Maternity / Paternity / Adoption / Parental / Shared Parental Leave Policy and Procedure

This document provides guidance for managers and employees regarding the Maternity, Paternity, Adoption, Parental or Shared Parental leave provisions.

<table>
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<th>Key Words:</th>
<th>Maternity leave, Paternity leave, Adoption Leave, Parental Leave, Shared Parental Leave</th>
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</thead>
<tbody>
<tr>
<td>Version:</td>
<td>6</td>
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<td>Adoption by:</td>
<td>Strategic Workforce Group</td>
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<tr>
<td>Name of originator/author:</td>
<td>Human Resources</td>
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<td>Workforce and OD Development Committee (amended policy agreed on 8th December 2015)</td>
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<td>14</td>
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## Version Control and Summary of Changes

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<thead>
<tr>
<th>Version number</th>
<th>Date</th>
<th>Comments (description change and amendments)</th>
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<tbody>
<tr>
<td>1</td>
<td>20/1/2012</td>
<td>Harmonised document and updated in light of legislation and internal processes. Combined the single documents as one combined document with separate appendices relating to Maternity, Paternity, Adoption and Parental leave. Alignment with SBS /HR payroll forms</td>
</tr>
<tr>
<td>2</td>
<td>24/07/12</td>
<td>Left Aligned for accessibility. Added ‘Keeping In Touch’ (KIT) days within the definitions.</td>
</tr>
<tr>
<td>3</td>
<td>01/07/13</td>
<td>New Legislation regarding Parental Leave which now entitles employees with 1 years continuous NHS service may be entitled to a maximum of 18 weeks (was 13 weeks) unpaid parental leave in respect for each individual child (including any individual disabled child). Appendix 1 - Clarification to Q1 and Q19 of the FAQ’s provided and updated</td>
</tr>
<tr>
<td>4</td>
<td>6/12/13</td>
<td>In section 6 – made reference to managers and employers responsibility for maintaining professional registration upon return from maternity leave.</td>
</tr>
<tr>
<td>5</td>
<td>3/2/14</td>
<td>Added in summary section and subsequently in Appendix 4 of the Parental leave provisions.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>This policy does not apply to Foster carers (unless parental responsibility has been secured through the courts (see section 10 - parental leave and Appendix 4 for details). In these circumstances the special leave provisions will be applicable, please refer to the special leave policy.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Section 10 - The limit on how much parental leave can be taken a year is 4 weeks (unless the employer agrees otherwise, or the child is disabled), leave should be taken in blocks of one week).</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>10.1 Eligibility for qualify for parental leave;</strong> They’re not a foster parent (unless they’ve secured parental responsibility through the courts).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>And Employees are eligible to carry over parental leave over from a previous job. Parental leave applies to each child not to an individual’s jobs.</td>
</tr>
<tr>
<td>6</td>
<td>30/10/2014</td>
<td>New Legislation with effect from 1st October 2014 entitles employees to the right to accompany pregnant women to antenatal appointments. - This applies to any employee or agency worker</td>
</tr>
</tbody>
</table>
| 01/04/2015 | who is the expectant father or the pregnant woman’s partner and will be entitled to take unpaid time off to accompany a woman to antenatal appointment.  
- Added to section 7.1 and Appendix 1 to reflect this change.  
- New Legislation (Shared Parental Leave Regulations 2014) with effect from 1st April 2015.  
- Removal of Additional Paternity Leave entitlement and replaced with Shared Parental Leave (SPL) scheme.  
- This will enable eligible parents to choose how to share the care of their child during the first year of birth of adoption (no age limit on adopted child).  
- All employees provided they meet eligibility criteria can opt into the Shared Parental Leave and Pay scheme. To opt into the scheme the employee will need to “curtail” their maternity leave after their 2 weeks compulsory maternity leave (or adoption leave).  
- In the first year of this legislation being effective, this scheme will only apply to parents of babies born on or after 5 April 2015 (or a child placed for adoption on or after 5 April 2015).  
- Shared Parental Leave (SPL) is optional for employee but is not optional for the employer.  
- Added new section and new appendix to the policy (Appendix 5) reflect this introduction of this change.  
- Information regarding Surrogacy and entitlements for the surrogate mother (birth mother) and intended parents (see section 12 within policy) |

All LPT Policies can be provided in large print or Braille formats, if requested, and an interpreting service is available to individuals of different nationalities who require them.

For further information contact: 
Senior HR Advisor  
Direct Line – 0116 295 7259
## DEFINITIONS

<table>
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<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AAL - Additional Adoption Leave</td>
<td>Last 26 weeks of the Statutory Adoption Leave entitlement</td>
</tr>
<tr>
<td>ADP - Actual Date of Placement</td>
<td>The date on which the child will commence living with its adoptive parent/s.</td>
</tr>
<tr>
<td>AML - Additional Maternity Leave</td>
<td>Last 26 weeks of the Statutory Maternity Leave entitlement</td>
</tr>
<tr>
<td>CAP – Contractual Adoption Pay</td>
<td>Combination of Occupational Adoption and Statutory Adoption Pay</td>
</tr>
<tr>
<td>CMP – Contractual Maternity Pay</td>
<td>Combination of Occupational Maternity and Statutory Maternity Pay</td>
</tr>
<tr>
<td>Curtailing</td>
<td>Where maternity or adoption leave and pay comes to an end early. This is sometimes referred to as reducing the maternity/adoption leave period to then opt into the Shared Parental Leave scheme.</td>
</tr>
<tr>
<td>EDC - Expected Date of Confinement</td>
<td>The date on which the GP/Midwife has estimated the baby will be born, as detailed on the MAT B1 Form.</td>
</tr>
<tr>
<td>EDP - Expected Date of Placement</td>
<td>The date on which it is expected the child will commence living with its adoptive parent/s.</td>
</tr>
<tr>
<td>EWC - Expected Week of Confinement</td>
<td>The week in which the baby is due as detailed in the MAT B1 Form. The week always starts from the Sunday prior to the expected date of confinement</td>
</tr>
<tr>
<td>IVF</td>
<td>In Vitro Fertilisation</td>
</tr>
<tr>
<td>MA - Maternity Allowance</td>
<td>May be payable to those who are not entitled to SMP, subject to the necessary qualification criteria being met. This is not paid by the employer and should be claimed via the Job Centre Plus</td>
</tr>
<tr>
<td>MAT B1 Form</td>
<td>A certificate, which the employee’s GP/Midwife/Obstetrician will issue to an employee confirming the date their baby is due (EDC). It is normally issued around 14 weeks prior to expected week of confinement. The MAT B1 Form should not be signed more than 20 weeks before the EWC as it will be invalid</td>
</tr>
<tr>
<td>Matching Certificate</td>
<td>Statement of confirmation from an Adoption Agency that a person/s have been officially matched to a child for adoption</td>
</tr>
<tr>
<td>OAL - Ordinary Adoption Leave</td>
<td>First 26 weeks of the Statutory Adoption Leave entitlement</td>
</tr>
<tr>
<td>OAP – Occupational Adoption Pay</td>
<td>The enhanced level of entitlement, under NHS terms and conditions, to those who have the required length of NHS service</td>
</tr>
<tr>
<td>OML - Ordinary Maternity Leave</td>
<td>First 26 weeks of the Statutory Maternity Leave entitlement</td>
</tr>
<tr>
<td><strong>OMP – Occupational Maternity Pay</strong></td>
<td>The enhanced level of entitlement, under NHS terms and conditions, to those who have the required length of NHS service</td>
</tr>
<tr>
<td><strong>OPL – Ordinary Paternity Leave</strong></td>
<td>Two week leave entitlement</td>
</tr>
<tr>
<td><strong>OPP – Occupational Paternity Pay</strong></td>
<td>Occupational Paternity Pay is the enhanced level of entitlement, under NHS terms and conditions, to those who have the required length of NHS service</td>
</tr>
<tr>
<td><strong>Partner</strong></td>
<td>A ‘partner’ could be the baby's father, or the mother's spouse, civil partner, or partner in an enduring relationship (same sex partners). It could also be the parents of a child in a surrogacy arrangement.</td>
</tr>
<tr>
<td><strong>SAL - Statutory Adoption Leave</strong></td>
<td>Statutory Adoption Leave is split into Ordinary (OAL) and Additional (AAL)</td>
</tr>
<tr>
<td><strong>SAP - Statutory Adoption Pay</strong></td>
<td>The statutory amount of adoption pay to which employees are legally entitled to, subject to meeting the qualification criteria. Employees are entitled to this regardless of whether they intend to return to work or not.</td>
</tr>
<tr>
<td><strong>SML - Statutory Maternity Leave</strong></td>
<td>Statutory Maternity Leave is split into Ordinary (OML) and Additional (AML)</td>
</tr>
<tr>
<td><strong>SMP - Statutory Maternity Pay</strong></td>
<td>The statutory amount of maternity pay to which employees are legally entitled to, subject to meeting the qualification criteria. They are entitled to this regardless of whether they intend to return to work or not.</td>
</tr>
<tr>
<td><strong>ShPP – Shared Parental Pay</strong></td>
<td>Statutory amount of shared parental pay an employee could be entitled to provided they have met the eligibility criteria.</td>
</tr>
<tr>
<td><strong>SPL – Shared Parental Leave</strong></td>
<td>Shared Parental Leave is a scheme where an employee if eligible can opt into if curtailing their maternity/adoption leave and pay.</td>
</tr>
<tr>
<td><strong>SPLIT – Shared Parental In Touch</strong></td>
<td>Employees can come into for up to 20 working days during any of Shared Parental Leave periods (both paid or unpaid) to enable them to keep updated with news, changes, professional practice etc.</td>
</tr>
<tr>
<td><strong>SPP - Statutory Paternity Pay</strong></td>
<td>The statutory amount of paternity pay to which employees are legally entitled to, subject to meeting the qualification criteria. They are entitled to this regardless of whether they intend to return to work or not.</td>
</tr>
<tr>
<td><strong>KIT – Keeping in Touch</strong></td>
<td>Employees can come into work (or attend training) for up to 10 working days during their maternity leave to enable them to keep updated with news, changes, professional practice etc.</td>
</tr>
<tr>
<td><strong>SPLIT - Shared Parental Leave In Touch</strong></td>
<td>Employee can come into work (or attend training) for up to 20 days during SPL. SPLIT days are similar to KIT day.</td>
</tr>
</tbody>
</table>
1.0 EQUALITY STATEMENT

Leicestershire Partnership NHS Trust (LPT) aims to design and implement policy documents that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the provisions of the Equality Act 2010 and advances equal opportunities for all. This document has been assessed to ensure that no one receives less favourable treatment on the protected characteristics of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) or sexual orientation.

In carrying out its functions, LPT must have due regard to the different needs of different protected equality groups in their area. This applies to all the activities for which LPT is responsible, including policy development, review and implementation.

2.0 SUMMARY

This Policy and Procedure provides guidance for managers and employees regarding the application of Section 15 and the relevant parts of Section 35 of the Agenda for Change Terms and Conditions of Service Handbook in relation to Maternity, Paternity, Adoption, Parental Leave and Shared Parental Leave, in addition to the individual’s statutory rights.

Further information and the process to be followed can be found in the relevant appendices:

- Maternity Leave and Pay Procedures – Appendix 1 [add hyperlink]
- Paternity Leave and Pay Provisions – Appendix 2 [add hyperlink]
- Adoption Leave and Pay Procedures – Appendix 3 [add hyperlink]
- Parental Leave Procedures – Appendix 4 [add hyperlink]
- Shared Parental Leave Pay and Procedures – Appendix 5 [add hyperlink]
- Surrogacy (entitlements) - pages 21 and 22 below.

Doctors should contact the Medical Staffing Team for advice regarding maternity, paternity, adoption, parental or shared parental leave and pay.

This policy does not apply to Foster carers (unless parental responsibility has been secured through the courts (see section 10 - parental leave and Appendix 4 for details). In these circumstances the special leave provisions will be applicable, please refer to the special leave policy.

3.0 INTRODUCTION

Maternity, Paternity, Adoption, Parental and Shared Parental leave regulations are complex and are subject to frequent change. Each set of regulations has eligibility criteria which will determine the length of statutory leave that is granted and any associated pay. In addition the NHS has contractual entitlements that also have eligibility criteria to determine the contractual leave and pay that employees may be entitled to. LPT as an NHS employer also has certain
obligations in line with legislative requirements such as Health & Safety and Equality laws.

This Policy and Procedures will work in conjunction with and compliment the provisions outlined in the Trust’s Special Leave Policy.

4.0 PURPOSE

The purpose of this policy and procedure is to ensure that all employees are informed about and understand their statutory and contractual rights and obligations with regard to their pregnancy and maternity, paternity, adoption, parental or shared parental Leave.

It also provides managers with the necessary information about the Trust’s obligations to enable them to address relevant issues relating to these types of leave. Managers should seek advice from HR if they require support.

5.0 ROLES AND RESPONSIBILITIES OF KEY MEMBERS OF STAFF

5.1 Managers/Team Leads

It is the responsibility of managers/Team Leads to:

• Ensure the employee is directed to this policy
• To discuss with the employee their chosen options including, making arrangements for them to take annual leave, keeping in touch & flexible working, where applicable.
• Ensure the correct HR payroll forms are completed and sent with supporting documentation to the HR Department within the specific timescales outlined in this procedure, and that a copy is made and retained on the employee’s personal file.
• Ensure that a Risk Assessment is carried out and is regularly reviewed in consultation with the employee, and appropriate action is taken as necessary. For further details and guidance see Appendix 1b, Risk Assessment for New and Expectant Mothers at work Guidance Notes for Managers and form.
• Notify HR of any changes to the date the Maternity/Paternity/Adoption/Parental Leave is due to start.
• Notify HR if the employee is wishing to opt into the Shared Parental Leave scheme and when they wish to “curtail” their maternity leave or adoption leave. (See section 11 below for further information)
• Keep in touch with the employee during the period of their absence and keep them updated of any significant changes.
• Make suitable arrangements for the employee’s return to work, including notifying in writing to HR confirming the date the employees leave is finishing.
• Take action should the employee not return from their leave as agreed.
• Ensure that HR are notified of any changes to the employee’s employment conditions, completing and submitting to the HR Department the necessary Change of Circumstance form.
• Take necessary action following the employee’s return to work, such as carrying out a Risk Assessment if necessary (e.g. female employees who are breastfeeding after their return to work).
• Ensure staff returning from leave taken under this policy have their
Right to accompany pregnant woman to antenatal appointments – ensure any requests for this received from any employee who is the expectant father or the pregnant woman’s partner is relayed to the Payroll Providers by the appropriate monthly payroll deadline to avoid any overpayments occurring. (see paragraph 7.1.1)

Should the employee’s maternity leave overlap two annual leave years, to ensure the employee takes all their accrued annual leave from the current annual leave entitlement before they commence their maternity leave, adoption leave or shared parental leave. (Please also refer to Section 9 of the Trust’s Annual Leave Policy as well).

5.2 Employees
It is the responsibility of employees to:
• Notify their manager as early as possible so that a risk assessment can be carried out, if appropriate.
• Adhere to the specific notification timescales and conditions outlined in this policy and associated procedures in relation to their leave and pay (Maternity, Adoption, Paternity, Parental and shared Parental Leave and pay).
• Complete the necessary application form for Maternity, Adoption, Paternity and Parental Leave with their manager and provide supporting documentation giving at least 8 weeks’ notice of their commencement date.
• Adhere to the processes as specified within the Shared Parental Leave Procedure in relation to notifying their manager when they wish to “curtail” their maternity or adoption leave to then opt into the shared parental leave and pay scheme.
• Is responsible for providing their partner’s (the father of the child in the case of birth) or the spouse, civil partner or partner of the child’s mother/adopter) “employment and earnings test” information as evidence to the Trust at the same time as requesting to opt into the Shared Parental Leave and pay scheme.
• Contact their Manager and HR if circumstances require a change in the start date of their leave.
• Provide reasonable notice, where possible, to their manager of appointments.
• Give their line manager the required notice if they wish to return to work before the end of their leave period.
• Notify their line manager of any changes in their circumstances to ensure a new risk assessment is carried out.
• Have a personal responsibility and contractual obligation to maintain their registration whilst holding a practising position within the Trust and ensure this is in date up upon their return from maternity leave.
• Throughout the period of leave under this policy, employees remain contractually bound by terms and conditions of service whilst on leave from their employment; therefore it is crucial that employees ensure their professional registration is maintained throughout their period of leave taken under this policy and associated procedures. Failure to do so may be seen as a breach of your contract of employment which may lead to more formal action being taken.
• Right to accompany a pregnant woman to antenatal appointments – ensure requests are given to their manager with reasonable notice (see paragraph 7.1.1 below for further information).
• To ensure they have used all their accrued annual leave within the current
leave year before commencement of their maternity leave. (Please refer to
Section 9 of the Trust’s Annual Leave Policy as well).

5.3 Human Resources
It is the responsibility of the Human Resources Department to:
• Be responsible for the implementation, monitoring and review of this
procedure.
• Deal with any queries from employees and managers regarding entitlements
under this policy.
• Ensure that employees are provided with full details of their leave & pay
options/entitlements and that the implications of those options/entitlements
are fully understood.
• Confirm in writing the leave and pay that the employee is entitled to within 28
days of receiving the completed and signed Leave/Pay Application Form and
the supporting documentation.
• Forward to the Payroll Department the relevant paperwork in a timely fashion.

5.4 Payroll
It is the responsibility of the SBS Payroll Services to:
• To process the paperwork in a timely fashion to ensure that employees
receive their pay.
• To provide a detailed breakdown to the employee of their pay (maternity,
adoptive, or shared parental pay as applicable), during the pay period in
which their leave is commencing.
• To process paperwork in a timely fashion to ensure that employees are not
overpaid in relation to time unpaid taken off to accompany a woman to
antenatal appointments. (This will only apply to employees who is the
expectant father or the pregnant woman’s partner)

5.5 Training Needs
There is no training requirement identified within this policy. Managers/team
Leads will be made awareness of the policy provisions.

6.0 MATERNITY LEAVE AND PAY ENTITLEMENTS

All pregnant employees are entitled to the following irrespective of hours worked
or length of service:

6.1 Paid Time off for Antenatal Care
A right to reasonable time off with pay for ante-natal care, once they have
informed the Trust that they are pregnant.

It is unlawful for the Trust to refuse to give reasonable time off; however the Trust
is entitled to ask for evidence of the appointments from the second appointment
onwards. This could be in the form of an appointment card/letter or proof of
pregnancy such as a MAT B1 Form.
Antenatal care can include relaxation or parent craft classes, medical examinations/scans, if these are recommended by a doctor/midwife/medical practitioner.

It is also unlawful sex discrimination for employers to treat a woman less favourably because she is undergoing IVF treatment or intends to become pregnant. These employees will be entitled to paid time off for antenatal care only after the fertilised embryo has been implanted.

For IVF treatment, please refer to the Trust’s Managing Ill Health Policy and Procedure found on the Intranet.

From 1st October 2014, an employee who is the husband, civil partner or partner of a pregnant woman has the right to unpaid time off to attend up to 2 ante-natal appointments lasting no more than 6.5 hours each which includes travelling and waiting time.

Employees requesting this time off will be entitled to take time off without requiring any qualifying service.

It is expected that the employee will be required to produce a declaration stating the following:
- Their relationship to the pregnant woman/child;
- That the time is required to accompany the woman to the antenatal appointment;
- The appointment was made on the recommendation of a registered medical practitioner, nurse or midwife; and
- The date and time of the appointment.

6.1.1 In exceptional circumstances, the request for time off can be refused giving a clear explanation of the reasons why.

6.2 Maternity Leave
All employees are entitled to 52 weeks of Statutory Maternity Leave. This is made up of:
- 26 weeks Ordinary Maternity Leave; and
- 26 weeks of Additional Maternity Leave

It is up to the employee how much of the Statutory Maternity Leave they take, but there is a Compulsory Maternity Leave period of two weeks after the baby is born. This is part of the Ordinary Maternity Leave period; not additional to it.

Employees wishing to return to work before the end of the 52 weeks must give their Line Manager 8 weeks’ notice in writing of their intention to return to work early.

Employees can commence their maternity leave/pay on any day of the week, which cannot be any earlier than the 11th week before the expected week of childbirth.
From 5th April 2015, an employee, provided they meet the eligibility criteria, can opt into the Shared Parental Leave and Pay scheme. However to opt into this scheme the employee will need to “curtail” their maternity (after their two weeks compulsory leave) or adoption leave.

6.3 Maternity Pay Benefits
Employees may be entitled to one of the following categories of maternity pay:
- Contractual or Occupational Maternity Pay (OMP)
- Statutory Maternity Pay (SMP)
- Maternity Allowance

The type of pay entitlement will depend on the length of continuous service with the NHS and this Trust at specific time periods before the expected date of childbirth.

6.4 Protection against Unfair Treatment or Dismissal
Taking a period of maternity leave will not affect the employee’s continuous NHS and Trust service.

Taking a period of maternity leave will not affect the employee’s incremental date, this includes increments where the employee is at a gateway point, pay awards, unless concerns had been raised about their ability to meet their performance targets (e.g. Preceptorship targets) prior to commencing maternity leave.

At the end of the Ordinary Maternity Leave period (first 26 weeks) employees have the right to return to the same job and terms and conditions as if they had not been away. This also applies at the end of the Additional Maternity Leave period (last 26 weeks) however if it is shown that it is not reasonably practical for the employee to return to the original job, then alternative work must be offered with the same terms and conditions as the original.

Any changes to an employee’s terms and conditions whilst they are on maternity leave cannot be made without their permission.

It is unfair and unlawful for an employer to select an employee for redundancy or dismissal for a reason connected with:
- Maternity leave
- Birth or pregnancy
- Paternity leave
- Parental leave
- Shared Parental Leave
- Time off for dependants
- **Unpaid** time off by an expectant father or a pregnant woman’s partner to accompany the pregnant woman to antenatal appointments.

Employees can be made redundant whilst they are on maternity leave, but only if the Trust can fairly justify the reasons why, for example the closure of a service. Employees that have been made redundant have the right to be offered any suitable alternative jobs in the Trust, and if accepted, would commence when they returned from maternity leave.
Employees that are made redundant or dismissed during maternity leave must be given a written statement explaining the reasons for the decision and receive their normal notice period or pay in lieu of notice and redundancy pay, if they are entitled to receive them.

6.5 **Maternity Leave Process**
For further details and information see Appendix 1.

7.0 **Paternity Leave and Pay Entitlements**

The Trust recognises that a partner may need time to provide support to their partner following childbirth. It can also be taken for adoption where the individual is not the main carer.

7.1 **Eligibility**
Employees who are either biological and adoptive fathers, nominated carers, and same sex partners. NB. Paternity leave may also be claimed by a woman in cases of adoption where she is not the main carer.

They have the right to:

7.2 **Paternity Leave**
All employees are entitled to 2 weeks of Ordinary Paternity Leave.

7.3 **Paternity Pay Benefits**
Employees may be entitled to one of the following categories of paternity pay:
- Occupational Paternity Pay (OPP)
- Statutory Paternity Pay (SPP)
- Additional Paternity Pay (APL)

The type of pay entitlement will depend on the length of continuous service with the NHS and this Trust at specific time periods before the expected date of childbirth.

7.4 **Protection against Unfair Treatment or Dismissal**
During paternity leave an employee retains all of their contractual rights, except remuneration.

Taking a period of Paternity leave will not affect the employee’s continuous NHS and Trust service.

Taking a period of Paternity leave will not affect the employee’s incremental date, this includes increments where the employee is at a gateway point, pay awards, unless concerns had been raised about their ability to meet their performance targets (e.g. Preceptorship targets) prior to commencing Paternity.
At the end of the paternity leave period employees have the right to return to the same job and terms and conditions as if they had not been away.

Any changes to an employee’s terms and conditions whilst they are on paternity Leave cannot be made without their permission.

It is unfair and unlawful for an employer to select an employee for redundancy or dismissal for a reason connected with:
- Paternity leave
- Parental leave
- Shared Parental Leave
- Time off for dependants

Employees can be made redundant whilst they are on paternity leave, but only if the Trust can fairly justify the reasons why, for example the closure of a service. Employees that have been made redundant have the right to be offered any suitable alternative jobs in the Trust, and if accepted, would commence when they returned from paternity leave.

Employees that are made redundant or dismissed during paternity leave must be given a written statement explaining the reasons for the decision and receive their normal notice period or pay in lieu of notice and redundancy pay, if they are entitled to receive them.

7.5 Paternity Leave Process
For further details and information see Appendix 2.

8.0 ADOPTION LEAVE AND PAY ENTITLEMENTS

The Trust’s policy is to ensure that all employees are informed about and understand their eligibility to statutory and contractual adoption leave and payments and any other related entitlements.

8.1 Eligibility
Adoption leave is available to employees who are wishing to adopt a newly matched child and have primary care responsibilities for the child.

If both adoptive parents are employed by the Trust, the parent who is identified as the primary carer should be entitled to adoption leave. The other parent may be entitled to paternity leave and pay.

If there is an established relationship with the child such as fostering prior to adoption, or when a step-parent is adopting a partner’s child/children, adoption leave provisions will not apply. In these cases however there is scope for local arrangement on the amount of leave and pay in addition to time off for official meetings.

Where the child being adopted is below the age of 18, adoption leave and pay will be in line with the maternity leave and pay provisions set out in Section 5 above.
From 5th April 2015, an employee, provided they meet the eligibility criteria, can opt into the Shared Parental Leave and Pay scheme for a child placed for adoption on or after 5th April 2015. However to opt into this scheme the employee will need to “curtail” their adoption leave first.

Employees who are adopting have the right to:

8.2 Adoption Leave
All employees are entitled to 52 weeks of Statutory Adoption Leave. This is made up of 26 weeks Ordinary Adoption Leave and 26 weeks of Additional Adoption Leave. It is up to the employee how much of the Statutory Adoption Leave they take. Employees wishing to return to work before the end of the 52 weeks must give their Line Manager 8 weeks’ notice in writing of their intention to return to work early.

8.3 Adoption Pay Benefits
Employees may be entitled to one of the following categories of adoption pay:
- Occupational Adoption Pay (OAP)
- Statutory Adoption Pay (SAP)

The type of pay entitlement will depend on the length of continuous service with the NHS and this Trust at specific time periods before the expected date of placement.

8.4 Protection against Unfair Treatment or Dismissal
During adoption leave an employee retains all of their contractual rights, except remuneration.

Taking a period of Adoption leave will not affect the employee’s continuous NHS and Trust service.

Taking a period of Adoption leave will not affect the employee’s incremental date, this includes increments where the employee is at a gateway point, pay awards, unless concerns had been raised about their ability to meet their performance targets (e.g. Preceptorship targets) prior to commencing adoption leave.

At the end of the Ordinary Adoption Leave period (first 26 weeks) employees have the right to return to the same job and terms and conditions as if they had not been away. This also applies at the end of the Additional Adoption Leave period (last 26 weeks) however if it is shown that it is not reasonably practical for the employee to return to the original job, then alternative work must be offered with the same terms and conditions as the original.

Any changes to an employee’s terms and conditions whilst they are on adoption leave cannot be made without their permission.

It is unfair and unlawful for an employer to select an employee for redundancy or dismissal for a reason connected with:

- Adoption leave
- Paternity leave
- Parental leave
- Shared Parental Leave
- Time off for dependants

Employees can be made redundant whilst they are on adoption leave, but only if the Trust can fairly justify the reasons why, for example the closure of a service. Employees that have been made redundant have the right to be offered any suitable alternative jobs in the Trust, and if accepted, would commence when they returned from adoption leave.

Employees that are made redundant or dismissed during adoption leave must be given a written statement explaining the reasons for the decision and receive their normal notice period or pay in lieu of notice and redundancy pay, if they are entitled to receive them.

8.5 Adoption Leave Process
For further details and information see Appendix 3.

9.0 PARENTAL LEAVE

Employees who have one year’s continuous service with the NHS may be entitled to a maximum of 18 weeks **unpaid** parental leave, in respect of any individual child (including any individual disabled child). For the purposes of parental leave, a disabled child is one for whom disability living allowance has been awarded.

Parental leave is applicable to any employee of the Trust who has nominated caring responsibility for a child under age 14 (18 in cases of adoption or disabled children).

Parental leave is defined as time taken to look after the child/children to strike a better balance between their work and family commitments. This leave is planned leave rather than leave in response to an immediate care need, when carer leave may be granted. For further information regarding leave in relation to an immediate care need, please refer to the Trust's Special Leave Policy.

Parental Leave is a separate provision from either maternity, paternity, adoption or shared parental leave.

The limit on how much parental leave can be taken a year is 4 weeks (unless the employer agrees otherwise, or the child is disabled), leave should be taken in blocks of one week).

9.1 Eligibility
An employee will have the right to parental leave if he/she has:
- Completed 12 months service in the NHS by the time they want to take the leave;
  
  And
• Have nominated caring responsibility for a child/children under age the age of 14 (under the age of 18 in cases of adopted and/or disabled children).

   And

• They're not a foster parent (unless they’ve secured parental responsibility through the courts).

Parental leave is an individual right and, therefore, if both parents are employed by the Trust, both parents may apply and take parental leave.

Parental leave is for each child, so if twins are born each parent will get 18 weeks leave for each child, including for each disabled and/or adopted children.

Employees are eligible to carry over parental leave over from a previous job. Parental leave applies to each child not to an individual’s jobs.

9.2 Protection against Unfair Treatment or Dismissal

During parental leave the employee retains all contractual rights, except remuneration.

At the end of the Parental Leave period, employees have the right to return to the same job and terms and conditions as if they had not been away. If parental leave is added to the end of the Additional Maternity Leave period, Additional Adoption Leave period, Paternity Leave period, or Shared Parental Leave period. If it is shown that it is not reasonably practical for the employee to return to the original job, then alternative work must be offered with the same terms and conditions as the original.

Periods of parental leave should be regarded as continuous service.

9.3 Conditions and Process for application for Parental Leave

For further details and information see Appendix 4.

10.0 SHARED PARENTAL LEAVE AND PAY ENTITLEMENTS

10.1 What is Shared Parental Leave?

Shared Parental Leave is a new legal entitlement for eligible parents to choose to share the care of their child during the child’s first year of birth or adoption. Its purpose is to give patents more flexibility in considering how to best care for, and bond with, their child.

To opt into the Shared Parental Leave scheme, and provided they meet the eligibility criteria (see 11.2 below), the employee will need to “curtail” their maternity (after the 2 weeks compulsory maternity leave) or adoption leave.
In the first year of this legislation being effective, the scheme will only apply to parents of babies born on or after 5 April 2015 (or a child placed for adoption on or after 5 April 2015).

Shared Parental Leave is **optional** for employee but is **not optional** for the employer.

Shared Parental Leave is different to Parental Leave which is unpaid (see section 10.0 above and appendix 4 for more information about Parental Leave).

### 10.2 Eligibility

Shared parental Leave 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.

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 mother/adopter of the child must be/have been entitled to statutory maternity/adoption pay/leave or maternity allowance and must have ended or given notice to reduce their maternity/adoption entitlements.

The employee must still be working for the Trust at the start of each period of Shared Parental Leave.

The employee’s partner must pass the “employment and earnings test” requiring them in the 66 weeks leading up to the child’s expected due date/matching date to have worked for at least 26 weeks’ and earned a set amount (for current rates please refer to [www.gov.co website](http://www.gov.co) at the time of applying to opt into the Shared Parental Leave and Pay scheme) a week in any 13 of those weeks.

The employee must correctly notify the organisation of their entitlement and provide evidence as required.

### 10.3 Shared Parental Leave Entitlement

Eligible employees may be entitled to take up to 50 weeks shared parental leave during the child’s first year of birth/adoption (in the case of birth, the mother has to take the first two weeks of compulsory maternity leave immediately following the birth of the child).

The mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

Statutory Shared Parental Pay is up to 39 weeks (limited to 37 weeks as two weeks will compulsory maternity leave).
The father/partner/spouse can take shared parental leave immediately following the birth (after the two weeks compulsory maternity leave) /placement of child but first may choose to exhaust any paternity leave entitlements (as paternity leave or pay cannot be taken once any shared parental leave or shared parental pay has been taken).

Shared parental leave must end no later than one year after the birth/placement of the child. Any shared parental leave not taken by the first birthday or first anniversary of placement for adoption is lost.

The employee has the right to submit three notifications specifying the periods of leave, either continuous leave or discontinuous leave. Each notification may contain either a) a single period of leave – continuous leave; or b) two or more weeks of discontinuous leave where the employee intends to return to work between periods of leave.

The employee is required to give at least 8 week’s notice before each period of leave begins.

The employee has a 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 Trust has been given at least 8 week’s notice before the leave begins.

The Trust will consider a discontinuous leave notification but has the right to refuse it however this will not happen without joint discussions with the employee.

10.4 Protection against Unfair Treatment or Dismissal

Taking a period or period of shared parental leave will not affect the employee’s continuous NHS service and Trust service.

Taking a period or period of shared parental leave will not affect the employee’s incremental date, this includes increments where the employee is at a gateway point, pay awards, unless concerns had been raised about their ability to meet their performance targets (e.g. Preceptorship targets) prior to commencing maternity/adoption leave and any periods of shared parental leave.

At the end of the statutory shared parental pay (which is up to 39 weeks but limited to 37 weeks for the purpose of shared parental leave) the employee has the right to return to the same job and terms and conditions as if they had not been away. This also applies at the end of any other periods of shared parental leave (unpaid leave period during last 26 weeks however if it is shown that it is not reasonably practical for the employee to return to the original job, then alternative work must be offered with the same terms and conditions as the original.

Any changes to an employee’s terms and conditions whilst they are on shared parental leave cannot be made without their permission.

It is unfair and unlawful for an employer to select an employee for redundancy or dismissal for a reason connected with:

- Maternity leave
• Birth or pregnancy
• Paternity leave
• Parental leave
• Adoption Leave
• Time off for dependants

Employees can be made redundant whilst they are on shared parental leave, but only if the Trust can fairly justify the reasons why, for example the closure of a service. Employees that have been made redundant have the right to be offered any suitable alternative jobs in the Trust, and if accepted, would commence when they returned from shared parental leave.

Employees that are made redundant or dismissed during shared parental leave must be given a written statement explaining the reasons for the decision and receive their normal notice period or pay in lieu of notice and redundancy pay, if they are entitled to receive them.

10.5 Shared Parental Leave Process
For further details and information see Appendix 5.

11.0 SURROGACY

11.1 What is Surrogacy?
Surrogacy is the practice whereby one woman (the surrogate mother) carries a child for another person (the intended parent(s)) as a result of an agreement prior to conception that the child should be handed over to the intended parent(s) after birth.

11.2 Rights for the surrogate mother (birth mother)

The surrogate mother will have the same rights as any other pregnant employee subject to meeting the eligibility criteria detailed in the maternity section of the policy and procedure (appendix 1).

Entitlement to statutory and occupational maternity leave/pay depending on eligibility exists irrespective of whether the employee plans to give her baby to a different parent.
11.3 Rights for the intended parents

There will be no entitlement to statutory/occupational maternity leave or pay as these benefits are available only to employees who give birth.

Intended parents of a child born to a surrogate mother, subject to meeting eligibility criteria, can apply for paternity leave and pay, adoption leave and pay and shared parental leave and pay if they apply for a parental order under the Human Fertilisation and Embryology Act (2008).

(Intended parents may be asked for a written statement to confirm that they intend to apply for a parental order in the six months after the child’s birth. They should ensure they sign the parental order in the presence of a legal professional.)

The intended parents may be entitled to receive adoption leave/pay in line with the relevant section of the policy, however to be entitled to this the intended parents must be matched with a child through a UK adoption agency.

The intended parents may be entitled to take unpaid parental leave assuming they qualify for it as per the relevant section of this policy and procedure (Appendix 4).

Intended parents in a surrogacy case who meet the conditions set out under the Human Fertilisation and Embryology Act will also have the right to unpaid leave to attend up to two antenatal appointments.

12.0 APPEALS

Any issues relating to management decisions on Application for Maternity Paternity, Adoption, Parental or Shared Parental Leave responsibilities should be raised with or by the immediate Manager in the first instance. Failure to achieve a resolution, the employee may appeal to the Next In line manager. E.g.

- When to take annual leave in relation to Maternity, Adoption, Paternity or Shared Parental Leave.
- Postponement of parental leave
- Taking KIT (Keeping In Touch) days in relation to Maternity, Adoption or Shared Parental Leave.

13.0 STAKEHOLDERS AND CONSULTATION

Workforce and Organisational Development Policies are subject to joint monitoring and review between management and staff side in the JSCNC. Guidance for this policy has also been received by the Policy Group and the Integrated Equality and Human Rights Services.

Please refer to Appendix 1 attached.
14.0 MONITORING COMPLIANCE AND EFFECTIVENESS

This policy will be reviewed in light of changing employment legislation, equal opportunities and NHS Terms and Conditions of Service.

The implementation of and compliance of this policy will be monitored using the following key performance indicators:

- Line Managers/Team Leads are regularly made aware of provisions within the policy and their responsibilities;
- The use of Maternity, Paternity, Adoption, Parental and Shared Parental Leave is actively managed and there is documentary evidence of this;
- Decisions regarding the allocation of Maternity, Paternity, Adoption Leave, Parental Leave and Shared Parental Leave have been fair and in line with policy and have not been successfully challenged by the employee.

All applications for Maternity/Paternity/Adoption/Parental/Shared Parental leave under this policy and outcomes should be recorded on the employee’s personal file and each leave provision should be annually monitored and reviewed by managers as appropriate.

Grievances arising from the application of this policy will be dealt with under the Leicestershire Partnership NHS Trust Grievance and Disputes Policy and Procedure.

Fraudulent claims or where there is a suspicion that fraudulent information may have been provided in relation to any leave under this policy will be investigated in line with the Trust’s Disciplinary Policy and Procedure.

This document will be updated on the intranet and any previous versions removed. Human Resources will conduct awareness raising sessions to departments if necessary as well as support individual managers and staff when using this Policy and Procedure.

15.0 LINKS TO STANDARDS/KEY PERFORMANCE INDICATORS

<table>
<thead>
<tr>
<th>TARGET/STANDARDS</th>
<th>KEY PERFORMANCE INDICATOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Care Quality Commission registration standards (outcome 14) Supporting Workers (21) of the Health &amp; Social Care Act (2008) (Regulated Activities Regulations 2010 CQC essential standards</td>
<td>That the trust maintains compliance with CQC registration standards, this policy supports outcome standards 14</td>
</tr>
</tbody>
</table>
16.0 DUE REGARD

The Trusts commitment to equality means that this policy has been screened in relation to paying due regard to the general duty (Equality Act 2010) in relation to the relevant protected characteristics, the use of comprehensible, inclusive language, and the avoidance of stereotypes.

Due Regard Screening Template C

In this policy due regard has been shown in the following areas:

<table>
<thead>
<tr>
<th>Maternity Leave and Pay Entitlements</th>
<th>Paragraph 7.2 – All employees are entitled to 52 weeks of Statutory Maternity Leave.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paternity Leave and Pay Entitlements</td>
<td>Paragraph 8.0 - The Trust recognises that a partner may need time to provide support to their partner before or following childbirth. It can also be taken for adoption where the individual is not the main carer. Paragraph 8.1 - Eligibility - Employees who are biological and adoptive fathers, nominated carers, and same sex partners. NB. Paternity leave may also be claimed by a woman in cases of adoption where she is not the main carer. Paragraph 8.2 – All employees are entitled to 2 weeks of Ordinary Paternity Leave.</td>
</tr>
<tr>
<td>Adoption Leave and Pay Entitlements</td>
<td>Paragraph 9.0 – Adoption leave is available to employees who are wishing to adopt a newly matched child and have primary care responsibilities for the child.</td>
</tr>
<tr>
<td>Parental Leave Entitlements</td>
<td>Paragraph 10.0 – Employees who have one year's continuous service with the NHS may be entitled to a maximum of 13 weeks unpaid parental leave, in respect of any individual child, or 18 weeks for parents of disabled children (for the purposes of parental leave, a disabled child is one for whom disability living allowance has been awarded). Parental leave is applicable to any employee of the Trust who has nominated caring responsibility for a child under age 14 (18 in cases of adoption or disabled children).</td>
</tr>
<tr>
<td>Shared Parental Leave and</td>
<td>Section 11.0</td>
</tr>
<tr>
<td>Pay Scheme</td>
<td>All employees provided they meet the eligibility criteria and also pass the “employment and earnings test”, is entitled to opt into the Shared Parental Leave and Pay scheme. Shared Parental Leave is optional for the employee but is not optional for the employer.</td>
</tr>
<tr>
<td>Protection against Unfair Treatment or Dismissal in respect to Maternity /Paternity / Adoption / Parental Leave</td>
<td>Paragraphs 7.4/ 8.4/ 9.4/ 10.2 - It is unfair and unlawful for an employer to select an employee for redundancy or dismissal for a reason connected with: • Maternity Leave • Birth or pregnancy • Paternity leave • Adoption Leave • Parental leave • Shared Parental Leave • Time off for dependants During parental leave the employee retains all contractual rights, except remuneration.</td>
</tr>
</tbody>
</table>

17.0 REFERENCES AND ASSOCIATED DOCUMENTATION (UPDATED FOLLOWING REVIEW OF POLICY JULY 2015)

This policy was drafted with reference to the following:

- Leicestershire Partnership NHS Trust, Maintaining the Balance between Work and Life Policy and Procedure
- Leicestershire Partnership NHS Trust, Annual Leave Policy
- Leicestershire Partnership NHS Trust, Flexible Working Policy and Procedure
- Leicestershire Partnership NHS Trust, Special Leave Policy
- Chartered Institute for Personnel and Development – Factsheet on Shared Parental Leave (revised April 2015).
Available at: [http://www.cipd.co.uk/hr-resources/factsheets/shared-parental-leave.aspx](http://www.cipd.co.uk/hr-resources/factsheets/shared-parental-leave.aspx) [Accessed April 2015]


Appendix 1

The NHS Constitution

The NHS will provide a universal service for all based on clinical need, not ability to pay. The NHS will provide a comprehensive range of services.

The policy is a non-clinical policy hence not all within the following checklist is applicable.

<table>
<thead>
<tr>
<th>Item</th>
<th>☐</th>
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<tbody>
<tr>
<td>Shape its services around the needs and preferences of individual patients, their families and their carers</td>
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<tr>
<td>Respond to different needs of different sectors of the population</td>
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<tr>
<td>Work continuously to improve quality services and to minimise errors</td>
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<td>Support and value its staff</td>
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<td>Work together with others to ensure a seamless service for patients</td>
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<tr>
<td>Help keep people healthy and work to reduce health inequalities</td>
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<tr>
<td>Respect the confidentiality of individual patients and provide open access to information about services, treatment and performance</td>
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</table>
# STAKEHOLDERS AND CONSULTATION

## Key individuals involved in developing the document

<table>
<thead>
<tr>
<th>Name</th>
<th>Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jyoti Chauhan</td>
<td>Senior Human Resources Adviser</td>
</tr>
<tr>
<td>Lisa Laws</td>
<td>HR Corporate Services Manager</td>
</tr>
<tr>
<td>Champa Chudasama</td>
<td>Equality and Human Rights Officer</td>
</tr>
</tbody>
</table>

## Circulated to the following individuals for comments

<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td>Kathryn Burt</td>
<td>Head of HR – Community Health Services Division</td>
</tr>
<tr>
<td>Sarah Willis</td>
<td>Head of HR – Families, Young People and Children Services &amp; Corporate Services</td>
</tr>
<tr>
<td>Richard Holmes</td>
<td>Local Counter Fraud Manager</td>
</tr>
<tr>
<td>Anthony Upton</td>
<td>Local Counter Fraud Support</td>
</tr>
<tr>
<td>Vyv Wilkins</td>
<td>Integrated Equality Service</td>
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<tr>
<td>LPT senior managers band 8a and above</td>
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<tr>
<td>Workforce and OD Development Committee</td>
<td></td>
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<tr>
<td>Policy Group Members</td>
<td></td>
</tr>
<tr>
<td>Joint Staff Consultation and Negotiating Committee (JSCNC)</td>
<td></td>
</tr>
</tbody>
</table>