

**Family Leave Policy**  
Incorporating  
**Maternity Leave**  
**Adoption Leave**  
**Shared Parental Leave**  
**Paternity Leave**  
**Parental Leave**

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8		Full policy review – change of ‘confinement’ to ‘child birth’. Update of KIT days from AfC. Unpaid leave re-worded to align with AfC. Inland Revenue available from HMRC website not Workforce Services. Statutory amounts removed from appendix 1. Appendix 9 shared parental leave definitions removed	Oct 2017	Sophie Coutts

8.1		Minor amendment following HMRC changes on the age range for children eligible for tax free childcare vouchers from 2-3 years to all those under 12. – Page 12, Section 1.14	Mar 2018	Sophie Coutts
9		Minor amendment to appendix 1 and appendix 2 to incorporate an additional entitlement to maternity/adoption leave in the instance of an employee having 12 months continuous service within the NHS but not with LCHS.	Sept 2018	Lyndsey Clapham
10		Full Policy Review – Section 4 added to consolidate all T&Cs. All supporting documents and forms have been moved to the intranet.	Dec 2019	Aaron Gorman
10.1		Removal of Section 5.4 as repeated in other parts of the policy	June 2021	Vicky Cobb
		Additional text added regarding second period of maternity leave/pay	July 2021	Vicky Cobb and Georgia Travis

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## Family Leave Policy

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## **Procedural Document Statement**

**Background Statement** This policy is intended as a guide for both employees and managers and contains details about the Trust's provision for maternity, adoption, shared parental leave, paternity and parental leave. Having children is fundamental to family life in the majority of relationships and this policy aims to remove any worries about work that parents may have and encourage them to return to work with Lincolnshire Community Health Services NHS Trust. The policy outlines at what point employees may begin their leave and the process to follow to ensure the period before, during and after is well planned and goes smoothly. The policy also provides information about benefits employees will be entitled to and how to obtain these. The Trust recognises the contribution its employees make to the future development and success of the Trust and is therefore committed to recruit and retain staff of the highest calibre. This policy has been written with care to make it as accurate and reliable as possible, however in the case of any conflict, the statutory and legal provisions as they relate to the issue in question will prevail.

**Responsibilities** Implementation and compliance with the policy will be the responsibility of all managers.

**Training** This policy is a reference document and will be amended in light of any new legislation. Specific training is not necessary; however managers should keep themselves aware of the processes required.

**Dissemination** Website

<b>Resource implication</b>	The Trust will be required to provide payment as per the policy to employees on leave and will ensure adequate provision in budgets to cover family leave. Appropriate facilities will need to be provided to ensure staff health and safety in line with any risk assessment actions which need to be implemented e.g. breast-feeding quiet room.
<b>Consultation</b>	All Staff
<b>HR statement</b>	This policy and procedures applies to all employees and the aim is to ensure consistent and fair treatment for all in the organisation. Every member of staff has a personal responsibility to achieve and sustain high standards of performance and conduct at all times and to comply with this policy, reflecting our values expressed in the LCHS Way; We listen, We care, We act, We improve.
<b>E&amp;D statement</b>	This policy aims to meet the requirements of the Equality Act 2010 and ensure that no employee receives less favourable treatment on the grounds of gender, sexual orientation, transgender, civil partnership/marital status, appearance, race, nationality, ethnic or national origins, religion/belief or no religion/belief, disability, age, carer and pregnancy or maternity, social status or trade union membership or is disadvantaged by conditions or requirements which are not justified by the job.



# Family Leave Policy

## Introduction

Having children is fundamental to family life in the majority of relationships and this policy aims to remove any worries about work that parents may have and encourage them to return to work with Lincolnshire Community Health Services NHS Trust. This policy is intended as a guide for both employees and managers and contains details about the Trust's provision for maternity, adoption, shared parental leave, paternity and parental leave including at what point employees may begin their leave and the process to follow to ensure the period before, during and after is well planned and goes smoothly. The policy also provides information about benefits employees will be entitled to and how to obtain these. The Trust recognises the contribution its employees make to the future development and success of the Trust and is therefore committed to recruit and retain staff of the highest calibre.

All claims for family leave will be validated and any suspected abuse of this policy will be referred to the Local Counter Fraud Specialist, for investigation, and may result in disciplinary proceedings and/or a criminal investigation being carried out.

## 1. Maternity Leave

### 1.1. Introduction

It is the policy of the Trust to ensure that all pregnant employees can make informed decisions regarding their pregnancy and employment, and are therefore advised of their maternity rights regardless of whether they work full or part time or their length of service. Their actual pay entitlement will be dependent on the length of service. This document provides guidance for both line managers and employees as to the procedure to be followed and the calculation of individual entitlements including maternity leave/pay and Statutory Maternity Pay (SMP).

### 1.2. Notification of Pregnancy

An employee must inform their line manager and HR department of the pregnancy by the end of the 15<sup>th</sup> week before the Expected Week of Child Birth (EWC) and should include their intention to take maternity leave at their earliest opportunity. It is in the best interest of the employee to notify their line manager as soon as possible for health and safety reasons. Notice should be given in writing/email, and with indication given of the EWC to the HR department. Failure to do so could result in late salary payments. HR will email this policy and receipt of confirmation letter to the individual.

### 1.3. Risk Assessment

As soon as written notification is received, it is the responsibility of the line manager to complete a risk assessment of the work condition of the employee concerned. This must be carried out in accordance with the procedure outlined and a completed risk assessment form (located on the intranet, under documents for managers) forwarded to the HR department. Further risk assessments must be carried out every 3 months up to the commencement of maternity leave.

#### **1.4. Maternity Leave Application and Form MatB1 (Maternity Certificate)**

The employee must complete and return the Maternity Leave Application Form (located on the intranet, under documents for individuals). This must be forwarded to the HR department no later than 28 days before their absence is due to begin.

Upon receipt of the application form HR will confirm the following;

- I. The employees paid, unpaid and/or statutory leave entitlements.
- II. The expected return date based on their entitlements.
- III. The need for the employee to give at least 8 weeks' notice if she wishes to return to work before the specified return date.

Medical evidence of the expected date of child birth must be provided by the GP or midwife on a maternity certificate (MATB1). This can be issued from the 20<sup>th</sup> week of pregnancy onwards. It is essential that the employee forward the original MATB1 certificate to the HR department as soon as possible as no maternity entitlements can be given until this form is received.

#### **1.5. Ante-Natal Care**

All employees have the right to reasonable time off with pay for ante-natal care, which includes medical examination, relaxation and parent craft classes. Employees should plan these periods of absence with their managers and the employee must provide evidence of all appointments. This should be recorded on the Special Leave Policy Form (located on the intranet, under documents for individuals).

#### **1.6. Sickness during Pregnancy**

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 the Your Attendance Matters Policy.

Odd days of pregnancy-related illness during this period are not likely to trigger the start date of maternity leave if the employee wishes to continue working until the maternity leave start date previously notified to the employer.

If the illness is not pregnancy related, the employee may be eligible to receive sick pay until the date of birth to satisfy the regulations concerning sick pay.

In the event of sickness following the date the employee was due to return to work normal sick leave provisions will apply as necessary.

#### **1.7. Still Birth, Miscarriage and Premature Birth**

There are some occasions when pregnancy may not continue until the expected date of child birth and the following provisions are appropriate for these circumstances. The Trust will support staff through these times where required:

- **Stillbirth** – if an employee suffers a stillbirth which occurs in or after the 25<sup>th</sup> week of pregnancy the employee will be entitled to the same amount of maternity leave and pay as if their baby was born alive.
- **Miscarriage** - where an employee has a miscarriage before the end of the 24<sup>th</sup> week of pregnancy normal sick leave provisions will apply as necessary.
- **Premature Birth** – 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 the baby was born at full term. Medical evidence of the baby’s birth must be given to the HR department within 21 days of the start of SMP pay period but no later than 13 weeks after the start of the SMP period.

Where an employee’s baby is born prior to or during the qualifying 11<sup>th</sup> week before the expected week of childbirth, and the employee has worked during the actual week of childbirth, maternity leave will commence on the first day of the employee’s absence.

Where an employee’s baby is born prior to the 11<sup>th</sup> week before the expected week of childbirth, and the employee has been absent from work on certified sickness during the actual week of childbirth, maternity leave will commence the day after the day of birth.

Where an employee’s baby is born prior to the 11<sup>th</sup> week before the expected week of childbirth and the baby is in hospital the employee may split their maternity leave entitlement – taking a minimum period of 2 weeks leave immediately after childbirth and the rest of their leave following the baby’s discharge from hospital.

## **1.8. Preparing for Maternity Leave and Commencement**

Before going on leave, the line manager and the employee should discuss and agree:

- a) Any voluntary arrangements that the employee may find helpful to help them keep in touch with developments at work and, nearer the time of their return, to help facilitate the return to work.
- b) Using remaining annual leave before going off on maternity leave and then annual leave arrangements when they return.
- c) Communication.
- d) Keeping in Touch (KIT) days.

The employee may commence maternity leave at any time after the 11<sup>th</sup> week prior to the expected birth week. The employee may, at their request, work up to the expected date of child birth unless a health and safety risk has been identified during the risk assessment, in which case, management will seek to take appropriate action as detailed in the risk assessment section. If the employee subsequently wants to change the date from which she wishes her leave to start she must discuss this with her line manager at least 28 days beforehand.

## 1.9. Entitlements to Maternity Leave, Maternity Pay and Benefits

Within the NHS, all employees have the right to a maximum of 52 weeks maternity leave regardless of length of service. The entitlement to maternity pay and other benefits is dependent on length of service. Appendix 1 provides a guidance table for the employee to calculate the pay, leave and benefit entitlements they are eligible to receive. By prior agreement with the manager and Payroll the entitlement may be paid in a different way, for example a combination of full and half pay or a fixed amount spread equally over the maternity leave period.

Full pay will be calculated using the average weekly earnings rules used for calculating Statutory Maternity Pay (SMP) – (Agenda for Change Handbook section 15.12). – subject to the following:-

- (i) If a pay award or annual increment is implemented anytime between the start of the set period and the end of the employee's paid maternity leave, the maternity pay entitlement should be recalculated.
- (ii) if an employee is 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.

“Maternity Leave” means either Ordinary Maternity Leave or Additional Maternity Leave. Please note that the rate of SMP changes on an annual basis and payment will be made at the relevant SMP rate at the time of maternity leave.

Rights to pay (both salary and SMP) during maternity leave are shown in Maternity/Adoption Leave - A Guide to Entitlements (located on the intranet, under documents for individuals), however there is one important condition to note called the **Lower Earnings Limit (Earnings Rule)**. This states that Statutory Maternity Pay is only payable where income meets the minimum earnings criteria where average weekly earnings for an 8 week period prior to the 15<sup>th</sup> week before birth are not less than the lower earnings limit for national insurance contributions. Thus, if basic national insurance contributions are not paid over the 8 weeks period there is no entitlement to receive Statutory Maternity Pay. Human Resources can obtain this calculation from the Payroll Department on behalf of the individual if necessary.

Employees not entitled to SMP may be eligible for 39 weeks maternity allowance payable from their Job Centre Plus Office if they have paid the required national insurance contributions. If an employee is not entitled to SMP the Payroll Shared Services department will refer the employee to the Job Centre Plus office for them to ascertain the employee's eligibility for maternity allowance from the DSS.

In the case of an employee currently on maternity leave who attends to take a second period of maternity leave, either concurrently, or in close succession to the first, who is in receipt of:

- half of full pay (plus any Statutory Maternity pay or
- Maternity Allowance (including any dependent's allowance receivable) or
- no 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

second period of maternity leave shall be calculated on the basis on notional full pay. Any employee who is in receipt of excess travel expenses will have their entitlements frozen for the duration of the maternity leave, not to include any annual leave or sickness/absence that may occur either side.

## **1.10. Breastfeeding for Working Mums**

Process - Discussion between employee and their line managers regarding their wish to continue breastfeeding and/or expressing breast milk whilst at work may take place at any time, however, an employee must inform their line manager in writing 4 weeks prior to returning to work to confirm their wish. This will allow time for the employee and line manager to meet to carry out a specific risk assessment (located on the intranet, under documents for managers) and identify suitable reasonable options to meet the request. An employee must inform their line manager in writing if circumstances change with regard to breastfeeding and/or expressing breast milk.

Facilities - line managers, will identify suitable facilities that are available for employees who are breastfeeding and/or expressing breast milk whilst at work. Suitable facilities would include:

- Use of a room that is warm, clean, private and appropriate for use.
- A comfortable chair, which can be easily cleaned in case of spillages.
- A clean sink to wash hands, breast pump and other items.
- Provide appropriate cleaning materials to ensure correct cleaning of equipment. Use of a fridge for the safe storage of labelled bottles of expressed milk which should be placed in a lidded labelled box within the fridge. If access to a fridge is not available please contact the facilities team who may be able to source the loan of one.
- A power point for electric breast pump.
- A cool box and ice pack may be advantageous for community workers wishing to store expressed milk.

There is no statutory right to time off work for breastfeeding. However, the Trust will take all reasonable steps to enable breastfeeding to take place. Employees may wish to consider flexible working hours for breastfeeding mothers but service requirements will need to be taken into consideration. If an individual's work is affected by breastfeeding, they should discuss this with their line manager or other appropriate party. Similarly, the line manager may raise this with the individual and discuss with them options which can be supported to enable breastfeeding to continue.

## **1.11. Redundancy regulations for employees on Maternity Leave**

When consulting employees at risk who are on maternity leave (or off work with pregnancy-related sickness) about proposed redundancies they should be given as much warning as possible. This includes employees on fixed-term contracts. The selection criteria used must not disadvantage employees because of sex, pregnancy or maternity leave.

## **2. Adoption Leave**

### **2.1. Introduction**

Adoption is an important service in the community and it is recognised that the needs of

adoptive parents are at least as great as those of natural parents in establishing a relationship with the child and in developing new routines. They can be greater when, as frequently happens, adoptive parents have only a few days' notice of a child's arrival or where the child is older and may have had a difficult family background as well as several changes of foster parents and children's homes.

The adoption leave scheme is therefore to enable an employee who wishes to adopt a child to take a period of leave to help the child settle into the family and adjust to new circumstances. Where the child is below the age of 18 adoption leave and pay will be modeled on the same principles as Maternity Leave.

## **2.2. Eligibility for Adoption Leave**

The scheme shall apply to staff whether full-time or part-time, requiring leave of absence for the purpose of adopting a child. Where both adoptive parents are employed by Lincolnshire Community Health Services NHS Trust, only one, to be agreed by the couple, will be eligible for leave under this scheme. The other partner may qualify for paternity leave under the special leave scheme.

To qualify for adoption leave an employee must:

- a) 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.
- b) Will be "newly" matched with a child for adoption by an adoption agency.

Adoption leave is not available in circumstances where a child is not newly matched for adoption, for example where fostering prior to adoption or a step parent is adopting a partner's child. In these cases there is scope for local arrangements on the amount of leave and pay in addition to time off for official meetings.

## **2.3. Applying for Adoption Leave**

An employee who intends to apply for adoption leave must notify their line manager in writing as soon as they are advised by an adoption agency that they have been accepted by the agency. They must notify the manager of the date they wish to commence adoption leave.

The employee must continue to be employed until the child becomes available for placement and must also notify the manager that they intend to return to work for the Trust following adoption leave for a minimum period of three months. Where consistent with the needs of the service, a member of staff may be able to return to work for fewer hours than those worked prior to adoption and the hours of work may be adjusted accordingly.

The manager should respond to the employee setting out the date on which they expect the employee to return to work if the full entitlement to leave is taken and copy to the HR department.

The employee must provide documentary evidence, from their adoption agency, as evidence of their entitlement to Statutory Adoption Pay (SAP) which will be paid by the Trust.

## **2.4. Entitlements on adoption leave**

Subject to the above conditions the adoptive parent will be entitled to:

- Paid time off to attend meetings about the child to be adopted (the manager will require advance notice and evidence of appointments i.e. appointment card or letter). This should be recorded as Special Leave on Health Roster (or ESR if department is not enrolled on Health Roster).
- 39 weeks leave of absence with pay (for staff with a minimum of 26 weeks continuous employment with the Trust or another NHS employer). The prospective parent can choose to have adoption pay paid from either the date of the placement or from a fixed date up to 14 days before the expected date of placement prior to the child's availability. This is referred to as ordinary adoption leave.
- Remain absent for up to 52 weeks in total. The period between 39 weeks and 52 weeks is called additional adoption leave (AAL) and will be unpaid.

An employee currently receiving childcare vouchers will be entitled to continue to receive them throughout their adoption leave, if they so wish.

It is important that employees receiving Childcare Vouchers should contact the provider at [www.fideliti.co.uk](http://www.fideliti.co.uk) or 0800 288 8727 customer support at the earliest possible time prior to placement for guidance on whether to continue with the scheme during adoption leave. Failure to do this may have financial implications for the employee.

Any employee who is receipt of excess travel expenses will have their entitlements frozen for the duration of the adoption leave, not to include any annual leave or sickness/absence that may occur either side.

## **2.5. Sickness absence**

Adoption leave will not be treated as sickness absence and will not therefore be taken into account for the calculation of occupational sick pay entitlement in accordance with the appropriate terms and conditions.

If the employee fails to return to work on the notified date because of sickness they must submit a doctor's statement and the provisions of the occupational sick pay schemes will apply.

## **3. Shared Parental Leave**

### **3.1. Introduction**

Shared Parental Leave (SPL) gives parents more flexibility in considering how to best care for, and bond with, their child. All eligible employees have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay (ShPP) in accordance with statutory entitlements.

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

SPL can only be used by two people:

- The mother/adopter **and**
- One of the following:
  - The father of the child (in the case of birth) or
  - The spouse, civil partner or partner of the child's mother/adopter.

Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.

Additionally an employee seeking to take SPL must satisfy each of the following criteria:

- The mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
- The employee must still be working for the Trust at the start of each period of SPL;
- The employee must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date;
- The employee's partner must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned an average of at least £30 (this is correct as of 2019 but may change annually) a week in any 13 of those weeks;
- The employee must correctly notify the organisation of their entitlement and provide evidence as required.

Any employee who is receipt of excess travel expenses will have their entitlements frozen for the duration of the shared parental leave, not to include any annual leave or sickness/absence that may occur either side.

### **3.3. Discussions regarding Shared Parental Leave**

Employees considering/taking SPL should contact their line manager to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the company to support the individual.

Advice from the HR department may be gained by contacting the relevant HR Advisor.

For details of employee entitlements and how to apply for SPL/ShPP please refer to further information on the staff intranet.

Upon receiving a leave booking notice from an employee the line manager will usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can without further discussion be approved in the terms stated in the employee's notice booking leave, a meeting may not be necessary.

At the meeting the employee may, if they wish, be accompanied by a workplace colleague, trade union representative or even a personal friend or family member.



The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the Trust, and what the outcome may be if no agreement is reached.

### **3.4. Booking Shared Parental Leave**

In addition to notifying the employer of entitlement to SPL/ShPP, an employee must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.

Employees may submit up to three notifications specifying leave periods they are intending to take. Each notification may contain either (a) a single period of weeks of leave; or (b) two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

SPL can only be taken in complete weeks but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

#### *Continuous leave notifications*

A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).

An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the employer has been given at least eight weeks' notice. An employee may submit up to three separate notifications for continuous periods of leave.

#### *Discontinuous leave notifications*

A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

Where there is concern over accommodating the notification, the Trust or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the organisation (see "Discussions regarding Shared Parental Leave" above).

The Trust will consider a discontinuous leave notification but has the right to refuse it. If the

leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

### **3.5. Responding to a Shared Parental Leave notification**

Once the line manager receives the leave booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th day after the leave request was made.

All notices for continuous leave will be confirmed in writing.

All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the employee and to the Trust against any adverse impact to the business.

Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

The request may be granted in full or in part: for example, the Trust may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

### **3.6. Variations to arranged Shared Parental Leave**

An employee may vary or cancel an agreed and booked period of SPL, provided that they advise the Trust in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the Trust requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the Trust.

## **4. Additional information for Maternity, Adoption and Shared Parental Leave**

### **4.1. Keeping In Touch Days (KIT Days) and Shared Parental Leave In Touch Days (SPLIT Days)**

#### **KIT Days**

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) to provide reasonable notice, ensuring that contact details are up-to-date.

An employee may work for up to a maximum of 10 KIT days without bringing their maternity or adoption leave to an end to facilitate a smooth return to work for the employee. Any days of work will not extend the leave period.

An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of their baby. 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. Any such work must be by agreement and neither the employer nor the employee can insist upon it. The employee will be paid at their basic daily rate for the hours worked minus the appropriate maternity or adoption leave payment for KIT days worked. Working for part of any day will count as one KIT day.

KIT days provide a number of advantages to both the employee and the Trust.

- They enable employees to stay in touch with workplace issues and changes e.g. restructure or consultations.
- It enables the employee to undertake the odd day’s training e.g. mandatory training.
- A KIT day may also be used by an employee who was involved in a work project prior to their leave and wishes to attend work to continue their involvement in this project.
- The nature of the work performed on a KIT day must be the type of work the employee normally performs under their employment contract. It is not for the continuation of external study.

A social visit made by an employee to the workplace does not constitute a KIT day. An employer who meets an employee to discuss their return to work arrangements may also do this without this constituting a KIT day.

## **SPLIT days**

An employee can agree to work for the Trust (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave in Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes. These SPLIT days are in addition to the 10 KIT days available to those on maternity or adoption leave.

An employee taking a SPLIT day will receive full pay for this day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively ‘topped up’ so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of SPL.

An employee, with the agreement of the Trust, may use SPLIT days to work part of a week during SPL. The Trust and the employee may use SPLIT days to affect a gradual return to work by the

employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

## **4.2. Returning to Work**

In accordance with the Flexible Working Policy (FWP) the employee may return to work on any basis when agreed with their line manager, including part-time working, annualised hours, job sharing etc. The line manager may allow a return to work on a part-time basis unless there are reasonable and justifiable conditions for not doing so. If an employee wishes to change their existing working pattern on their return to work they should refer to the FWP and complete an application to change working arrangements form (located on the intranet, under documents for individuals). If the change is agreed by the line manager they should then complete a Change Form (EF2).

An employee on Maternity, Adoption or Shared Parental Leave who has notified their intention to return to work in accordance with the guidance and appropriate policies and procedures has the right to return to work under their original contract of employment and on no less favorable terms and conditions. However, if this is not practical the employer may offer suitable alternative employment where terms and conditions must be as good. In the event the child's placement ends during the adoption leave period, the employee can continue adoption leave for up to 8 weeks after the end of the placement.

If an employee on Maternity, Adoption or Shared Parental Leave who intends to return to work at the end of their full leave entitlement they do not have to give further notification to the Trust. However, an employee who wishes to return to work before the end of the full period must give their line manager 8 weeks' notice of the date they intend to return. In the circumstance of Shared Parental Leave this will count as one of the employee's notifications. If an employee has already used their three notifications to book and/or vary leave then the organisation may not accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

An employee has the right not to return to work, and dependent on eligibility, may still receive benefits in accordance with their Maternity, Adoption or Shared Parental Leave taken (located on the intranet, under documents for individuals). If an employee expresses a wish to return to work after indicating a non-return, the employee is requested to notify their line manager and the HR department in writing, as soon as possible following the birth/placement. Every consideration will be given to assist the request, although no guarantees can be given by the Trust.

If an employee fails to return to work after indicating their intention to do so (or where she/he has made a commitment to return to work for another NHS employer and failed to return/respond to an appointment letter) they will be asked to refund the difference between that paid and the entitlement had they indicated their wish to leave initially.

In the event of an employee not returning to work with the Trust for a period of at least three months, they will be expected to refund the pay received during the period of additional absence. This liability may be varied at the discretion of the Trust depending on mitigating circumstances. It is the line manager's responsibility to ensure that Payroll Shared Services are notified of the employees return to work outlining any changes as agreed on an EF2.

It is also necessary to take into account any risks to new mothers (who have recently given

birth or are breastfeeding). Where there are significant risks to the employee or child it may be necessary to temporarily adjust working conditions/hours or where appropriate, offer suitable alternative work. In these situations the employee will continue to receive their normal rate of pay. If neither of these options is reasonably practical, the employee shall be given authorised absence from work on full pay for an agreed period of time at the end of which a further risk review will be carried out.

### **4.3. Deferring the decision to return to work**

An employee may wish to defer making a final decision about returning to work until after the birth of the baby, in which case she should sign the relevant section of the Maternity Application Form (located on the intranet, under documents for individuals) confirming this. If the decision to defer is taken, the employee will initially receive maternity payment based on the length of continuous service. This can be ascertained from the section 'Employee wishes not to return to work' in Maternity/Adoption Leave - A Guide to Entitlements (located on the intranet, under documents for individuals). Following the birth, if the employee subsequently decides that they will return to work, any additional pay/benefits for which they are eligible will be paid following their return to duty of a minimum of three months.

### **4.4. Terms and Conditions of Contract during Maternity, Adoption and Shared Parental Leave**

An employee on Maternity or Adoption Leave has the right to continue to benefit from all of their terms and conditions of employment except remuneration, just as if they were still at work. During the period of Shared Parental Leave (SPL), employee's contracts of employment continue and employees will continue to receive all their contractual benefits, except for salary. Contractual annual leave entitlement will continue to accrue. Pension contributions will continue to be made during any period when an employee is receiving ShPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the Trust's contributions will be based on the salary that the employee would have received had they not been taking SPL. Below are some of the areas that cause most concern to employees, detailing any adjustments that may arise:

#### Annual Leave

Annual leave entitlement will continue to accrue at the contractual level during Maternity, Adoption and Shared Parental Leave. Where the amount of accrued annual leave would exceed normal carry over provision, it may be mutually beneficial to both manager 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 must be discussed and agreed between the manager and employee at an early stage, and confirmed in writing. This will enable the manager to plan staffing levels in the absence of the employee. Where it is not practical to take annual leave entitlement prior to commencing maternity leave, contractual entitlement can be carried over into the following annual leave year. Payment in lieu may be considered as an option where accrual of annual leave exceeds normal carry over provisions.

#### Pension

The Trust will continue to pay employer's contributions on the same basis as before Maternity, Adoption or Shared Parental Leave started. Employees only pay contributions on the amount of remuneration or Statutory Maternity, Adoption or Shared Parental Pay they receive. Any period of unpaid leave can be pensionable for the whole period. This allows for the period to reckon towards pension benefits. Contributions would be deducted based on the amount of pay actually received immediately before the unpaid period started. Unpaid contributions will be recovered on return to work over the same period as they accrued.

Please note that added years are taken on the same rate as the employer i.e. not on reduced pay as the basic contribution is. For advice on any aspects of the pension scheme please contact the Pensions Shared Services department at Jarvis House, Lincoln.

### Increments

Where an employee is on an incremental scale for remuneration, all absence on Maternity, Adoption or Shared Parental Leave, whether paid or unpaid shall count towards the annual increment progression. Incremental dates shall not be affected and will be counted towards the service qualification period for additional annual leave, sickness pay and redundancy.

### Fixed Term Contracts

Employees subject to fixed-term or training contracts which expire before the 11<sup>th</sup> week before the expected week of child birth will not be entitled to maternity leave but may have an entitlement to Statutory Maternity Pay. Employees subject to fixed-term or training contracts which expire after the 11<sup>th</sup> week before the expected week of child birth, and who satisfy the eligibility criteria shall have their contract extended so as to allow them to receive the 26 weeks paid contractual maternity and 26 weeks unpaid.

Employees subject to fixed-term or training contracts which expire prior to the 14<sup>th</sup> day before the expected date of the placement of the child for adoption will not be entitled to adoption leave but may have an entitlement to Statutory Adoption Pay. Employees subject to fixed-term or training contracts which expire after the 14<sup>th</sup> day before the expected date of the placement of the child for adoption, and who satisfy the eligibility criteria shall have their contract extended so as to allow them to receive the 26 weeks paid contractual adoption pay.

Termination of employment will therefore coincide with the last day of ordinary maternity leave. Employees on fixed-term contracts who do not meet the 12 months continuous service condition may still be entitled to Statutory Maternity Pay or Statutory Adoption Pay.

### Childcare Vouchers

A Government Tax-Free Childcare Scheme was introduced to parents during 2017. Information regarding the Childcare Service which is supporting both Tax-Free Childcare and extended funding can be found here: <https://www.gov.uk/tax-free-childcare>. An employee in receipt of the old Childcare Vouchers scheme can choose to opt out at any time and opt into the Government Tax-Free Childcare Scheme. Please see the staff intranet for further useful contacts.

### Salary Sacrifice Schemes

If an employee has taken up the option of a salary sacrifice scheme prior to leave, the Trust will pay for any short fall in the monetary value to equal what was paid prior to Maternity, Adoption

or Shared Parental Leave commencing. This allows employees to continue receiving the full non cash benefit entitlement as set down in the salary sacrifice scheme contract. Please refer to the LCHS Staff Benefits Scheme Policy for guidance.

### Car User Allowance/Leased Vehicles

Where an employee is in receipt of regular car user allowance, the lump sum payment will be paid for the remainder of the month in which the car is out of use and for a further three months after that. Following this 50% of the lump sum payment will be made for a further three months or until the end of the Maternity, Adoption or Shared Parental Leave (whichever is less). Employees not returning will have any payment limited to the period of paid Maternity, Adoption or Shared Parental Leave

An employee who has contracted for private use of a lease car may choose to continue the private use of that vehicle at the contracted charge, or to return the vehicle to the Trust, at which point the early termination charge will apply. In the case of the latter option being taken, the employee must inform the Trust at their earliest possible convenience. Any lease car contracted for business use only will ordinarily be returned to the Trust on the commencement of maternity leave.

### Performance Management Framework

In accordance with the Your Performance Matters Policy, employees should have their appraisal (if falling within appraisal season), where possible prior to taking leave. Where this is not possible, this should take place within 3 months of their return.

Managers must ensure that an appraisal takes place in order to ensure natural progression through the pay band. Automatic progression through the gateway will occur if the appraisal does not take place.

KIT or SPLIT days could be used to support individuals' Personal Development Plans to enable them to acquire knowledge and skills and so progress through gateways at appraisals.

## **5. Paternity leave**

### **5.1. Introduction**

Paternity leave with pay is a benefit designed to allow the employee to attend the birth of a child with their partner and to provide care and support to the mother and baby during the period immediately before and/or after the birth. Paternity leave cannot be taken for any other purpose.

Application for paternity leave should be made (located on the intranet, under documents for individuals) in writing at the earliest opportunity to their line manager and the HR department. As much notice as possible should be given although it is recognised that the dates may need to be amended.

An employee must complete a form SC3 "Becoming a Parent" at least 28 days before they want leave to start. This is an Inland Revenue form and can be obtained via the HMRC website.

In order to substantiate an application for paternity leave documentary proof of the expected date of child birth, signed by a medical practitioner or a midwife will need to be given to the employee's manager.

## **5.2. Eligibility**

An employee is eligible for paternity leave if they have or expect to share responsibility for the baby's upbringing as husband or partner to the mother of the baby i.e. biological or adoptive parent. Paternity leave can also apply to nominated carers, same sex partners and adoptive parent partners.

Paid paternity leave will be granted to members of staff who have 26 weeks or more continuous employment with Lincolnshire Community Health Services NHS Trust or another NHS employer ending with the 15<sup>th</sup> week before the baby is due (the qualifying week) or 14 days prior to the placement of an adopted child.

Staff with less than 26 weeks continuous employment will be granted unpaid paternity leave.

## **5.3. Entitlement**

A maximum of 15 working days (pro rata for part time staff) will be granted. Such leave will normally be agreed in advance and in blocks of a minimum of 1 week (pro rata equivalent).

Full pay will be calculated on the basis of the average weekly earnings rules for calculating occupational maternity/adoption pay entitlements (i.e. the entitlement will be the same as SMP/SAP). The employee will receive full pay less any statutory paternity pay receivable.

Leave can start on any day of the week on or following the child's birth or date of placement if adopted but must be completed within 56 days of the actual date of birth/placement of the child. Only one period of paternity leave/occupational paternity pay is ordinarily available in the event of a multiple birth/adoption.

Guidance for time off with pay to allow employees to accompany their partner to attend antenatal appointments, child-care classes or adoption meetings will be at the discretion of managers up to a maximum of 10 attendances in exceptional circumstances. The employee must produce evidence of appointment, including time and length of appointment.

A qualifying employee will be entitled to paid leave if the baby is stillborn after 24 weeks of pregnancy. If the baby is born alive at any point in the pregnancy but dies later, the employee will still be entitled to paid paternity leave.

Where leave is required to support mother and new baby/adopted child then paternity leave is the first option rather than other types of special leave. Additional leave (paid or unpaid) may be granted in exceptional circumstances by the manager following consultation with your HR Advisor. In such cases the granting of carers/parental leave may be appropriate.

## **6. Unpaid Parental Leave**



## **6.1. Entitlement**

Parental leave is a separate provision from maternity, adoption or paternity leave and provides an un-transferable individual right to 18 weeks unpaid leave for every child (including each child of a multiple birth/adoption). This can usually be taken up to the child's 18<sup>th</sup> birthday.

Parental leave will be unpaid, however, the parent will remain employed, pensions and other accrued rights will be aggregated.

## **6.2. Eligibility**

An employee is eligible to parental leave if they meet the following criteria:

- They are named on the child's birth or adoption certificate or they have, or expect to have, parental responsibility.
- They are not a foster parent (unless they have secured parental responsibility through the courts).
- The child is under the age of 18 years old.
- Has at least 12 months service in the NHS. Outstanding leave will transfer from previous non-NHS employers, but the individual will have to re-qualify with a year of employment within Lincolnshire Community Health Services NHS Trust.

During parental leave the employee retains all their contractual rights, except remuneration and should return to the same job. Pension rights and contributions shall be dealt with in accordance with the NHS Superannuation Regulations. Periods of parental leave should be regarded as continuous service.

## **6.3. Conditions**

Leave arrangements need to be as flexible as possible with leave being taken in a variety of ways by mutual agreement in accordance with the needs of the service and the circumstances of the parent and the following conditions:-

- Parental leave can be added to periods of paternity or maternity leave.
- Leave has to be taken in periods of one week; however, parents of disabled children may take leave in one-day periods.
- No more than 4 weeks parental leave may be taken in any 12 month period for each child or adopted child.

Applications for parental leave must give notice of at least 1 calendar month, in writing, to the appropriate line manager.

Line managers should only postpone leave in exceptional circumstances and give written reasons. Employees may also postpone or cancel leave that has been booked with local agreement.

## Appendix 1 - Monitoring Template

This template should be used to demonstrate compliance with NHSLA requirements for the procedural document where applicable and/or how compliance with the document will be monitored.

Minimum requirement to be monitored	Process for monitoring e.g. audit	Responsible individuals /group /committee	Frequency of monitoring /audit	Responsible individuals / group / committee (multi-disciplinary) for review of results	Responsible individuals / group / committee for development of action plan	Responsible individuals / group / committee for monitoring of action plan
Bi-annual	Review	EPG	Annual	JCNC Trust Board	EPG	EPG

## **Appendix 2 - Equality Analysis**

### **Introduction**

The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality, but doing so is an important part of complying with the general equality duty. It is up to each organisation to choose the most effective approach for them. This standard template is designed to help LCHS staff members to comply with the general duty.

Please complete the template by following the instructions in each box. Should you have any queries or suggestions on this template, please contact Rachel Higgins, Equality and Diversity lead.

**Name of Policy/Procedure/Function\* Family Leave Policy**

**Equality Analysis Carried out by: Aaron Gorman**

**Date: December 2019**

**Equality & Human rights Lead: Rachel Higgins**

**Date: December 2019**

**Director: Ceri Lennon**

**Date: December 2019**

**\*In this template the term policy\service is used as shorthand for what needs to be analysed. Policy\Service needs to be understood broadly to embrace the full range of policies, practices, activities and decisions: essentially everything we do, whether it is formally written down or whether it is informal custom and practice. This includes existing policies and any new policies under development.**

**Section 1 – to be completed for all policies**

A.	Briefly give an outline of the key objectives of the policy; what it's intended outcome is and who the intended beneficiaries are expected to be	This policy is intended as a guide for both employees and managers and contains details about the Trust's provision for maternity, adoption, shared parental leave, paternity and parental leave. Having children is fundamental to family life in the majority of relationships and this policy aims to remove any worries about work that parents may have and encourage them to return to work with Lincolnshire Community Health Services NHS Trust.		
B.	Does the policy have an impact on patients, carers or staff, or the wider community that we have links with? <b>Please give details</b>	The policy outlines at what point employees may begin their leave and the process to follow to ensure the period before, during and after is well planned and goes smoothly. The policy also provides information about benefits employees will be entitled to and how to obtain these.		
C.	Is there is any evidence that the policy\service relates to an area with known inequalities? <b>Please give details</b>	No		
D.	Will/Does the implementation of the policy\service result in different impacts for protected?	No		
		Yes	No	
	Disability		X	

	Sexual Orientation		X	
	Sex		X	
	Gender Reassignment		X	
	Race		X	
	Marriage/Civil Partnership		X	
	Maternity/Pregnancy		X	
	Age		X	
	Religion or Belief		X	
	Carers		X	
	<b>If you have answered 'Yes' to any of the questions then you are required to carry out a full Equality Analysis which should be approved by the Equality and Human Rights Lead – please go to section 2</b>			
The above named policy has been considered and does not require a full equality analysis				
<b>Equality Analysis Carried out by:</b>		Aaron Gorman		
<b>Date:</b>		December 2019		