment should be reviewed on a regular basis, the recommendations are that it is done at each trimester or if there are any changes to the individuals work or health situation.

3.16. Extending maternity leave

3.16.1. An extension of the maternity leave period will not normally be considered unless the full entitlement to maternity leave has not been exhausted. If return from maternity leave is prevented due to certificated sickness, normal sickness arrangements will apply.

3.17. Flexible Working

3.17.1. If at the end of the maternity leave the employee wishes to return to work on different hours/different work pattern, the employee can apply for flexible working via the Trust's Work-Life Balance Policy (available on the intranet).

3.18. Exceptional and Near Exceptional Leave Reward Policy

3.18.1. All sickness absence that is related to a pregnancy, either whilst an employee is still at work or on maternity leave, will not be taken into account when determining entitlement to the additional leave reward under this policy.

3.19.2 If an employee is on maternity leave during the application submission period then a manager can complete the application on their behalf. This should be discussed with the manager prior to commencement of maternity leave. For further information, please refer to the Additional Leave/Reward, Exceptional & Near-Exceptional Work Attendance Policy on the intranet.

4.0 Adoption Leave Provisions

Adoption leave is available to an employee who is the primary carer of a newly and legally adopted child under the age of 18 or has a child through surrogacy arrangement; this also applies to Dual Prospective Adopters.

If both parents adopting the child are employed by the Trust, Adoption Leave may be taken by either parent, but not both. Paternity Leave may be appropriate for the partner that is not the primary carer.

4.1 Entitlements to Occupational and Statutory Leave and Pay

All Trust employees have an entitlement to Adoption Leave; however, the level of pay is dependent upon their NHS service.

This section briefly lays out adoption entitlements for employees whilst they are employed by the Trust. Entitlements are dependent upon an employee's length of service and whether or not they intend to return to work within the NHS.

4.2 Statutory Adoption Pay (SAP) Provisions – Option B

In order to be eligible for Adoption Pay under SAP provisions the employee must:

- Have worked continuously for the Trust for 26 weeks ending with the week in which they are notified of being matched with a child for adoption.
- Have average weekly earnings during the qualifying weeks for Adoption Pay, at least equal to the lower earnings level.
- Submit their Adoption Leave Application 28 days before they wish to commence their Adoption Leave period or as soon as reasonable practicable by completing Appendix B. A copy of the Matching Certificate or Letter must also be submitted.

If these conditions are met the employee will be entitled to the first six weeks paid at the higher rate SAP (90% of the employee's normal earnings) and the remaining 33 weeks paid at the lower rate SAP irrespective of whether or not the employee intends to return to work.

4.3 Occupational Adoption Pay Provisions – Option C

In order to be eligible for Occupational Adoption Pay under NHS terms and conditions the employee must:

- Have been employed within the NHS for a continuous period of at least 12 months at the beginning of the week in which they are notified of being matched with the child to be adopted (Matching Week MW)
- Return to work within the Trust or another NHS organisation for a minimum of 3 months at the end of their adoption leave

If these conditions are met and the employee intends to return to work, the employee is entitled to 39 weeks paid Adoption Leave at the following rate, subject to Tax and National Insurance deductions:

- 8 weeks full pay (inclusive of SAP – where eligible)
- 18 weeks half pay (inclusive of SAP – where eligible)
- 13 weeks low rate SAP

Those registered on the **Staff Bank** only **are not** entitled to Occupational Adoption Pay though may be entitled to Statutory Maternity Pay. (See Section 4.2)

If the member of staff originally decided that they would like to return to work and later decide that they no longer wish to do so, they will be required to reimburse the Trust the Occupational Adoption Pay received.

Please note that if you participate in one of the Trust's salary sacrifice schemes your Occupational Adoption Pay will be based on your revised salary.

4.4 Time off for Adoption Appointments

The main adopter will be entitled to take paid time off for up to 5 adoption appointments. The secondary adopter will be entitled to take unpaid time off for 2 appointments. It also extends to those who will become parents through a surrogacy arrangement if they expect to satisfy the conditions for and intend to apply for a Parental Order for the child born through that arrangement.

4.5 Adoption Commencement Dates

- Employees can take Adoption Leave up to 14 days before the child starts living with the employee (UK Adoption)
- Employees can start Adoption Leave when the child arrives in the UK or within 28 days of this date (Overseas Adoption)

4.6 Additional Unpaid Adoption Leave

In addition to 39 weeks paid Adoption Leave all employees are entitled to take a further 13 weeks' unpaid leave.

4.7 Failure to Return to Work

Employees should return to work for the Trust or another NHS organisation for a minimum period of 3 months directly at the end of their paid or unpaid Adoption Leave. If the employee fails to do this they will be asked to pay back their Occupational Adoption Pay.

4.8 Flexible Working

If at the end of your Adoption Leave you wish to return to work on different hours, you can apply for flexible working via the Trust's Work-Life Balance Policy.

5.0 Dual Approved Prospective Adoption

A dual approved prospective adopter is entitled to take adoption leave and pay from up to 2 weeks before the child is placed with the family in accordance with section 22C of the Children's Act 1989 (i.e. from up to 2 weeks before the child joins the family, initially for fostering).

5.1 Eligibility

To be eligible for adoption leave the dual approved prospective adopter must:

- Be a local Authority foster parent who has been approved as suitable to adopt the child they will initially foster.
- Have been notified by the local authority of its decision to place a child with him/her in accordance with section 22C of the Children's Act 1989.
- Have notified the local authority that they agree to the placement (initially for fostering) and the date it will take place.
- Give the correct notice to their employer (this notice must be given within 7 days of the employee being notified by the local authority in accordance with section 22C, or as soon as practicable).
- The adopter's partner may qualify for paternity leave and pay. In the joint cases of joint adoptions, if both of the dual approved prospective adopters are eligible they can decide between themselves who will take the adoption leave and pay and who will take the paternity leave and pay.

Where a placement by a local authority under section 22C of the Children's Act 1989 does not proceed to a formal adoption e.g. because the child or children are returned to their birth parents or will be cared for by a family member or friend, the dual approved prospective adopter's entitlement to adoption leave will end 8 weeks after the child is removed from their family or at the end of their adoption leave, whichever is earlier. Other reasons for ending adoption leave will be if opting in to Shared Parental Leave.

5.2 How to Apply for Dual Approved Prospective Adoption Leave

To apply for dual approved prospective adoption leave please refer to section 4.0.

5.3 Extending adoption leave

An extension of the adoption leave period will not normally be considered unless the full entitlement to adoption leave has not been exhausted. If return from adoption leave is prevented due to certificated sickness, normal sickness arrangements will apply.

6.0 Surrogacy

Parents in a surrogacy arrangement who are entitled to and intend to apply for a Parental Order under the Human Embryology and Fertilisation Act 2008 will be able to take Adoption Leave and Pay or Paternity Leave and Pay (birth and adoption), if each parent meets the normal qualifying conditions. Both parents in a surrogacy arrangement are also entitled to take unpaid time off work to attend two antenatal appointments with the women carrying the child.

6.1 Trust Employees who are Surrogate Mothers

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.

6.2 Intended parents

One of the intended parents in a surrogacy arrangement may be eligible for adoption leave and pay if they attend to apply for and expect to obtain (or have already obtained) a Parental Order for their child under the Human Embryology and Fertilisation Act 2008.

The intended parents can apply for a Parental Order 6 weeks after the child is born, and before the child is 6 months old.

6.3 Parental or adoption order criteria

- Intended parents must be genetically related to the child to be able to apply for a parental order.
- Adoption using a registered adoption agency, will be necessary for intended parents to become the legal parents if neither are genetically related.
- Adoption leave and pay is available to eligible employees who become the legal parents following an application for adoption or parental order.
- Once the Parent Order has been granted, to apply for adoption leave, please refer to section 4.0

6.4 Overseas Surrogacy

If the surrogate gives birth abroad, parental orders can only be applied for if the intended parents are living in the UK. As different countries have different rules for surrogacy arrangements it can be complicated and may take several months to complete. A visa will be required for the child while visiting the country during the process. The child will also need to get a passport. The parental order will need to be applied for in the UK to transfer legal rights from the surrogate mother to the intended parents.

Parent Order parents are entitled to take unpaid leave to enable them to accompany the surrogate mother to up to 2 of her antenatal appointments.

7.0 Leave and Pay Entitlement Table

The below table is a summary of the leave and pay entitlements for maternity, adoption and paid shared parental leave. For more detailed information of entitlements, please refer to the relevant section of this policy as indicated:

| Length of Service | Maternity/Adoption Leave | Benefits Entitlements |
|--|---|---|
| Option A: Less than 26 weeks with the Trust or NHS | 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave | Leave is unpaid but you may be able to claim Maternity Allowance from the Department of Work and Pensions |
| Option B: At least 26 weeks with the Trust but less than 12 months with the NHS at 15 th week before baby is due and have earned enough to pay NI contributions | 39 weeks paid leave, up to 13 weeks unpaid leave | 6 weeks at high rate SMP followed by 33 weeks lower rate SMP |
| Option C: 12 months NHS service (either with the Trust or another NHS body) by the start of the 11 th week before the baby is due and YOU WILL BE RETURNING TO WORK | 39 weeks paid leave, up to 13 weeks unpaid leave | 8 weeks at full pay followed by 18 weeks half pay plus low rate SMP (provided this does not exceed full pay) followed by 13 weeks at low rate SMP |
| Option D: 12 months NHS service (either with the Trust or another NHS body) by the start of the 11 th week before the baby is due and YOU WILL NOT BE RETURNING TO WORK | N/A | 6 weeks at high rate SMP followed by 33 weeks at low rate SMP |

8.0 Shared Parental Leave Provisions

8.1 General Principles

The amount of leave available is calculated using the mother'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. This means their partner could begin to take SPL while the mother is still on maternity/adoption leave.

Therefore, eligible mothers and fathers will be able to share up to 50 weeks leave (52 weeks less 2 weeks' compulsory maternity leave) to care for their child – less the period that the mother has spent on maternity/adoption leave; and share up to 37 weeks shared parental pay (39 weeks less 2 weeks compulsory maternity/adoption pay) – less the pay period the mother has taken.

SPL enables parents to share the caring responsibilities evenly or have one parent taking the main caring role, depending on their preferences and circumstances. Unlike maternity/adoption leave, eligible employees can stop and start their SPL and return to work between periods of leave with each eligible parent able to submit three notices, booking periods of leave.

8.2 Eligibility Criteria

To qualify for SPL:

- Only be used by two people
- Be a mother/adopter
- Be the father of a child (in the case of a birth)
- Be a spouse, civil partner or partner of the child's mother/adopter
- Be entitled to either maternity/adoption leave or to statutory maternity/adoption pay or maternity allowance
- Have curtailed, or given notice to reduce their maternity/adoption leave, or their pay/allowance (if not eligible for maternity/adoption leave)

A parent intending to take SPL:

- Be an employee
- Share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption
- Have properly notified the Trust of their entitlement and have provided the necessary declarations and evidence

In addition, a parent wanting to take SPL is required to satisfy the 'continuity of employment test' and their partner must meet the 'employment earnings test' see table below:

| Continuity of Employment Test | Employment and Earnings Test |
|--|--|
| The individual has worked for the same employer for at least 26 weeks at the end of the 15 th week before the child's expected due date/matching date and is still working for the employer at the start of each leave period | In the 66 weeks leading up to the baby's expected due date/matching date, the person has worked for at least 26 weeks and earned an average of at least £30 a week in any 13 weeks |

Sometimes only one parent will be eligible. For example, a self-employed parent will not be entitled to SPL themselves but they may still pass the 'employment and earnings test' so their partner, if they are an employee may still qualify.

If both parents are employees and both meet the qualifying requirements, then there will be a joint entitlement and the parents will have to determine how to divide the leave entitlement once the mother has decided to curtail the maternity/adoption leave.

8.3 Shared Parental Pay

A mother, subject to certain criteria will be entitled to statutory/occupational maternity pay/adoption pay/maternity allowance for up to 39 weeks in accordance with the maternity/adoption pay policy.

If the mother gives notice to reduce their pay entitlement before they have received it for 39 weeks then any remaining weeks could become available as ShPP.

From 1 April 2019 shared parental pay will be enhanced to the same levels as occupational maternity / adoption pay,

Eligibility for this enhanced level of pay will mirror current eligibility requirements for occupational maternity / adoption pay, as set out in section 7.0 dependent on service levels.

Shared parental leave is a joint entitlement between two partners, the partner in receipt of maternity / adoption pay will need to give binding notice to end their maternity / adoption leave and pay before taking up any period of shared parental leave and pay. Both parents must each inform their employer of their entitlement.

To qualify for ShPP an employee needs to have met the 'continuity of employment test' and their partner must meet the 'employment and earnings test', just like SPL. In addition, the employee must also have earned above the 'Lower Earnings Limit' in the eight weeks leading up to and including the 15th week before the child's due date/matching date and still be employed with the same employer at the start of the first period of ShPP.

If an employee's employment comes to an end whilst they are still entitled to some ShPP then any remaining weeks will usually remain payable unless they start working for someone else.

It is the employee's responsibility to check that they are eligible for SPL and ShPP. If it is subsequently discovered that ShPP was incorrectly paid, the Trust will correct their records and recover wrongly paid ShPP as an overpayment of wages, as applies to all payments.

8.4 Shared Parental Leave

Shared Parental leave is a new legal entitlement for eligible parents of babies due, or placed for adoption, on or after 5th April 2015.

Shared Parental Leave can:

- Start on any day of the week after the mother has taken the legally required two weeks of maternity leave immediately following the birth of the child
- Only be taken in complete weeks (so if SPL lasts for one week and begins on a Tuesday it will finish the following Monday)
- Be taken using three separate notices to book leave

- Be taken by the partner, while the mother is still on maternity/adoption leave if the mother reduces their entitlement to maternity adoption leave/pay
- Each notice to book SPL can be for either a 'continuous' block or multi 'discontinuous' blocks.
- Notifying the Trust of a continuous block means taking an unbroken period of leave. For example, this could be a notification for a period of six weeks leave.
- Notifying the Trust of a discontinuous leave means asking for a set of number weeks over a period of time
- Be taken after paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken SPL or ShPP)

It should be noted that SPL can only be used after the mother has:

- Already returned to work, or given notice to their employer that reduces their maternity/adoption leave, confirming when their maternity/adoption leave will come to an end. Notice is binding so cannot be withdrawn.

8.5 Notifying the Trust to Take up Shared Parental Leave

The employee entitled and intending to take SPL must give their line manager and their local HR Officer notification of their entitlement and intention to take SPL, at least 8 weeks before they can take any period of SPL.

Notification must be in writing and requires the following:

- The name of the employee
- The name of the other parent
- The start and end dates of any maternity/adoption leave or pay, or maternity allowance taken in respect of the child and the total of SPL available
- The date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption
- The amount of SPL or ShPP the employee and their partner each intend to take
- A non-binding indication of when the employee expects to take leave

8.6 Terms and Conditions during Shared Parental Leave

During SPL an employee is entitled to benefit from all terms and conditions of their employment except for remuneration. Employees are also bound by any obligations arising from the terms and conditions except the need to attend work. Early birth and special circumstances; effect on Shared Parental Leave in certain situations an employee's right and requirements to take SPL do change.

8.7 Multiple births/adoptions

An employee is not entitled to take extra SPL or ShPP if they are expecting more than one child. The entitlements are, like maternity leave, the same as if the employee was expecting one child. This also applies to multiple adoptions that occur in a single placement.

8.8 Fraudulent Claims

The Trust can, where there is suspicion that fraudulent information may have been provided or where the Trust has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the Trust's Counter Fraud and Bribery Policy.

In such cases a referral may be made to the Trust's Local Counter Fraud Specialist. Fraud constitutes gross misconduct and may lead to disciplinary action.

9.0 Keeping in Touch Days for Maternity/Adoption and Shared Parental Leave

The new mother or adoptive parent must keep her manager in touch with any developments, which may affect her intended date of return.

Managers must discuss and agree any voluntary arrangements for keeping in touch with the expectant mother/adoptive parent or parent on shared parental leave prior to the commencement of maternity/adoption or shared parental leave. This must include any arrangements which the expectant mother or adoptive parent may find helpful to keep him/her in touch with developments at work and to facilitate their return to work, such as:

- Changes affecting Terms and Conditions;
- Trust Newsletter;
- Information on training courses and seminars;
- Social or departmental events.

9.1 'Keeping in Touch Days

Staff may work by agreement with their manager during the maternity/adoption or shared parental leave period. Such days worked are herein referred to as 'Keeping in Touch Days'. These are known as "KIT" days.

Up to ten days' work under the new mother/adoptive parent's contract of employment may be undertaken at any stage during the 39 weeks' maternity/adoption leave period, by agreement with the manager, with the exception of during the first two weeks after the baby is born for new mothers. This work is for substantive employment only.

An employee who is currently on SPL can agree to work for up to 20 days but this will be between both parents not 20 days per parent, without bringing SPL to an end or impacting their right to claim ShPP for that week. These are known as "Shared Parental Leave in Touch" or "SPLIT" days.

If the work carried out during one shift straddles midnight it may be counted as one day for the purposes of 'KIT or SPLIT days', if the new parent's normal working pattern is such that, this would fall within a normal working day.

The type of work that the new parent undertakes on 'KIT or SPLIT Days' is a matter of agreement with their manager. They may be used for any activity which would ordinarily be classed as work under her contract, for which they would be paid, but could be particularly useful in enabling them to attend a conference, undertake a training activity or attend for a team meeting for example. Please note that the Trust is unable to re-activate your Smart Card during KIT or SPLIT days.

Work during maternity/adoption or shared parental leave may only take place by agreement between both manager and new parent. A manager may not require a new parent to work during maternity, adoption or shared parental leave if they do not wish to, nor does a new parent have the right to work 'KIT or SPLIT Days' if their manager does not agree to them.

If the manager offers a new parent the opportunity to work a 'KIT or SPLIT Day' they are entitled to turn the opportunity down without suffering any consequences as a result.

9.2 Payment for 'Keeping in Touch Days'

Staff are entitled to be paid for working a 'KIT or SPLIT Day'. The rate of pay will be as set out in the employment contract. No payment for 'KIT or SPLIT' days will be in excess of this rate.

If the new parent is receiving SMP/SAP or ShPP and/or half-pay, the Trust will count this amount towards the full contractual pay for the day in which the work is done.

In order to ensure that staff are paid accordingly, the manager is required to complete a change form stipulating the date(s) and hours of the 'KIT or Split' day worked.

10.0 In Vitro Fertilisation (IVF) and other fertility treatment

The Trust recognises the emotional pressure of undergoing IVF treatment and understands the potential anxiety and distress that staff may suffer during the process. The Trust wishes to support staff who decide to undertake fertility treatment, or those whose partner is undergoing the treatment, as much as possible by providing special unpaid or paid leave for this purpose.

For further details of the leave available for IVF and other fertility treatment, please see the Trust Annual and Special Leave Policy, which can be found on the Trusts Intranet.

11.0 Parental Leave (Paternity)

Around the time of the birth of a child, it is important for the parents, be the biological parents or cohabiting partners taking the responsibility of parenting, to be present to maintain domestic and other arrangements. This is particularly true of situations where there is a need to take care of young children. Parental Leave is available to substantive staff only.

Trust staff who become parents, whether they are birth or adoptive parents, who have completed 26 weeks continuous NHS service by 14 weeks before the expected week of confinement will be entitled to take paid parental leave.

Supporting Premature Babies and Their Families

Where an employee's baby is born prematurely (before the 37th week) the employee will be entitled to up to two weeks' paid compassionate leave, in addition to paternity leave.

Where an employee's baby is born prematurely as described above and has ongoing medical needs (for example, requiring regular hospital appointments and check-ups), the Trust will also follow best practice guidance, consider formal and informal flexible working patterns where appropriate and consider offering additional paid or unpaid leave.

Employees/parents returning to work following the birth of a premature baby will be referred to Occupational Health by their line manager for support to meet their unique needs and in acknowledgement of the traumatic birth. This support will include the offer of counselling services.

For full details, please see the Trust Annual and Special Leave Policy, which can be found on the Trust Intranet.

12.0 Work during Maternity, Adoption and Shared Parental Leave

Work on the Trust Bank or working anywhere outside the Trust during the employee's contracted hours is not permitted during paid or unpaid Maternity, Adoption or Shared Parental Leave.

To work on the Trust Bank or anywhere outside the Trust during the employee's contracted hours whilst on paid or unpaid maternity, adoption or shared parental leave constitutes gross misconduct and may lead to disciplinary action and referral to the Trust's Local Counter Fraud Specialist.

13.0 Annual Leave

Annual leave accrues for the full maternity, adoption or shared parental leave period (during paid and unpaid leave).

It is not possible for a new parent to take annual leave at the same time as maternity, adoption or shared parental leave, therefore this can only be taken directly at the end of this leave period.

Under Agenda for Change, any untaken annual leave that exceeds the normal carry over provisions, i.e. 5 working days (pro rata for part-time staff) is to be taken directly before or after maternity, adoption or shared parental leave. The annual leave should be recorded by the manager as per their local procedure.

It is in the interests of staff returning on reduced hours to take any outstanding annual leave either prior to commencement of maternity, adoption or shared parental leave or prior to their return. Thereafter, annual leave will be calculated pro rata to the new hours worked.

Staff not intending to return should where possible take any outstanding annual leave prior to commencement of maternity, adoption or shared parental leave. The date of termination of service will then be calculated as last working day plus outstanding annual leave days.

14.1 Bank Holidays

All employees are entitled to accrue bank holidays whilst on paid and unpaid maternity, adoption or shared parental leave.

14.0 Financial Pay Elements

14.1 Increments & Pay Awards

Absence on maternity, adoption or shared parental leave, whether paid or unpaid, counts towards service for incremental purposes.

Where a pay award is made during the period of OML, OAL or SPL an award is backdated to this time, the expectant or adopter employee pay will be recalculated accordingly.

14.2 Financial Arrangements - Income Tax, National Insurance and Pension Contributions

Income Tax and earnings related National Insurance and Pension contributions calculated on the amount of maternity/adoption or ShPP pay due will be deducted from any payments made.

Maternity/Adoption and Shared Parental pay will be paid in the same way as per normal salary.

If the new parent is a member of the NHS pension scheme and is entitled to the full maternity/adoption or shared parental leave benefits, then they will continue to contribute as normal whilst they are being paid.

During paid maternity/adoption or shared parental leave, pension contributions will be calculated on the amount of occupational and statutory pay receivable.

For those staff taking unpaid maternity/adoption or shared parental leave, pension contributions are assessed on the amount of pay received immediately prior to the unpaid leave.

Arrears of pension contributions accumulated throughout the unpaid leave period will be deducted on the return to work of the new parent over the same period as the accumulation took place.

In the event that staff return to work on a part-time basis, the period over which repayment takes place can be extended. This can be arranged between the manager and the Trust's Payroll Department if so requested by the new parent.

15.0 Contract of Employment

15.1 Continuous Previous Service

A new parent continuous previous service with any NHS employer counts as reckonable service in respect of NHS agreements on maternity/adoption or shared parental leave.

15.2 Dismissal or Resignation before the Intended Maternity/Adoption or Shared Parental Leave Start Date

If a member of staff resigns or is dismissed before the date they have notified, they will lose the right to maternity/adoption or shared parental leave, but they may still be eligible for SMP or SAP.

15.3 During Ordinary Maternity/Adoption Leave or Additional Maternity/Adoption or Shared Parental Leave

The contract of employment continues throughout the period of Ordinary Leave (OL) or Additional Leave (AL), unless the member of staff or the Trust expressly ends it or it expires. Both periods of leave will count towards the member of staff's period of continuous employment or the purposes of their statutory employment rights.

When returning to work after ordinary maternity/adoption or shared parental leave, the member of staff will be entitled to return to the same job and the same terms and conditions as before their leave began (unless a redundancy situation arises during the leave, in which case the process will be managed in accordance with the Trust's Managing Staff Affected by Change Policy). If a member of staff on maternity/adoption or shared parental leave is made redundant, their leave period comes to an end further to notice of redundancy. Any outstanding maternity/adoption or shared parental leave payment will be included within the final salary.

When resuming work after Ordinary Leave, the new parent will be entitled to benefit from any pay awards, incremental increases or any other terms and conditions, which may be introduced for the grade of work while they have been away.

15.4 Returning to work

A new parent who has notified their intention to return to work has the right to return to their original job under the original contract on no less favorable terms and conditions if their entitlement is to 39 weeks' maternity/adoption or shared parental leave or more.

The Trust will, wherever possible, endeavor to meet the expectations of a new parent wanting to return on a more flexible basis and will aim to ensure that the return is at a grade commensurate with their leaving grade and to work of a similar status. If it is agreed that the member of staff will return to work on a flexible basis for an agreed temporary period, this will not affect their right to return under their original contract at the end of the agreed period. Please refer to the Trust's Work-Life Balance Policy.

A member of staff who has taken Additional Leave and who finds that, due to a further pregnancy/adoption, they will require a further period of maternity/adoption or shared parental leave to commence immediately on expiry of Additional Leave is entitled to return to work to her original job if this is reasonably practicable, or to another job which is deemed to be suitable and appropriate at the end of the second period of Additional Leave.

15.5 Return to work before the end of Ordinary or Additional Maternity/Adoption or Shared Parental Leave

If the member of staff intends to return to work before the end of the ordinary/additional maternity or shared parental leave period, they must give their manager and their Local HR Officer 8 weeks' notice of the date of return. Where there is a failure to give 8 weeks' notice of this change, the manager may postpone the return until the full 8 weeks' notice has been given. However, the manager may not postpone a member of staff returning from maternity/adoption or shared parental leave's return date to a date later than the end of their leave period for which they qualify.

15.6 Return to work at the end of Ordinary or Additional Maternity/Adoption or Shared Parental Leave

If the member of staff is only entitled to Ordinary Leave (OL) the member of staff does not have to give the Trust advance notice if they intend to return to work immediately following the OL. The Trust will assume that the member of staff will be returning to work after OL unless they have notified their manager otherwise at least 8 weeks before the end of the OL.

If the new mother or adoptive parents are entitled to Additional Leave (AL) and has informed the Trust that they would like to take AL, they are still required to give 8 weeks' notice in writing to their manager and their Local HR Officer. However, if they wish to return early they must still give at least 8 weeks' notice to their manager and the Local HR Officer in writing.

In each case above, where there is a failure to give 8 weeks' notice of this change, the manager may postpone their return until the full 8 weeks' notice has been given. However, the manager may not postpone the return date to a date later than the end of the maximum maternity or adoption leave period.

15.7 Sickness at the end of Ordinary or Additional Leave

If a new parent is unable to attend work at the end of the ordinary or additional leave due to sickness the normal contractual arrangements apply, for example, the member of staff should notify the Trust straight away and provide a Medical Certificate on the eighth day of sickness.

15.8 Failure to return to work and recovery of Occupational Pay

If the member of staff does not return to the Trust but accepts employment with another NHS employer within 15 months, they will be required to provide proof of acceptance by another Trust either by providing an unconditional offer letter or a copy of the contract.

16.0 Additional Information

16.1 Impact Assessment Statement

This policy has been impact assessed in accordance with the East London NHS Foundation Trust Equality Impact Assessment Guide.

16.2 Agreement

This Policy has been jointly agreed by Management and Trade Unions in partnership.

16.3 Policy Review

The Director of Human Resources will monitor and review this policy and present any necessary changes to the Joint Staff Committee (JSC).

APPENDIX A

MATERNITY LEAVE NOTIFICATION FORM

This application should be submitted as soon as possible and, in any event, not less than eight weeks before the commencement of the maternity leave or EWC. After submitting this form to your manager to sign, **this form must be submitted to your local HR officer together with the Original MATB1.**

Personal Details

Name:.....

Home Address:.....

.....

Job Title:..... Department:.....

Location:.....

Maternity Arrangements

My expected week of confinement commences on:.....

I wish to apply for maternity leave from :

I wish to take the following number of weeks maternity leave:.....

I expect to return to work on the following date:

I will be taking annual leave after my paid/unpaid maternity leave* (*please delete) on the following dates:

I attach a statement from my doctor/midwife (MATB1) giving the expected date of my confinement.

I have secondary employment (please circle) Yes No

I do not intend to return to work in NHS employment [] (*tick as appropriate*)

I have received a copy of the Trust Maternity/Adoption & Shared Parental Leave Policy and undertake to abide with the conditions therein. Unless otherwise stated above, I understand that if I fail to return to work I will be liable to repay the Trust my Occupational Maternity Pay in accordance with the Trust Maternity/Adoption & Shared Parental Leave Policy. I also understand that apart from working on keeping in touch days, I will not be permitted to work on the Trust Bank or outside the Trust, during my contracted hours whilst on paid or unpaid maternity leave. I also confirm that I will seek permission from the Trust if I intend to work for another employer outside of my contractual hours, during my paid maternity leave. Any breach of this clause could be classed as gross misconduct and may lead to disciplinary action and referral to the Trust's Local Counter Fraud Specialist.

Signed (member of staff): Date:

Manager's signature: Date:

Print name: _____ **Tel No:** _____

HR USE ONLY

Entitled to: MA SMP OMP (please circle)

Date letter sent to member of staff:

Date copies sent to Manager & Payroll Dept: _____

APPENDIX B

ADOPTION LEAVE NOTIFICATION FORM

This form should be completed by the member of staff at least eight weeks before the official adoption date and submitted to the line their manager with supporting evidence including notification from the Adoption Agency or Social Services/Local Authority confirming their intention to adopt and verifying that the child has been placed with them.

Personal Details

Name:.....

Home Address:.....

.....

Job Title:..... Department:.....

Location:.....

Adoption Arrangements

Expected Date of Adoption:

I wish to apply for Adoption leave from (): _____

I wish to take the following number of weeks adoption leave: _____

I expect to return to work on the following date: _____

I will be taking annual leave after my paid/unpaid adoption leave* (*please delete) on the following dates: _____

I do not intend to return to work in NHS employment [] (*tick as appropriate*)

I have secondary employment (please circle) Yes No

I attach notification from the Adoption Agency or Social Services confirming their intention to adopt and verifying that the child has been placed with myself.

I have received a copy of the Trust Maternity/Adoption & Shared Parental Leave Policy and undertake to abide with the conditions therein. I understand that if I fail to return to work I will be liable to repay the Trust my Occupational Maternity Pay in accordance with the Trust Maternity/Adoption & Shared Parental Leave Policy. I also understand that apart from working on keeping in touch days, I will not be permitted to work on the Trust Bank or outside the Trust, during my normal contracted hours whilst on paid or unpaid adoption leave. I also confirm that I will seek permission from the Trust if I intend to work for another employer outside of my contractual hours, during my paid adoption leave. Any breach of this clause could be classed as gross misconduct and may lead to disciplinary action and referral to the Trust's Local Counter Fraud Specialist.

Signed (member of staff): _____ **Date:** _____

Manager's signature: _____ Date: _____

Print name: _____ Tel No: _____

HR USE ONLY

Date letter sent to member of staff:

Date copies sent to Manager & Payroll Dept: _____

APPENDIX C

APPLICATION FOR SHARED PARENTAL LEAVE

Please complete the form in BLOCK CAPITALS if handwritten.

| | |
|-------------------|----------|
| Title | |
| First Name | |
| Surname | |
| Job Title | |
| Department | |
| Home Address | Postcode |
| Tel Number (Work) | |
| Tel Number (Home) | |

Please inform your Head of Department/Line Manager and the HR Workforce Team if your home address or contact details change during your Shared Parental Leave.

I wish to inform you that I intend to take Shared Parental Leave as follows:

Confirm whether you will be taking Shared Parental Leave or Shared **Paid** Parental Leave _____

Child's date of birth or date of placement for adoption _____

Expected date SPL/ShPP leave period to commence* _____

Expected return to work date _____

Dates of paid annual leave to be taken before and/or after SPL/ShPP leave (in agreement with your Line Manager)

Before SPL/ShPP leave From _____ To _____

It is your responsibility to ensure that all accrued annual leave is taken prior to commencing leave, if this is not possible you will be required to take it directly at the end of the SPL/ShPP.

After SPL/ShPP leave From _____ To _____

If, during your SPL/ShPP leave, you change your mind about when you intend to return to work, you must give us **at least 8 weeks' notice** of your new intended date of return.

Please confirm the following:

- ☐ I am the baby's mother or biological father or the partner of the mother/adopter. This can be spouse, civil partner; or a partner living with the mother in an enduring family relationship.
- ☐ I have responsibility for the child's upbringing
- ☐ The purpose of the period of my SPL/ShPP leave will be to care for the child whose birth/adoption certificate is provided with this form.
- ☐ I confirm that my partner will be returning to work without using their full maternity/adoption leave period and has completed the consent form, which gives consent for their details to be processed.
- ☐ I state my intention to retain my right to return to work following my SPL/ShPP leave.
- ☐ If I wish to return to work earlier than my confirmed return date, I agree to inform my local Human Resources Officer and my manager at least 8 weeks before the earlier return date. If I wish to return after my confirmed return date I will give at least 8 weeks' notice in writing, prior to my confirmed date.
- ☐ I will discuss the option of a maximum of 20 'Touch Days' with my Line Manager (these days are between both parties and not to be taken by one parent only).

If you require any information regarding your pension contributions during your SPL/ShPP, please contact the Pensions Office directly on 020 8591 4700.

DECLARATION

I have read and understood the Trust's Maternity/Adoption & Shared Parental Leave Policy, and agree to the following:

- a) I will respond within the required timescales to all Trust correspondence regarding my shared parental leave or I may, subject to my contract of employment, forfeit my right to return to work until relevant notice has been given.
- b) I enclose/have already provided my child's birth certificate, or confirmation of placement for adoption from my local authority (please delete as appropriate)
- c) I confirm that all details provided in this form to receive SPL or ShPP, are correct.
- d) I also understand that whilst on Shared Parental Leave, apart from working on 'Shared Parental Leave in Touch Days within my substantive post', I must not undertake paid or unpaid work on the Trust Bank or outside the Trust, during my contracted hours. I also confirm that I will seek permission from the Trust if I intend to work for another employer outside of my contractual hours, during my paid Shared Parental Leave. Any breach of this clause could be classed as gross misconduct and may lead to disciplinary action and referral to the Trust's Local Counter Fraud Specialist.

Signed: _____ Date: _____

- To qualify for SPL/ShPP you must complete and return this form to your local Human Resources Officer, and give a copy to your Line Manager no later than 8 weeks prior to the date you wish your SPL/ShPP to commence.
- Your partner must complete page 3 of this form in full and sign the declaration.
- Please provide a copy of your child's birth certificate/confirmation of placement from the adoption agency along with this form
- All details of your SPL/ShPP, if applicable, pay will be confirmed in writing by your local Human Resources Officer.
- Please contact your local Human Resources Officer as soon as possible, should your anticipated dates change.

This section of the form must be completed by the partner of the member of staff applying for Shared Parental Leave or Shared Paid Parental Leave

| | |
|--|----------|
| ELFT - Member of Staff Name & Department | |
| Details of partner: | |
| Title | |
| First Name | |
| Surname | |
| Place of work & contact number | |
| Home Address | Postcode |
| Tel Number (Home) | |
| National Insurance Number | |

☐ I declare that I have now given notice to my employer that I am returning to work from my maternity/adoption leave and the relevant details are as follows:

| | |
|--|--|
| The start date of my maternity/adoption pay period was: | |
| I intend to return to work from my maternity/adoption period on: | |
| Total amount of Shared parental leave available | |

- ☐ I confirm that I have been in receipt of either Statutory Maternity/Adoption Pay or Maternity Allowance, following the birth of my child/ placement of my child (please delete as appropriate).
- ☐ I confirm that your employee named above is my child's father/ my spouse/ my partner or civil partner.
- ☐ I confirm that your employee named above has the main responsibility (apart from my responsibility) for the upbringing of my child.
- ☐ I confirm that your employee named above is, to my knowledge, the only person exercising the entitlement to Shared parental Leave, and is the sole applicant for Shared Parental Leave pay in respect of my child.
- ☐ I consent to the Trust processing the information contained in this form, and contacting my place of work if necessary.

I declare that all details stated on this form are correct:

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

APPENDIX D

Individual risk assessment: new or expectant mothers

(NM= new mother; EM= expectant mother)

| | | | | | |
|---------------------------------|--|--------------------|--|-------------------------------------|--|
| Name of new or expectant mother | | Location | | Job title and brief job description | |
| Line Manager Name | | Date of Assessment | | | |

The cells will expand automatically as you type. Press <TAB> to go on next cell

| Hazard listing and <i>guidance (which is set in italics)</i> . | Hazard present (Y/N)? | Existing precautions to eliminate, avoid, reduce risk | Further precautions required / recommended to eliminate, avoid, reduce risk |
|--|-----------------------|---|---|
| Standing: continuous standing should be avoided (<i>alternate between standing or sitting or provide breaks</i>). | | | |

| Hazard listing and <i>guidance (which is set in italics)</i> . | Hazard present (Y/N)? | Existing precautions to eliminate, avoid, reduce risk | Further precautions required / recommended to eliminate, avoid, reduce risk |
|---|-----------------------|---|---|
| Sitting: <i>constant sitting should be avoided for EM (relatively higher risk of thrombosis). Backache in EM may be associated with prolonged work, poor working posture and excessive movement. An EM may need more space or adapt the way she works so that she can move, stand still or sit in comfort and safety.</i> | | | |
| Confined space: it can be hazardous to work in confined workspaces or workstations which do not adjust sufficiently. | | | |
| Manual handling of loads: (where there is a risk of injury). EM are particularly at risk from MH injury. <i>Changes deemed necessary will depend on particular circumstances (eg it may be possible to alter the task/provide aids/reduce the amount of physical work or change task). NM should avoid immediate strenuous activity, which can inhibit the production of breast milk, when returning but gradually increase their normal levels of lifting and handling.</i> | | | |
| Ionising radiation: <i>Significant exposure to IR can be harmful to unborn child. A specialist risk assessment may be necessary (involving an RPS) to determine fatal dose. If possible risk has been identified; consideration should be given to relocating EM/NM to another area.</i> | | | |
| Biological agents - <u>Infectious diseases</u> | | | |

| Hazard listing and <i>guidance (which is set in italics)</i> . | Hazard present (Y/N)? | Existing precautions to eliminate, avoid, reduce risk | Further precautions required / recommended to eliminate, avoid, reduce risk |
|--|-----------------------|---|---|
| <p>Biological agents¹: many biological agents within the three risk groups (see footnote 2 below) can affect the unborn child if the EM is infected during pregnancy.</p> <p>Transmission is possible for NM when breastfeeding or by close physical contact between NM and child.</p> <p>Examples of agents where the child could be infected are hepatitis B, HIV, herpes, TB, syphilis, chickenpox and typhoid.</p> <p><i>Controls can include physical containment (eg biological safety cabinets), ventilation (eg exhaust extraction), hygiene measures (eg use of disinfectants) and vaccination.</i></p> <p><i>If there is a known HIGH risk, then EM should avoid exposure altogether.</i></p> <p><i>Issues around immunity should be discussed with Occupational Health.</i></p> <p><i>Issues around biological controls should be discussed with Infection Control Lead, Carol Shannon.</i></p> <p>Biological agents known to cause abortion or physical/neurological damage to the unborn child include rubella, toxoplasmosis and cytomegalovirus (which is a common infection outside the workplace). <i>These biological agents should be avoided by EM, unless they possess immunity.</i></p> | | | |
| <p>Chemical agents - <u>particular harmful substances</u></p> | | | |

¹ Biological agents are grouped according to hazard and containment category. There are 4 hazard groups and any falling into groups 2, 3 or 4 can pose a risk. The nature of any risk depends on the particular biological agent, how infection is spread, how likely contact is and what control measures are in place.

| Hazard listing and <i>guidance (which is set in italics)</i> . | Hazard present (Y/N)? | Existing precautions to eliminate, avoid, reduce risk | Further precautions required / recommended to eliminate, avoid, reduce risk |
|---|-----------------------|---|---|
| <p>Substances: Those labelled 'Sk' R40, R45, R46, R49, R61, R63, R64 and R68. Details may be found on the substances label and /or the data sheet which accompanies all hazardous substances.</p> <p><i>The established controls hierarchy should be applied:</i></p> <ul style="list-style-type: none"> o <i>Elimination of substance</i> o <i>Substitution of substance by less hazardous ones</i> o <i>Control by technical measures (eg exhaust ventilation)</i> o <i>Good work planning and housekeeping</i> o <i>PPE (personal protective equipment eg appropriate gloves)</i> <p>All chemical agents should be locked away and have their own material safety data sheet & COSHH risk assessment</p> | | | |
| <p>Working conditions</p> <p>Rest (both physical and mental) is important for N or EM. Easy access to toilet and hygiene facilities is important; EM, because of pressure on the bladder often have to go to the toilet more frequently and urgently than others. NM may also need to do so because of increased fluid intake to promote breast milk production. Access to appropriate storage facilities for NM to express and store breast milk may be necessary.</p> <p><i>EM or NM should have access to a private room they can sit or lie down in privacy at appropriate intervals. Access to drinking water should also be available. Consideration should be given that E or NM to leave their workstation/activity at short notice. Use of secure, clean refrigerators for storing expressed milk and facilities for washing and storing receptacles is considered good practice.</i></p> | | | |
| <p>11. <u>Fatigue and working hours</u></p> | | | |

| Hazard listing and <i>guidance (which is set in italics)</i> . | Hazard present (Y/N)? | Existing precautions to eliminate, avoid, reduce risk | Further precautions required / recommended to eliminate, avoid, reduce risk |
|--|-----------------------|---|---|
| <p>Long working hours, shift work and night work can have a significant effect on the health of EM or NM and on breastfeeding. Because they can suffer from increasing tiredness, <u>some</u> EM or NMs may not be able to work irregular, late or night shifts. Normal patterns of breaks from work may not be adequate.</p> <p>It may be necessary to adjust working hours temporarily, as well as other working conditions, including the timing and frequency of rest breaks, and to change shift patterns and duration to avoid risks.</p> <p>Night Work</p> <p>During the assessment if it is identified that there is a significant risk to employee's health whilst carrying out night duties including medical on-calls, Line Managers should refer the employee to Occupational Health for advice. The referral should include specific questions regarding the duties and associated risks.</p> <p>For on calls, the manager must inform Occupational Health whether it is residential or not.</p> <p>If expectant mother undertakes night works and the line manager receives a certificate from medical practitioner/registered midwife stating that the individual should not work at night for health and safety reasons , line manager must;</p> <p>1.0 Refer the expectant mother to Occupational Health Service 2.0 Whilst employee waiting to be seen by Occupational Health Service, line manager; 2.1 Should offer employee suitable alternative daytime work if any is available; or if that is not reasonable. 2.2 Suspend her from work (give her paid leave) for as long as is necessary to protect her health and safety.</p> | | | |

| Hazard listing and <i>guidance (which is set in italics)</i> . | Hazard present (Y/N)? | Existing precautions to eliminate, avoid, reduce risk | Further precautions required / recommended to eliminate, avoid, reduce risk |
|--|-----------------------|---|---|
| <p><i>The risk assessment should be reviewed on regular basis, the recommendations are that is done at each trimester or if there are any changes to the individual work or heath situation.</i></p> <p><i>Should you require further clarification or support , please speak with the Health & Safety Manager</i></p> | | | |
| <p>12. <u>Occupational stress</u></p> <p>EM and NM can be particularly vulnerable to occupational stressors for a variety of reasons such as:</p> <ul style="list-style-type: none"> ○ Hormonal, physiological and psychological changes occur (sometimes rapidly) during and after pregnancy, affecting susceptibility to stress, anxiety or depression. ○ Financial, emotional or job insecurity may be issues. ○ It may become difficult to organise work and private life. <p>Additional stress can occur if the woman is anxious about pregnancy or outcomes. It is important that managers remember that that some women can develop postnatal depression which can make them more vulnerable to stressors.</p> <p><i>Managers will need to take account of known organisational stress factors (shift patterns, workloads etc) and the particular medical and psychosocial factors affecting the individual woman. It may be necessary to make adjustments to the working conditions or hours and ensure that the necessary understanding, support and recognition are available when the woman returns to work (as well as respecting her privacy).</i></p> | | | |
| <p>14. <u>Working with display screen equipment (DSE)</u></p> | | | |

| Hazard listing and <i>guidance (which is set in italics)</i> . | Hazard present (Y/N)? | Existing precautions to eliminate, avoid, reduce risk | Further precautions required / recommended to eliminate, avoid, reduce risk |
|---|-----------------------|---|---|
| <p>Anxiety about radiation emissions from VDUs and possible effects on EM were once widespread. There is now substantial evidence that the historic concerns were unfounded. The levels of electromagnetic radiation generated by VDUs are well below internationally set limits. There may be, however, issues associated with the ergonomic fit between the user and the DSE workstation (as the NM's size increases).</p> <p><i>Adjustments to both the workstation itself (eg to reduce postural fatigue) and frequency of breaks may be necessary. To avoid problems caused by stress and anxiety, those EM worried about working with VDUs should be referred to Occupational Health.</i></p> | | | |
| <p>15. <u>Working alone</u></p> <p>EM are more likely to need urgent medical attention. Depending on their medical condition, managers may need to review and revise women's access to communications with others and levels of (remote) supervision, to ensure that help and support is available if required (emergency procedures may also require adjusting). Trustwide and local lone worker policies and protocols must be followed.</p> | | | |
| <p>16. <u>Work at heights</u></p> <p>It is hazardous for EM to work at heights/obtain access using ladders. <i>If EM are required to work at height/scale ladders the relevant risk assessment should be reviewed.</i></p> | | | |
| <p>17. <u>Travelling</u></p> | | | |

| Hazard listing and <i>guidance (which is set in italics)</i> . | Hazard present (Y/N)? | Existing precautions to eliminate, avoid, reduce risk | Further precautions required / recommended to eliminate, avoid, reduce risk |
|--|-----------------------|---|---|
| Travelling in the course of work and to and from the workplace can be problematic for EM, involving risks including fatigue, vibrations, stress, static posture, discomfort and accidents. | | | |
| <p>18. <u>Work-related violence</u></p> <p>Exposure to the risk of violence to EM can lead to detachment of the placenta, miscarriage, premature delivery and underweight birth. For NM violence may affect the ability to breastfeed. The risk particularly affects those in direct contact with clients.</p> <p><i>Control measures can include:</i></p> <ul style="list-style-type: none"> ○ <i>Improving the design or layout of the workplace;</i> ○ <i>Providing adequate training and information to staff (MAPPA and breakaway);</i> ○ <i>Physical barriers</i> ○ <i>Lone worker policy and protocols</i> ○ <i>Near miss and incident reporting & investigations</i> ○ <i>Panic / personal alarms</i> ○ <i>Off night and rapid response / bleep</i> ○ <i>Risk assessments communicated and maintained</i> ○ <i>Changing the design of the job (e.g. avoiding lone working, reducing the use of cash, maintaining contact with those staff away from the work base).</i> <p><i>If the risk of violence cannot be significantly reduced, EM or NM should be offered suitable alternative work.</i></p> | | | |
| <p>19. <u>Work equipment and PPE</u></p> <p>Work equipment and PPE is not generally designed with the EM or NM in mind. Pregnancy (and breastfeeding) involves physiological changes which may make some existing work or protective equipment not only uncomfortable but also unsafe in some cases.</p> | | | |

| Hazard listing and <i>guidance (which is set in italics)</i> . | Hazard present (Y/N)? | Existing precautions to eliminate, avoid, reduce risk | Further precautions required / recommended to eliminate, avoid, reduce risk |
|---|-----------------------|---|---|
| <p>20. <u>Hazards as result of inappropriate nutrition</u></p> <p>Pregnant women may need more frequent meal breaks and more frequent access to drinking water and other light refreshments. They may also be able to tolerate food 'little and often' rather than in larger quantities at 'normal' meal times.</p> <p><i>Managers should regularly consult the EM or NM to ensure that their particular needs are being catered for (particularly with regard to rest, meal and refreshment breaks).</i></p> | | | |
| <p>21. <u>Other aspects</u></p> <p>There may be range of other issues whose impact may vary in the course of pregnancy:</p> <ul style="list-style-type: none"> ○ Balance and problems of working on slippery or wet surfaces; ○ Comfort and potential problems associated with working in tightly fitting uniforms / spaces; ○ 'Morning' sickness/headaches associated with early shift work or nauseating smells; ○ Backache associated with standing/manual handling; ○ Tiredness associated with overtime or evening work etc. ○ Passive smoking <p><i>Managers should be alert to such issues and to keep their possible development under review.</i></p> | | | |
| <p>22. <u>Work life balance</u></p> <p>Employees are advised to read the maternity policy, which is available on the intranet. Also, employees are advised to contact Diane Aston, Work Life Balance Adviser, once they have received</p> | | | |

| Hazard listing and <i>guidance (which is set in italics).</i> | Hazard present (Y/N)? | Existing precautions to eliminate, avoid, reduce risk | Further precautions required / recommended to eliminate, avoid, reduce risk |
|---|-----------------------|---|---|
| their MAPB1 certificate from their midwife to discuss maternity arrangements, such as leave. | | | |

| | |
|--|-------------------------------|
| Risk assessor's Signature..... New or Expectant Mother's Signature..... | Date: Date:..... |
|--|-------------------------------|

HSE guidance on New & Expectant Mother Risk Assessment is published on the Trust internet.

Should require you further clarification then please speak with the Health & Safety Manager