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<th>Reporting to:</th>
<th>Trust Board – 30 March 2017</th>
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<td>Title</td>
<td>Leave Policy - W19</td>
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<tr>
<td>Sponsoring Director</td>
<td>Victoria Maher, Workforce Director</td>
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<td>Author(s)</td>
<td>Kate Youlden, HR Business Partner</td>
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<tr>
<td>Previously considered by</td>
<td>TNCC Policy Group (March 2017)</td>
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**Executive Summary**

The Leave Policy was first agreed in 2015 and was the first cluster of policies to be reviewed with our staff side colleagues with the view merge and simplify our employment policies to ensure they are customer-focused and fit for purpose.

The required changes to one chapter within this policy has been identified through:

- Requests from staff for clarification, and
- Identification by Pay Services of a previous error in the chapter when reviewing the new additions.

**Chapter 4 – Maternity Leave Procedure**

Additional questions have been inserted at question 21 and 22 relating to the calculation of maternity pay. Question 14 has been corrected in relation to the impact of working on the bank during maternity leave. (Due to the significance of this question, with the agreement of our staff side colleagues, a temporary note has been applied to the intranet and internet versions of this policy to avoid any detrimental impact on staff)

**Strategic Priorities**

1. **Quality and Safety**
   - Reduce harm, deliver best clinical outcomes and improve patient experience.
   - Address the existing capacity shortfall and process issues to consistently deliver national healthcare standards
   - Develop a clinical strategy that ensures the safety and short term sustainability of our clinical services pending the outcome of the Future Fit Programme
   - To undertake a review of all current services at specialty level to inform future service and business decisions
   - Develop a sustainable long term clinical services strategy for the Trust to deliver our vision of future healthcare services through our Future Fit Programme

2. **People**
   - Through our People Strategy develop, support and engage with our workforce to make our organisation a great place to work

3. **Innovation**
   - Support service transformation and increased productivity through technology and continuous improvement strategies

4. **Community and Partnership**
   - Develop the principle of ‘agency’ in our community to support a prevention agenda and improve the health and well-being of the population
   - Embed a customer focussed approach and improve relationships through our stakeholder engagement strategies

5. **Financial Strength: Sustainable Future**
   - Develop a transition plan that ensures financial sustainability and addresses liquidity issues pending the outcome of the Future Fit Programme

**Board Assurance Framework (BAF) Risks**

- If we do not deliver **safe care** then patients may suffer avoidable harm and poor clinical outcomes and experience
- If we do not work with our partners to reduce the number of patients on the **Delayed Transfer of Care** (DTOC) lists, and streamline our internal processes we will not improve our ‘simple’ discharges.
- Risk to **sustainability** of clinical services due to potential shortages of key clinical staff
If we do not achieve safe and efficient patient flow and improve our processes and capacity and demand planning then we will fail the national quality and performance standards.

- If we do not get good levels of staff engagement to get a culture of continuous improvement then staff morale and patient outcomes may not improve.
- If we do not have a clear clinical service vision then we may not deliver the best services to patients.
- If we are unable to resolve our (historic) shortfall in liquidity and the structural imbalance in the Trust's Income & Expenditure position then we will not be able to fulfil our financial duties and address the modernisation of our ageing estate and equipment.

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**Recommendation**

Trust Board are asked to approve the changes to this Chapter of the Leave Policy W19.
The Trust recognises that mothers need time off work prior to and following the birth of a child. The Trust applies the arrangements set out within NHS Terms and Conditions of Service Handbook to support staff during pregnancy, maternity leave and on return to work.

Frequently Asked Questions

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Many sections of Maternity Leave are applicable to Adoption Leave, where this applies it is highlighted.

Introduction

1. What is Maternity Leave?
The period of absence from work immediately before and after the birth of a child.

2. What is Maternity Pay?
The entitlement to pay whilst absent on maternity leave.

3. When do I need to notify my manager that I am pregnant?
An employee is required to notify her Manager that she is pregnant as soon as possible in order for a risk assessment to be carried out and to identify any potential risk and supportive measures required.

4. How should I notify my manager?
All employees should notify their manager in writing, using the form in The Trust Guidance Notes, of her intention to take Maternity Leave no later than the 15th week before her expected week of childbirth, unless this is not reasonably practicable. You must also produce a statement form MAT B1 certificate not less than 21 days before the commencement of Maternity Leave, this must indicate the expected date of childbirth.

Your Manager must respond to the request to take maternity leave within 28 days of receiving the employees completed application form.

5. Can I take time off work to attend antenatal care appointments?
Yes, section 15.52 of the handbook states ‘Pregnant employees have the right to paid time off for antenatal care. Antenatal care includes relaxation and parent-craft classes as well as appointments for antenatal care.’

6. Do I need to provide proof of Ante-Natal Appointments?
Apart from the first appointment, you should provide proof of appointments and give reasonable notice prior to attending the appointments.

Eligibility – also applicable to Adoption Leave and Pay

7. How much maternity leave/adoption leave am I entitled to?
Section 15.1 of the ‘handbook’ sets out that ‘All employees will have the right to take 52 weeks of maternity leave’.

8. Am I eligible for NHS Maternity/Adoption Pay?
Yes if you meet the requirements set out in section 15.7 of the handbook which states ‘An employee working full-time or part-time will be entitled to paid and unpaid maternity leave under the NHS contractual maternity pay scheme if:

i. she has 12 months’ continuous service (see paragraphs 15.61 to 15.65) with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth;

ii. she notifies her employer in writing before the end of the 15th week before the expected date of childbirth (or if this is not possible, as soon as is reasonably practicable thereafter):

a. of her intention to take maternity leave; 

(continued overleaf)
b. of the date she wishes to start her maternity leave – she can choose when to start her maternity leave – this can usually be any date from the beginning of the 11th week before the baby is born (but see paragraph 15.8);
c. that she intends to return to work with the same or another NHS employer for a minimum period of three months after her maternity leave has ended;
d. and provides a MATB1 form from her midwife or GP giving the expected date of childbirth.

Confirming maternity leave and pay - also applicable to Adoption Leave and Pay

9. What confirmation will my manager give me regarding my maternity/adoption leave and pay?
Section 15.9 of the handbook states that ‘following discussion with the employee, the employer should confirm in writing:

i. the employee’s paid and unpaid leave entitlements under this agreement (or statutory entitlements if the employee does not qualify under this agreement);
ii. unless an earlier return date has been given by the employee, her expected return date, based on her 52 weeks paid and unpaid leave entitlement under this agreement; and
iii. the length of any period of accrued annual leave which it has been agreed may be taken following the end of the formal maternity leave period (see paragraphs 15.49 and 15.50);
iv. the need for the employee to give at least 28 days of notice if she wishes to return to work before the expected return date.

Changing the maternity leave start date

10. Can I change the date I want my maternity leave to start?
Yes, section 15.8 of the handbook states ‘if the employee subsequently wants to change the date from which she wishes her leave to start, she should notify her employer at least 28 days beforehand (or, if this is not possible, as soon as is reasonably practicable beforehand).’

11. What do I need to do if I go into early labour prior to commencing my maternity leave?
You must notify your Manager as soon as is reasonably practicable.

Keeping in Touch and Working During Maternity Leave – also applicable to Adoption Leave and Pay

12. Are there arrangements to enable my manager and I to keep in touch during my maternity leave?
Section 15.10 of the handbook states ‘before going on leave, the employer and the employee should also discuss and agree any voluntary arrangements for keeping in touch during the employee’s maternity leave, including:

i. any voluntary arrangements that may help her keep in touch with developments at work and, nearer the time of her return, to help facilitate her return to work;
ii. keeping the employer in touch with any developments that may affect her intended date of return.'
13. Can I come into work during my maternity leave?
Yes, the handbook provides provision for Keeping in Touch Days (KIT Days) during your maternity leave. Sections 15.11 to 15.20 state:

- To facilitate the process of keeping in touch, it is important that the employer and employee have early discussion to plan and make arrangements for “keeping in touch days” (KIT days) before the employee’s maternity leave takes place. (section 15.11)
- To enable employees to take up the opportunity to work KIT days, employers should consider the scope for reimbursement of reasonable childcare costs or the provision of childcare facilities. (section 15.12)
- KIT days are intended to facilitate a smooth return to work for women returning from maternity leave. (section 15.13)
- An employee may work for up to a maximum of ten KIT days without bringing her maternity leave to an end. Any days of work will not extend the maternity leave period. (section 15.14)
- An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of her baby. (section 15.15)
- The work can be consecutive or not and can include training or other activities which enable the employee to keep in touch with the workplace. (section 15.16)
- Any such work must be by agreement and neither the employer nor the employee can insist upon it. (section 15.17)
- The employee will be paid at their basic daily rate for the hours worked, less appropriate maternity leave payment for KIT days worked. (section 15.18)
- Working for part of any day will count as one KIT day. (section 15.19)
- Any employee who is breastfeeding must be risk assessed and facilities provided in accordance with paragraph 15.34. (section 15.20)

14. Can I work via the Trust Temporary Staffing Department (bank) during the unpaid period of my maternity leave?
No, if you undertake bank shifts during any period of your maternity leave, your maternity will cease immediately. KIT days can be worked during paid or unpaid maternity leave and are paid in accordance with the previous question.

15. How long is a Keep in Touch day?
The keeping in touch day should, where possible, reflect the individuals “normal” working day as mutually agreed between the individual and their manager.

16. How can I keep up to date with the Trust during maternity leave
You could attend ward/department meetings, be sent relevant documents, such as newsletters or undertake any other actions as agreed in advance with your manager that would ensure that you are kept up to date on developments at work and facilitate a return to work following leave.

17. When must I contact my manager during maternity leave?
You must inform you manager of any developments that may affect you intended date of return. You must notify your manager of any change of address and contact details.
Paid Maternity Leave – also applicable to Adoption Leave and Pay

Amount of Pay

18. How much will I be paid during my maternity/adoption leave?
If you meet the requirements of section 15.7 of the handbook section 15.21 states ‘Where an employee intends to return to work the amount of contractual maternity pay receivable is as follows:

i. for the first eight weeks of absence the employee will receive full pay, less any Statutory Maternity Pay or maternity allowance (including any dependents’ allowances) receivable (where this is paid by Department of Work and Pensions);
ii. for the next 18 weeks the employee will receive half of full pay, plus any Statutory Maternity Pay or maternity allowance (including any dependents’ allowances) receivable, providing the total receivable does not exceed full pay;
iii. for the next 13 weeks, the employee will receive any Statutory Maternity Pay or maternity allowance that they are entitled to under the statutory scheme.

19. Can I change how this is paid?
Yes, section 15.22 of the handbook states by prior agreement with the employer, occupational maternity pay may be paid in a different way, for example a combination of full pay and half pay or a fixed amount spread equally over the maternity leave period.

Calculation of maternity/adoption pay

20. How is my maternity pay calculated?
The Trust will follow the calculations set out in the handbook at section 15.23. Full pay will be calculated using the Average Weekly Earnings (AWE) rules used for calculating Statutory Maternity Pay entitlements, subject to the following qualifications:

i. in the event of a pay award or annual increment being implemented before the paid maternity leave period begins, the maternity pay should be calculated as though the pay award or annual increment had effect throughout the entire Statutory Maternity Pay calculation period. If such a pay award was agreed retrospectively, the maternity pay should be re-calculated on the same basis;
ii. in the event of a pay award or annual increment being implemented during the paid maternity leave period, the maternity pay due from the date of the pay award or annual increment should be increased accordingly. If such a pay award was agreed retrospectively the maternity pay should be re-calculated on the same basis;

in the case of an employee on unpaid sick absence or on sick absence attracting half pay during the whole or part of the period used for calculating average weekly earnings, in accordance with the earnings rules for Statutory Maternity Pay purposes, average weekly earnings for the period of sick absence shall be calculated on the basis of notional full sick pay.

21. How are my Average Weekly Earnings (AWE) calculated?
Your AWE is based on all earnings actually paid to you within the reference period, including any impact from over or underpaid wages in that period. For further information please contact pay services.

22. What if my earnings are lower than usual during the reference period?
Unfortunately the calculations rules are strict and not determined by the Trust and therefore if your total earnings during the reference period are lower than previous months we are unable to change this. Unless your earnings are less than your basic pay, in these circumstances your AWE will be based on your basic pay.

Unpaid contractual leave – also applicable to Adoption Leave and Pay
23. What happens at the end of the paid period of my leave?
In accordance with section 15.24 of the handbook Employees are also entitled to take a further 13 weeks as unpaid leave to bring the total of leave to 52 weeks. However, this may be extended by local agreement in exceptional circumstances, for example, where employees have sick pre-term babies or multiple births.

Commencement and duration of leave

24. When can I start my maternity leave?
In accordance with section 15.25 An employee may begin her maternity leave at any time between 11 weeks before the expected week of childbirth and the expected week of childbirth, provided she gives the required notice.

Sickness prior to childbirth

25. What happens if I am sick prior to the birth of my child?
In accordance with the handbook section 15.26 If an employee is off work ill, or becomes ill, with a pregnancy-related illness during the last four weeks before the expected week of childbirth, maternity leave will normally commence at the beginning of the 4th week before the expected week of childbirth or the beginning of the next week after the employee last worked, whichever is the later. Absence prior to the last four weeks before the expected week of childbirth, supported by a medical statement of incapacity for work, or a self-certificate, shall be treated as sickness absence in accordance with normal leave provisions.

26. What if my sickness is just odd days of pregnancy-related sickness?
The handbook section 15.27 states Odd days of pregnancy-related illness during this period may be disregarded if the employee wishes to continue working till the maternity leave start date previously notified to the employer.

Pre-term birth

27. What happens if my baby is born early?
The handbook states in sections 15.28 to 15.31
- Where an employee’s baby is born alive prematurely, the employee will be entitled to the same amount of maternity leave and pay as if her baby was born at full term. (section 15.28)
- Where an employee’s baby is born before the 11th week before the expected week of childbirth and the employee has worked during the actual week of childbirth, maternity leave will start on the first day of the employee’s absence. (section 15.29)
- Where an employee’s baby is born before the 11th week before the expected week of childbirth and the employee has been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start the day after the day of birth. (section 15.30)
- Where an employee’s baby is born before the 11th week before the expected week of childbirth and the baby is in hospital, the employee may split her maternity leave entitlement, taking a minimum period of two weeks’ leave immediately after childbirth and the rest of her leave following her baby’s discharge from hospital. (section 15.31)

Still birth

28. What happens if my baby is still born?
The handbook states in section 15.32 Where an employee’s baby is born dead after the 24th week of pregnancy, the employee will be entitled to the same amount of maternity leave and pay as if her baby was born alive.

Miscarriage

29. What happens if I have a Miscarriage?
The handbook states in section 15.32 Where an employee has a miscarriage before the 25th week of pregnancy, normal sickness absence provisions will apply as necessary.

Health and Safety of employee’s pre and post birth

30. What Health and safety risk assessments will be completed pre and post birth?
The handbook sets out:-

- Where an employee is pregnant, has recently given birth or is breastfeeding, the employer must carry out a risk assessment of her working conditions. If it is found, or a medical practitioner considers, that an employee or her child would be at risk were she to continue with her normal duties, the employer should provide suitable alternative work for which the employee will receive her normal rate of pay. Where it is not reasonably practicable to offer suitable alternative work, the employee should be suspended on full pay. (section 15.34)

- These provisions also apply to an employee who is breastfeeding if it is found that her normal duties would prevent her from successfully breastfeeding her child. (section 15.35)

31. Where can I find guidance on Risk assessments?
Risk assessments should be completed with you. Arrangements must then be made to ensure that neither you nor your unborn baby are put at risk, for example by lifting or carrying heavy loads or exposure to toxic substances.

Refer to the Health and Safety Pages of the intranet for guidance on completing a risk assessment and the most up to date version of the Trust Risk Assessment Form for New and Expectant Mothers available in the Management of Health and Safety: Risk Assessment Forms (HS11).

32. Should a risk assessment be completed on my return to work?
Yes, if any potential health and safety risks are identified you should work with your manager to establish whether any facilities or special working arrangements are required to enable the employee to breast-feed her baby, or to express and store milk. Employees who intend to continue breast-feeding or expressing milk on return to work should let their manager know in writing prior to returning to work to allow arrangements to be put in place.

Return to work

33. What notice am I required to give my manager before I return to work?
In accordance with the handbook section 15.36 An employee who intends to return to work at the end of her full maternity leave will not be required to give any further notification to the employer, although if she wishes to return early, she must give at least 28 days’ notice.

34. What are my contractual rights on return to work? – also applicable to Adoption Leave and Pay
The handbook states in section 15.37 An employee has the right to return to her job under her original contract and on no less favourable terms and conditions.
35. What happens if I start work for another employer after my baby is born? – also applicable to Adoption Leave and Pay
If you start work for another employer after your baby is born, who did not employ you during the 15th week before the expected week of childbirth, Maternity Pay will cease on the Saturday before you start work with the new employer. If you start work with another employer who did employ you during the 15th week, the Trust is still liable to pay Statutory Maternity Pay.

Returning on flexible working arrangements – also applicable to Adoption Leave and Pay

36. Can I return to work on flexible working arrangements?
The handbook section 15.38 states *If, at the end of maternity leave, the employee wishes to return to work on different hours, the NHS employer has a duty to facilitate this, wherever possible. The employee will return to work on different hours, in the same job. If this is not possible, the employer must provide written, objectively justifiable reasons for this and the employee should return to the same pay band and work of a similar nature and status, to that which they held prior to their maternity absence.*

Please refer to the requirements of the Trust Flexible Working Provisions.

37. What if I want to return on flexible working arrangements for a set period of time only?
The handbook section 15.39 states *If it is agreed that the employee will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period, this will not affect the employee’s right to return to her job under her original contract, at the end of the agreed period.*

38. Can I take an employment break at the end of my maternity leave?
Yes, however if, following Maternity Leave, you take an employment break you must return to work at the end of your employment break for a period of at least 3 months in order to retain your entitlement to NHS rates of Maternity Pay. If you have been in receipt of NHS rates of Maternity Pay and fails to do so, you may be required to repay earnings over SMP.

39. Can I request a period of parental leave at the end of my maternity leave?
Yes, you can request a period of Parental Leave of up to four weeks to continue immediately after a period of maternity leave. You must make a request in accordance with the Parental Leave Policy and give 21 days notice of their request to extend their leave by using Parental Leave before their expected date of return to work.

Where Parental Leave is used to extend Maternity Leave and you have taken Contractual NHS Maternity Pay at the end of the Parental Leave Period you must return to work for a period of 3 months.

Sickness during or following the end of maternity leave – also applicable to Adoption Leave and Pay

40. What if I am sick during my maternity leave?
If you are sick at any time during your Maternity Leave, your absence shall be treated as Maternity Leave and not sick leave.

41. What happens if I can’t return to work because of sickness at the end of maternity leave?
The handbook states in section 15.40 *In the event of illness following the date the employee was due to return to work, normal sickness absence provisions will apply as necessary.*

**Failure to return to work** – also applicable to Adoption Leave and Pay

42. What happens if I do not come back to work?

In accordance with the handbook section 15.41 *If an employee who has notified her employer of her intention to return to work for the same or a different NHS employer, in accordance with paragraph 15.7 (ii) (c), fails to do so within 15 months of the beginning of her maternity leave, she will be liable to refund the whole of her maternity pay, less any Statutory Maternity Pay, received. In cases where the employer considers that to enforce this provision would cause undue hardship or distress, the employer will have the discretion to waive their rights to recovery.*

**Fixed Term Contracts or training contracts** – also applicable to Adoption Leave and Pay

43. What happens if I am employed on a fixed-term contracts or training contracts

The handbook in section 15.42 to 15.45 states:

- Employees subject to fixed-term or training contracts which expire after the 11th week before the expected week of childbirth and who satisfy the conditions in paragraphs 15.7 (i), 15.7 (ii) (a), 15.7 (ii) (b) and 15.7 (ii) (d), shall have their contracts extended so as to allow them to receive the 52 weeks, which includes paid contractual and statutory maternity pay, and the remaining 13 weeks of unpaid maternity leave. (section 15.42)
- Absence on maternity leave (paid and unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service. (section 15.43)
- 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 set out in paragraph 15.41 will not apply. (section 15.44)
- Employees on fixed-term contracts who do not meet the 12 months' continuous service condition set out in paragraph 15.41, may still be entitled to Statutory Maternity Pay. (section 15.45)
- Rotational training contracts
  - Where an employee is on a planned rotation of appointments with one or more NHS employers, as part of an agreed programme of training, she shall have the right to return to work in the same post or in the next planned post, irrespective of whether the contract would otherwise have ended if pregnancy and childbirth had not occurred. In such circumstances the employee's contract will be extended to enable the practitioner to complete the agreed programme of training. (section 15.46)

44. What if I only work through the Temporary Staffing Department?

If you are employed through the Temporary Staffing Department or employed directly by a department on a zero hours contract you will be entitled to Statutory Maternity Leave and Pay provisions provided that:

i) you have worked for each of the 26 weeks (which may include two weeks annual leave) prior to the 15th week before the expected week of childbirth, and

ii) you comply with the conditions set out in NHS Terms and Conditions of Service Handbook.

You will be entitled to NHS Maternity Leave and Pay where

i) you have worked a regular pattern of work (as a minimum once every month) for 12 months with the NHS by the beginning of the 11th week before the EWC.
ii) you comply with the requirements in Question 8.

**Contractual rights** – also applicable to Adoption Leave and Pay

45. What happens to my contractual rights during maternity leave?
In accordance with the handbook section 15.47 *During maternity leave (both paid and unpaid) an employee retains all of her contractual rights, except remuneration.*

**Increments** – also applicable to Adoption Leave and Pay

46. Does my maternity leave count as service for the purposes of my incremental progression and entitlement to additional annual leave?
Yes, the handbook section 15.48 states *Maternity leave, whether paid or unpaid, shall count as service for annual increments and for the purposes of any service qualification period for additional annual leave. The expectation is that an employee on maternity leave would progress through a KSF gateway/increment (in England and Wales) on the due date, if concerns had not been raised about the ability to meet their KSF outline prior to maternity leave. Employers in England should note that staff in England on pay spine points 34 to 54 will not be eligible for incremental pay progression from 1st April 2015 to 31st March 2016 (see Annex C, which also contains specific provisions for staff on pay spine point 1).*

**Accrual of Annual leave** – also applicable to Adoption Leave and Pay

47. What annual leave do I accrue during maternity leave?
The handbook sets out in section 15.49 and 15.50 that:-
- *Annual leave will continue to accrue during maternity leave, whether paid or unpaid, provided for by this agreement.* (section 15.49).
- *Where the amount of accrued annual leave would exceed normal carry over provisions, it may be mutually beneficial to both the employer and employee for the employee to take annual leave before and/or after the formal (paid and unpaid) maternity leave period. The amount of annual leave to be taken in this way, or carried over, should be discussed and agreed between the employee and employer. Payment in lieu may be considered as an option where accrual of annual leave exceeds normal carry over provisions.* (Section 15.50)

48. Do I continue to accrue General Public Holidays during on Maternity Leave?
General Public Holiday entitlement will accrue based on the number of general public holidays that fall within the period of maternity leave (pro rata for part time staff).

49. Can I carry over outstanding leave to the following leave year?
See above – what annual leave do I accrue during maternity leave?
It is important that arrangements for taking annual leave are discussed well in advance of the commencement of Maternity Leave and recorded on the form in appendix b.

50. Does my maternity leave count as service for the purposes of calculating my annual leave entitlement?
Yes. Maternity Leave will count as service for entitlement to additional annual leave based on service.

**Pensions** – also applicable to Adoption Leave and Pay

51. What happens to my pension during maternity leave?
The handbook states in section 15.51 *Pension rights and contributions shall be dealt with in accordance with the provisions of the NHS Superannuation Regulations.*
52. How are pension payments arranged during and after my maternity leave?
Because both paid and unpaid Maternity Leave are counted as continuous service, contributions to the NHS Pension Scheme must be maintained for the full period. Whilst you are receiving Maternity Pay, contributions will be deducted from your salary based on payments received. As no contributions can be made whilst you are on unpaid Maternity Leave, these must be reimbursed to the scheme on your return to work. Therefore, on your return additional contributions will be deducted from your salary until the shortfall has been paid. You are advised to contact the Pensions Officer for further information.

Post-natal care and breastfeeding mothers

53. When I come back to work can I take time off for Post-natal care appointments?
Yes, the handbook section 15.53 states that ‘Women who have recently given birth should have paid time off for post-natal care e.g. attendance at health clinics.

54. What support is available to me if I return to work whilst breastfeeding?
The handbook in section 15.54 sets out that Employers are required to undertake a risk assessment and to provide breastfeeding women with suitable private rest facilities. The Health and Safety Executive Guidance recommends that employers provide:
• a clean, healthy and safe environment for women who are breastfeeding;
• suitable access to a private room to express and store milk in an appropriate refrigerator.

Further at section 15.55 Employers are reminded that they should consider requests for flexible working arrangements to support breastfeeding women at work.

Employees not returning to NHS Employment – also applicable to Adoption Leave and Pay

55. What happens if I decide not to return to work?
Your employment will cease at the end of your Maternity Leave period unless you commence employment elsewhere before that time, in which case your employment will cease on the day before you take up your new post. You must give notice of your resignation in accordance with your contract of employment. If you have been in receipt of NHS rates of Materni ty Pay and fails to do so, you may be required to repay earnings over SMP.

56. What pay could I be entitled to if I do not wish to return to work with the NHS after my maternity leave?
The handbook section 15.56 states An employee who satisfies the conditions in paragraph 15.7, except that she does not intend to work with the same or another NHS employer for a minimum period of three months after her maternity leave is ended, will be entitled to pay equivalent to Statutory Maternity Pay, which is paid at 90 per cent of her average weekly earnings for the first six weeks of her maternity leave and to a flat rate sum for the following 33 weeks.

57. What do I do if I am not sure if I will return to work?
You are advised to take only Statutory Maternity Pay. If you then return to work within the NHS for a minimum of 3 months following your Maternity Leave, the enhanced rates will be paid, less payments already made.

58. Can I still take my maternity leave if I do not wish to return to work in the NHS?
Yes, section 15.59 states All employees will have a right to take 52 weeks of maternity leave whether or not they return to NHS employment.

Employees with less than 12 months’ continuous service – also applicable to Adoption Leave and Pay

59. What pay could I be entitled to if I have less than 12 months’ continuous service?
The handbook section 15.57 states If an employee does not satisfy the conditions in paragraph 15.7 for occupational maternity pay, she may be entitled to Statutory Maternity Pay. Statutory Maternity Pay will be paid regardless of whether she satisfies the conditions in paragraph 15.7.

60. What can I do if I do not qualify for Statutory Maternity Pay?
The handbook section 15.58 states If her earnings are too low for her to qualify for Statutory Maternity Pay, or she does not qualify for another reason, she should be advised to claim maternity allowance from her local Job Centre Plus or social security office.

Continuous service – also applicable to Adoption Leave and Pay

61. What is continuous service?
The handbook section 15.61 states For the purposes of calculating whether the employee meets the qualification set out in paragraph 15.7 (i) to have had 12 months of continuous service with one or more NHS employers, the following provisions shall apply:
   i. NHS employers include health authorities, NHS boards, NHS trusts and the Northern Ireland Health Service;
   ii. a break in service of three months or less will be disregarded (though not count as service).

62. Are any breaks in service disregarded when considering if I have 12 months continuous service?
The handbook section 15.62 states The following breaks in service will also be disregarded (though not count as service):
   i. employment under the terms of an honorary contract;
   ii. employment as a locum with a general practitioner for a period not exceeding 12 months;
   iii. a period of up to 12 months spent abroad as part of a definite programme of postgraduate training on the advice of the postgraduate dean or college or faculty advisor in the speciality concerned;
   iv. a period of voluntary service overseas with a recognised international relief organisation for a period of 12 months, which may exceptionally be extended for 12 months at the discretion of the employer which recruits the employee on her return;
   v. absence on a employment break scheme in accordance with the provisions of Section 36 of this Handbook;
   vi. absence on maternity leave (paid or unpaid) as provided for under this agreement.

63. Will my service as a trainee with a general medical practitioner count for reckonable service?
The handbook section 15.64 states *Employment as a trainee with a general medical practitioner in accordance with the provisions of the Trainee Practitioner Scheme, shall similarly be disregarded and count as service.*

**64. Will the Trust recognise any other service as reckonable service?**
The handbook states at section 15.65 *Employers have the discretion to count other previous NHS service or service with other employers.*

Information about statutory maternity/adoption and paternity leave and pay

**65. What other benefits or allowances could I be entitled to?**
Section 15.66 of the handbook states *there are occasions when employees are entitled to other statutory benefits/allowances and information about all statutory maternity/adoption, Shared Parental Leave and paternity rights can be found at www.gov.uk.*
Overview of Maternity Leave, Pay & Procedure

Eligibility

<table>
<thead>
<tr>
<th>Amount of Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>NHS Contractual Maternity Pay</td>
</tr>
<tr>
<td>Statutory Maternity Pay</td>
</tr>
<tr>
<td>You may be entitled to receive Maternity Allowance, (section 4.6). Request an SMP1 from Pay Services</td>
</tr>
</tbody>
</table>

Application Process

You have less than 26 weeks' continuous Trust service at the 15th week before the baby is due.

Manager receives an application form for Maternity Leave and immediately completes a risk assessment with the employee, (section 8) and regularly reviews with employee throughout the pregnancy.

Employee completes an application form (appendix B) for Maternity Leave, (section 3.4), (no later than the end of the 15th week before the baby is expected to be born).

Manager responds within 28 days using Section B of application form (Appendix B)

You have less than 12 months' continuous NHS service but more than 26 weeks continuous Trust service at the 15th week before the baby is due.

You have 12 months' continuous NHS service at the beginning of the 11th week before the expected week of childbirth and will return to work for a minimum of three months following your Maternity Leave.

Leave Commences

Manager completes a Change of Circumstance form and sends to ESR with the Application form and MATB1 form.

If an employee wishes to change the Maternity leave start date they must write to their line manager giving at least 28 days notice (unless this is not reasonably practicable).

Employee submits MATB1 form no later than 21 days before commencing Maternity leave, (section 4.2 (v))

Manager notifies ESR of the new Maternity Leave start date using a change of circumstance form.
## Application for Maternity Leave - HR24

### Section A - To be completed by the employee:

#### Part 1 - Personal Details

<table>
<thead>
<tr>
<th>First Name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Surname:</td>
<td></td>
</tr>
<tr>
<td>Employee No:</td>
<td></td>
</tr>
<tr>
<td>Department:</td>
<td></td>
</tr>
<tr>
<td>Start Date with Trust:</td>
<td>Start Date with NHS:</td>
</tr>
</tbody>
</table>

#### Part 2 - Notification and Evidence

I wish to request Maternity Leave and advise the following dates:

<table>
<thead>
<tr>
<th>Date of 11th week prior to date of childbirth</th>
<th>Date of 15th week prior to date of childbirth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of commencement of Maternity Leave</td>
<td>Expected week of childbirth (Sunday prior to baby's birth)</td>
</tr>
</tbody>
</table>

Have you had a break in service of more than 3 months in the year before the 11th week before the expected week of childbirth? (Please circle)

- YES
- NO

If yes, what were the dates? to:

I have attached the MATB1 form and understand that should I wish to change the commencement date of leave I must write to my Manager giving at least 28 days' notice (or as soon as is reasonably practicable).

### Part 3 – Maternity Leave

I understand I can take up to 12 months maternity leave

### Part 4 – Maternity Pay Request

Please select ONE of the following options

- I wish to apply for NHS Contractual Maternity pay, and have met the criteria in section 15.7 of the NHS terms and conditions of service handbook.
  - I confirm I intend to return to work at Shrewsbury and Telford Hospital NHS Trust or a different NHS employer for a minimum period of 3 months following my Maternity Leave.
  - I understand that should I fail to return to work I will be expected to repay the Trust the difference between SMP to which I was entitled and the NHS rates paid.

- I wish to apply for Statutory Maternity Pay (SMP) as I have more than 12 months continuous service with the NHS but I do not intend to return to work with the Trust or another NHS Trust.

- I wish to apply for Statutory Maternity Pay (SMP) as I have more than 26 weeks but less than 12 months continuous service

- I have less than 26 weeks service and wish to apply for Maternity Allowance, please send me an SMP1 form

### Part 5 – Declaration

I have read and understand the Maternity Leave terms and conditions and wish to apply for leave and pay as indicated above. I have attached the required documentation and believe I meet the criteria as detailed in the policy.

Signed: [Signature]  
Date: [Date]
### Section B - To be completed by the Manager:

<table>
<thead>
<tr>
<th>On receipt of the above application form I confirm:</th>
<th>Date Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>I have discussed the policy and its implications with the employee above.</td>
<td></td>
</tr>
<tr>
<td>I have discussed and confirmed the dates as accurate according to the information with which I have been provided.</td>
<td></td>
</tr>
<tr>
<td>I have confirmed the employee's paid and unpaid leave entitlements under NHS Terms and Conditions of Service (or statutory entitlements if the employee does not qualify)</td>
<td></td>
</tr>
<tr>
<td>I have confirmed that unless an earlier return date has been given by the employee, her expected return date, based on her 52 weeks paid and unpaid leave entitlement is</td>
<td></td>
</tr>
<tr>
<td>Date ...........................................</td>
<td></td>
</tr>
<tr>
<td>I have confirmed with the employee to give at least 28 days of notice if she wishes to return to work before the expected return date.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Accrued Annual leave and General Public Holidays during period of leave</th>
<th>No. of hours</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of hours to be taken prior to commencement of leave</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Record of discussion prior to leave</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name (Print):</th>
<th>Job Title:</th>
<th>Is this a revised application? (ie has this application been submitted previously but the date has now changed)</th>
<th>Date copy of this application, evidence &amp; ESR Change of Circumstances form sent to ESR:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signed:</td>
<td>Date:</td>
<td>Yes ☐</td>
<td>Date copy of this application, evidence &amp; ESR Change of Circumstances form sent to ESR:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No ☐</td>
<td></td>
</tr>
</tbody>
</table>

**Line Manager Action:**

Please
- retain a copy of the signed documentation, evidence and ESR Change of Circumstances form on the individual’s personal file and
- send the Application for Maternity Leave to ESR with an ESR Change of Circumstances form.

Please note if the commencement of leave date changes a new Application for Maternity Support Leave must be completed and a further copy and change of circumstance form sent to Pay Services indicating that this is a revised application.