

Document Control

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Family Leave & Pay Policy (including Maternity, Paternity, Adoption & Shared Parental Leave and pay: Right to accompany to anti-natal and adoption meetings; IVF)			
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1. Purpose

The purpose of this document is to detail, and ensure adherence to, Northern Devon Healthcare NHS Trust's statutory and contractual obligations for Family Leave and pay including Maternity, Paternity, Adoption and Parental Leave and pay. This Policy also covers arrangements for employees undertaking IVF. It provides a robust framework to ensure a consistent approach across the whole organisation.

The policy applies to all Trust staff; for further details see Section 4.

This Policy is intended to give relevant information and is not an exhaustive account of all the regulations. Reference can be made where necessary to the Agenda for Change Terms and Conditions of Service Handbook:

- Section 15 - Maternity Leave & Pay
- Section 33 - Caring for Children & Adults
- Section 34 – Flexible Working Arrangements
- Section 35 – Balancing Work and Private Lives

The Policy includes provisions contained in the Employment Rights Act 1996 as amended by the Employment relations Act 1999 and the Employment Act 2002, and the Children & Families Act 2014. Reference can also be made to the Health & Safety Executive (HSE) Pregnancy Guide, www.gov.uk and advice as provided by the Department for Business Innovation & Skills and ACAS.

Nothing contained in the policy is intended to reduce an employee's statutory or contractual rights relating to family matters.

2. Definitions

Mother

- 2.1. The mother is the woman who gives birth to a child or the adopter (the adopter means the person who is eligible for adoption leave and/or pay. They can be male or female).

Partner / Father

- 2.2. The partner/father is the child's biological father or the partner of the mother/adopter. This can be a spouse, civil partner or a partner who is living in an enduring relationship with the mother and the child.

Expected week of confinement (EWC)

- 2.3. The week in which the baby is due to be born.

Qualifying Week (QW)

- 2.4. Qualifying week = 15th week before the EWC.

Ordinary Maternity/Adoption Leave (OML/OAL)

- 2.5. The statutory entitlement to a period of 26 weeks leave regardless of how long an employee has worked for the Trust. This will be unpaid unless an employee qualifies for Statutory Maternity/Adoption Pay, Occupational Maternity/Adoption Pay or Maternity/Adoption Allowance.

Additional Maternity/Adoption Leave (AML/AAL)

- 2.6. The statutory entitlement to a further period of up to 26 weeks unpaid leave, unless an employee qualifies for Occupational Maternity/Adoption pay, regardless of how long an employee has worked for the Trust.

Statutory Maternity/Adoption Pay (SMP/SAP)

- 2.7. The minimum statutory level of Maternity/Adoption Pay that an employee is entitled to (through State provision) if an employee has 26 weeks continuous service with this Trust by the 15th week before their EWC/matching date and has paid sufficient National Insurance (NI) contributions.

Statutory Maternity/Adoption Allowance (SMA/SAA)

- 2.8. Allowance paid by the Department of Work & Pensions (DWP) to those employees who do not qualify for Statutory Maternity/Adoption Pay. Eligibility is determined by the relevant Government Departments.

Occupational Maternity/Adoption Pay (OMP/OMA)

- 2.9. Based on eligibility, Maternity/Adoption pay which is payable by the Trust as the employer.

MAT B1 Form

- 2.10. The certificate provided by the employee's GP or Midwife, anticipating the potential date of the birth of the baby. MAT B1 certificates are usually issued to the employee 24-26 weeks into pregnancy.

Keep In Touch (KIT) Days

- 2.11. Employees on maternity and adoption leave may choose to work up to 10 days during their maternity or adoption leave without causing their leave and pay to cease. These "Keep in Touch" (KIT) days must be agreed with the line manager and are paid. KIT days can be agreed either before maternity or adoption leave commences or during maternity or adoption leave.

Ordinary Paternity Leave (OPL)

- 2.12.** The statutory entitlement of the father of the child (including adoptive fathers), the mother's husband or partner (whether opposite or same sex), or nominated carer to take up to 2 weeks leave within 8 weeks (56 days) from the date of birth of the child. This is sometimes referred to as Maternity Support (Paternity) leave but for the purposes of this Policy is referred to as Paternity Leave.

Additional Paternity Leave (APL)

- 2.13.** The previous statutory entitlement of a father to take a further period of between 2 to 26 weeks leave provided the mother has returned to work with maternity leave remaining.

NOTE: Additional paternity leave and additional statutory paternity pay have been abolished as from 1st April 2015 and replaced with shared parental leave and pay (see below). The definition is included here for completeness.

Surrogacy

- 2.14.** Intended parents in surrogacy ('parental order parents') will be eligible for adoption leave and pay and shared parental leave and pay so long as they meet the relevant criteria under the Human Embryology and Fertilisation Act 2008.

Shared Parental Leave

- 2.15.** Shared parental leave is a new right which relates to babies due, or adoption matches/placements made, on or after 5th April 2015, that will enable eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed.

Shared Parental Leave In Touch (SPLIT) Days

- 2.16.** Shared Parental Leave in Touch (SPLIT) days are being introduced for parents taking shared parental leave. These will be in addition to the KIT days already available for women on statutory maternity leave. Each parent will be entitled to 20 SPLIT days under shared parental leave.

Continuous Leave (shared parental leave)

- 2.17.** A period of leave that is taken in one block e.g. four weeks' leave. All notices compliant with the procedural requirements for a continuous period of leave, from eligible employees, will be accepted.

Discontinuous Leave (shared parental leave)

- 2.18.** A period of leave that is arranged around separate periods where the employee will return to work e.g. an arrangement where an employee will work every other week for a period of three months. All requests for discontinuous leave will be considered.

Unpaid Parental Leave

- 2.19.** Unpaid parental leave is intended to enable eligible employees with parental responsibilities to take unpaid time off to care for a child under 18 whether born to the parents or adopted (extended with effect from 5th April 2015).

3. Responsibilities

Role of Chief Executive

- 3.1.** The Chief Executive has the overall responsibility for all personnel matters and for ensuring mechanisms are in place for the overall implementation, maintenance, monitoring and revision of this Policy.

Role of the Human Resources and Payroll Departments

- 3.2.** The Trust's Human Resource Department will hold the responsibility for providing advice and guidance on the practical application of this policy for managers and staff. Updating of the policy will be in line with any statutory and NHS contractual amendments and Human Resources will monitor compliance with the policy.

Maternity, Paternity, Adoption and Parental Leave and Pay will be activated/deactivated via a Change of Circumstances Form which will be raised by the line manager and actioned by the Payroll Department. The Payroll Department will be responsible for calculating and paying all Statutory and NHS Contractual Maternity, Paternity, Adoption and Shared Parental pay and paid Keep in Touch (KIT) and Shared Parental Leave in Touch (SPLIT) days.

The Role of Line Managers

- 3.3.** Line managers will be responsible for familiarising themselves with the contents of this policy so that they can provide guidance and support to their staff on maternity, paternity, adoption and parental leave and pay as their initial and main point of contact.

Line managers must deal with all requests for all types of Family Leave including Maternity, Paternity, Adoption and Parental Leave without any undue delay.

The manager must view all applications with an open mind and follow a fair and justifiable decision making process.

If the manager decides to refuse to grant a Family, Maternity, Paternity, Adoption or Parental leave application they must take advice from their HR Representative and senior line manager prior to finalising their decision. They must then explain their reasons for refusing the request to the employee and prepare and provide in writing a thorough case outlining their decision making rationale for the employee who may appeal the decision using the procedure set out in Appendix A.

Line managers will be responsible for ensuring that, once notified by an employee that they are pregnant, they undertake the New and Expectant Mothers Risk Assessment (see the Trust's New & Expectant Mother's Policy) available on the Trust's intranet to ensure the safety of the employee and the employee's unborn child during pregnancy whilst at work. The risk assessment should be repeated regularly throughout the employee's pregnancy to ensure that it is kept up to date and any hazards identified during the whole period must be mitigated.

On receipt of the MAT B1 from the employee the manager must place a copy on the employee's personal file and submit the MAT B1 along with the completed "Maternity Pay and Leave Application Form" (see Toolkit) to Payroll.

The Responsibility of Staff

- 3.4.** Employees are responsible for co-operating in the Family, Maternity, Paternity, Adoption and Parental Leave procedures and must make every effort to attend meetings arranged by management.

While an employee does not have to inform their employer that they are pregnant or breastfeeding, it is important for the employee and for the employee's child's health and safety protection that they provide their manager with written notification as early as possible. Please refer to the Trust's New and Expectant Mothers at Work Policy.

Pregnant staff are responsible for informing their manager of their pregnancy in writing before the end of the 15th week before their expected week of confinement (EWC) at the latest.

Pregnant staff will need to submit the MAT B1 and completed "Maternity Pay and Leave Application Form" (see Toolkit) to their manager in a timely manner.

Employees will be asked to help with the relevant risk assessment(s); it is important that any advice an employee has received from their doctor or midwife which could impact on the assessment is passed on to the line manager or person carrying out the risk assessment(s).

4. Who is covered by this Policy?

For maternity/adoption leave and pay:

- Any employee of the Trust who has become pregnant, who is fostering to adopt or who has been matched with a child for adoption.

For paternity leave and pay:

- Any employee of the Trust, whose partner has become pregnant, is fostering to adopt or been matched with a child for adoption.

For shared parental leave:

- Mothers who have elected to bring their maternity/adoption leave to an early end and Opt-In to a period of shared parental leave and pay instead;
- any employee whose partner has become pregnant or been matched with a child for adoption (subject to certain qualifying and earnings criteria);
- the partner of any employee of the Trust who has become pregnant or who has been matched with a child for adoption or who has adopted a child following a period of fostering, whether or not they work for the Trust (subject to certain qualifying and earnings criteria).

For unpaid parental leave:

- any employee with at least one years' service who has a child under 18 years old (from 5th April 2015).

NB – no extra leave is given for multiple births

5. Maternity

Eligibility for Maternity Leave

- 5.1. An employee working full-time or part-time on a substantive contract of employment will be entitled to paid and unpaid maternity leave under the NHS contractual maternity pay scheme if she satisfies the following requirements:

She has 12 months continuous service (see below) with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth; and

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

- a) Of her intention to take maternity leave;
- b) Of the date she wishes to start her maternity leave (see below);
- c) That she intends to return to work with the same or another NHS employer for a minimum period of 3 months after her maternity leave has ended;
- d) And provides a MATB1 form from her midwife or GP stating the Expected Date of Childbirth.

Changing the Maternity Leave Start Date

- 5.2.** If the employee subsequently wants to change the date from which she wishes her leave to start she should notify her Manager at least 28 days beforehand or, if this is not possible, as soon as is reasonably practicable beforehand.

Confirming Maternity Leave and Pay

- 5.3.** Following discussion with the employee, the Manager should confirm in writing:
- The employee's paid and unpaid leave entitlements under this agreement (or statutory entitlements if the employee does not qualify under this agreement);
 - Unless an earlier return date has been given by the employee, her expected return date based on her 52 weeks paid and unpaid leave entitlement under this agreement; and
 - The length of any period of accrued annual leave which it has been agreed may be taken following the end of the formal maternity leave period (see Section 5.21 below)
 - The need for the employee to give at least 28 days' notice if she wishes to return to work before the expected return date.
 - Complete a change of circumstances form and send this to Payroll without delay.

Managers are advised to use the appropriate letter template provided in the Toolkit to assist with this.

Keeping in Touch (KIT)

- 5.4.** Before going on leave, the Manager and the employee should also discuss and agree any voluntary arrangements for Keeping In Touch (KIT) during the employee's maternity leave including:

Any voluntary arrangements that the employee may find helpful to keep her in touch with developments at work, and nearer the time of her return, to help facilitate her return to work. For example the provision of Team Meeting Notes, Chief Executive Bulletins and/or other Trust publications whether distributed by e-mail, on the Trust's intranet or by hard copy;

The employee keeping the employer in touch with any developments that may affect her intended date of return.

Whether the employee might wish to undertake paid Keep in Touch (KIT) days during their maternity leave.

Work during the Maternity Leave period – Keep in Touch (KIT) days

- 5.5.** To facilitate the process of keeping in touch days (KIT days), it is important that the manager and employee have early discussion to plan and make arrangements for KIT days before the employee's maternity leave takes place.

An employee may work for up to a maximum of 10 KIT days without bringing her maternity leave to an end. Any days of work will not extend the maternity leave period.

An employee may not work during the 2 weeks of compulsory maternity leave immediately after the birth of her baby.

The work on KIT days 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 Trust nor the employee can insist upon it.

The employee will be paid at their basic pay rate, for the hours worked during KIT days, less appropriate maternity leave payment for KIT days worked. Payments will be calculated using the hourly rate multiplied by the total number of hours worked (up to a maximum of 12 hours per KIT day). Normal pay enhancements will not apply for KIT days.

Working for part of any day will count as one completed KIT day.

A record of KIT days worked should be kept using the KIT Day Claim Form (See toolkit).

Managers should complete a change of circumstances form and submit to payroll in a timely manner for KIT days worked.

Any employee who is breastfeeding must be risk assessed and facilities provided in accordance within Section 5.14. Managers must refer to the Trust's New and Expectant Mothers at Work Policy.

Paid NHS Contractual Maternity Leave

5.6. NHS Occupational Maternity Pay (Agenda for Change and Medical & Dental Staff only).

Where an employee intends to return to work the amount of NHS contractual maternity pay receivable is as follows:-

- i) For the first 8 weeks of absence, the employee will receive full pay, less any Statutory Maternity Pay or Maternity Allowance (including any dependants allowances) receivable;
- ii) For the next 18 weeks, the employee will receive half of full pay plus any Statutory Maternity Pay or Maternity Allowance (including any dependant's allowances) receivable, providing the total receivable does not exceed full pay.
- iii) For the next 13 weeks, the employee will receive the standard rate of Statutory Maternity Pay or Maternity Allowance.

Distribution of Maternity Pay during Maternity Leave Period

By prior agreement with the Trust Occupational Maternity Pay may be paid in a different way, for example a combination of full pay and half pay or a fixed amount spread equally over the maternity leave period.

Occupational maternity pay can be averaged over the leave period but Statutory Maternity Pay cannot.

Calculation of Maternity Pay

5.7. Full pay will be calculated using the average weekly earnings rules used for calculating Statutory Maternity Pay entitlements, subject to the following qualifications:

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

- ii) In the event of a pay award or annual increment being implemented during the paid maternity leave period, the maternity pay due from the date of the award or annual increment should be increased accordingly. If such a pay award was agreed retrospectively, the maternity pay should be recalculated on the same basis;
- iii) In the case of an employee on unpaid sick absence or on sick absence attracting half pay during the whole or part of the period used for calculating average weekly earnings in accordance with the earnings rules for Statutory Maternity Pay purposes, average weekly earnings for the period of sick absence shall be calculated on the basis of notional full sick pay.

Unpaid Contractual Maternity Leave

- 5.8.** Employees will also be entitled to 13 week's as unpaid leave to bring the total of leave to 52 weeks. However, this may be extended by local agreement in exceptional circumstances for example, where employees have sick pre-term babies or multiple births.

Commencement and Duration of Leave

- 5.9.** An employee may begin her maternity leave at any time between 11 weeks before the expected week of childbirth and the expected week of childbirth provided she gives the required notice.

Sickness Prior to Childbirth

- 5.10.** If an employee is off work ill, or becomes ill, with a pregnancy related illness during the last 4 weeks before the expected week of childbirth, maternity leave will normally commence at the beginning of the fourth week before the expected week of childbirth or the beginning of the next week after the employee last worked, whichever is later.

Odd days of pregnancy related illness during this period may be disregarded for this purpose if the employee wishes to continue working until the maternity leave date previously notified to their Manager.

Sickness absence prior to the last 4 weeks before the expected week of childbirth, supported by a medical certificate of incapacity for work as pregnancy related shall be treated in accordance with the relevant section(s) of the Trust's Managing Sickness Absence Policy.

Premature Birth

- 5.11.** Where an employee's baby is born alive prematurely, the employee will be entitled to the same amount of maternity leave and pay as if her baby was born at full term.

Where an employee's baby is born before the 11th week before the expected week of childbirth and the employee has worked during the actual week of childbirth, maternity leave will start on the first day of the employee's absence.

Where an employee's baby is born before the 11th week before the expected week of childbirth, and the employee has been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start the day after the day of birth.

Where an employee's baby is born before the 11th week before the expected week of childbirth and the baby is in hospital the employee may split her maternity leave entitlement, taking a minimum period of 2 weeks leave immediately after childbirth and the rest of her leave following her baby's discharge from hospital.

Still Birth

- 5.12.** Where an employee's baby is still born after the 24th week of pregnancy the employee will be entitled to the same amount of maternity leave and pay as if her baby was born alive.

Miscarriage

- 5.13.** Where an employee has a miscarriage before the 25th week of pregnancy sick leave provisions will apply as per the Trust's Sickness Absence Management Policy section relating to pregnancy related sickness absence.

Health and Safety of Employees Pre and Post Birth

- 5.14.** Where an employee is pregnant, has recently given birth or is breastfeeding, the Manager should carry out a risk assessment of her working conditions (please refer to the New and Expectant Mothers at Work Policy in the Health and Safety section of BOB). If it is found, or a medical practitioner considers, that an employee or her child would be at risk were she to continue with her normal duties the manager should provide suitable alternative work for which the employee will receive her normal rate of pay. Where it is not reasonably practicable to offer suitable alternative work the employee should be suspended on full pay.

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

Return to Work

- 5.15.** An employee who intends to return at the end of her full maternity leave will not be required to give any further notification to their Manager, although if she wishes to return early she must give at least 28 days' notice. An employee wishing to end their maternity leave and share parental leave should follow the guidance set out in Section 8 below.

An employee has the right to return to her job under her original contract and on no less favourable terms and conditions.

Returning on Flexible Working Arrangements

- 5.16.** If at the end of maternity leave the employee wishes to return to work on different hours the manager has a duty to consider this wherever possible, with the employee returning to work on different hours in the same job. If this is not possible the manager must provide written, objectively justifiable reasons for this and the employee should return to the same grade and work of a similar nature and status to that which they held prior to their maternity leave absence.

Employees should refer to the Flexible Working Policy and follow the guidance on applying for flexible working arrangements.

If it is agreed that the employee will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period this will not affect the employee's right to return to her job under her original contract at the end of the agreed period.

Sickness Following the End of Maternity Leave

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

Failure to Return to Work

- 5.18.** In circumstances where an employee has notified her manager of her intention to return to work with the Trust or a different NHS employer and fails to do so within 15 months of the beginning of her maternity leave, she will be liable to refund the whole of her Maternity Pay less any Statutory Maternity Pay, received.

Where an employee does not resume employment but undertakes regular Bank or NHSP work for the Trust or a different NHS employer it will be necessary for them to evidence that they have undertaken a minimum of one shift a week for a period of 3 months within the 15 months of the beginning of their maternity leave, in order to not be liable to refund the whole of their maternity pay less any Statutory Maternity pay, received.

In cases where the Trust feels that to enforce this provision would cause undue hardship or distress, the Trust will have the discretion to waive their rights to recovery.

Fixed Term Contracts or Training Contracts

- 5.19.** Employees subject to fixed term or training contracts which expire after the 11th week before the expected week of childbirth and who satisfy the conditions in Sections 6.2 and 6.3 a, b and d shall have their contracts extended so as to allow them to receive the 52 weeks maternity leave which includes paid NHS Contractual and Statutory Maternity Pay and the remaining 13 weeks of unpaid maternity leave.

Absence on maternity leave (paid and unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service.

If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred the repayment provisions set out in Section 5.18 above will not apply.

Employees on fixed term contracts who do not meet the 12 months continuous service condition set out in 5.1 above may still be entitled to Statutory Maternity Pay. Managers who are uncertain how to manage employees on fixed term contracts who become pregnant should seek advice from the HR Operations Team and/or from the Payroll Department.

Entitlement to annual leave and bank holidays also apply (see below).

Rotational Training Contracts

- 5.20.** Where an employee is on a planned rotation of appointments with one or more NHS employers as part of an agreed programme of training, she shall have the right to return to work in the same post or in the next planned post irrespective of whether the contract would otherwise have ended if pregnancy and childbirth had not occurred. In such circumstances the employee's contract will be extended to enable the practitioner to complete the agreed programme of training.

Contractual Rights

- 5.21.** During the maternity leave (both paid and unpaid) an employee retains all her contractual rights except remuneration.

Maternity leave, whether paid or unpaid, shall count as service for any annual increments applied to their post through Agenda for Change, so employees will receive annual increments during absence on maternity leave; and counts for the purposes of any service qualification period for additional annual leave.

Annual leave will continue to accrue during maternity leave, whether paid or unpaid. Where the amount of accrued annual leave would exceed normal carry over provisions, it may be mutually beneficial to both the Trust and the employee for the employee to take annual leave before and/or after the formal (paid and unpaid) maternity period. The amount of annual leave to be taken in this way, or carried over, should be discussed and agreed between the employee and the manager. Payment in lieu may be considered as an option where accrual of annual leave exceeds normal carry over provisions.

Employees will be entitled to accrue Bank Holiday entitlement during maternity leave, whether paid or unpaid.

The Trust operates a Childcare Voucher Scheme which employees may choose to join. This is a salary sacrifice scheme and further details can be accessed via the Childcare section on the Trust's intranet, BOB.

Pensions

- 5.22.** Pension rights and contributions shall be dealt with in accordance with the provisions of the NHS Superannuation Regulations. Further information may be obtained from the Trust's Pensions Officer.

Antenatal and Postnatal Care

- 5.23.** Pregnant employees have the right to paid time off for antenatal and postnatal care. Antenatal care may include relaxation and parent-craft classes as well as appointments for antenatal care. The right for a pregnant employee to be accompanied or to accompany a pregnant employee to antenatal appointments is set out in Section 10 below.

Women who have recently given birth and who have returned to work should have paid time off for post-natal care e.g. attendance at health clinics.

Managers are required to undertake a risk assessment and to provide breastfeeding women with suitable private rest facilities. Please refer to the Trust's New and Expectant Mothers' Policy on the Intranet (under Health & Safety). Consideration should be given to flexible working requests to support breastfeeding women at work.

Employees Not Returning to NHS Employment

- 5.24.** An employee who satisfies the conditions in Section 5.1, except that she does not intend to work with the same or another NHS employer for a minimum period of 3 months after her maternity leave has ended, will be entitled to pay equivalent to Statutory Maternity Pay, which is paid at 90% of her average weekly earnings for the first 6 weeks of her maternity leave and reduces to a flat rate sum for the following 33 weeks.

Employees with less than 12 Months Continuous Service

- 5.25.** If an employee does not satisfy the conditions for Occupational Maternity Pay she may be entitled to Statutory Maternity Pay. Statutory Maternity Pay will be paid regardless of whether she satisfies the conditions in Section 5.1. If her earnings are too low for her to qualify for Statutory Maternity Pay, or she does not qualify for another reason, she may be able to claim Maternity Allowance from her local Job Centre Plus or Social Security Office.

All employees have the right to take 52 weeks of maternity leave whether or not they return to NHS employment.

Continuous Service

- 5.26.** For the purposes of calculating whether the employee meets the 12 months continuous service with one or more NHS employer's qualification the following provisions shall apply:

- i) NHS employers include NHS England, CCGs, NHS Boards, NHS Trusts, Primary Care Trusts and the Northern Ireland Health Service;
- ii) A break in service of 3 months or less will be disregarded (though not count as service).

The following breaks in service will also be disregarded (though not count as service):

- i) Employment under the terms of an honorary contract;
- ii) Employment as a locum with a general practitioner for a period not exceeding 12 months;
- iii) A period of up to twelve months spent abroad as part of a definite programme of postgraduate training on the advice of the Postgraduate Dean or College or Faculty Advisor in the specialty concerned;
- iv) A period of voluntary service overseas with a recognised international relief organisation for a period of 12 months, which may exceptionally be extended for a further 12 months at the discretion of the employer which recruits the employee on her return;
- v) Absence on an employment break scheme in accordance with the Trust's Employment/Career Break Policy;
- vi) Absence on maternity leave (paid or unpaid) as provided for under this agreement.

Employment as a trainee with a General Medical Practitioner in accordance with the provisions of the Trainee Practitioner Scheme shall similarly be disregarded and count as service.

Further guidance on maternity and adoption rights including leave and pay can be found in the Agenda for Change Handbook (varied from time to time) and on www.gov.uk

6. Paternity

Paternity leave is provided to enable employees to support a partner who has had a baby. Paternity leave is sometimes referred to as Maternity Support (Paternity) Leave.

This applies to the baby's biological father, a partner / husband that is not the baby's biological father and a female partner in a same sex couple as long as the partner is in an enduring family relationship with the mother and child, is responsible for the child's upbringing and is taking time off work to support the mother and / or care for the child.

It also applies to employees who are the secondary carer for an adopted child, at the time of adoption.

Duration of Ordinary Paternity Leave and whether paid or unpaid

6.1. Employees with 26 weeks continuous NHS service at the EWC can take up to two weeks ordinary paternity leave

- in one block of either one or two weeks and
- within 8 weeks (56 days) of the birth / adoption placement.

Eligible employees will receive up to 2 weeks Occupational Paternity Pay (based on average weekly earnings) depending on the duration of the ordinary paternity leave that they take.

Employees with less than 26 weeks NHS service at the EWC may be entitled to Statutory Paternity Pay subject to qualifying conditions.

Rights to take time off to attend antenatal classes will be given in accordance with the provisions set out in Section 9 below.

Who qualifies for Ordinary Paternity Leave

6.2. A biological father or a mother's partner with responsibility for bringing up a child and a minimum of 26 weeks continuous NHS service prior to the EWC

OR

An adoptive parent who is newly matched with a child and has 26 weeks continuous service before the week in which notification of adoption is given and whose partner has taken Adoption Leave. Adoption leave entitlement relates to when the child goes to live with the adoptive parent(s).

From April 2015 the following also give rise to an entitlement to Paternity Leave:

- Fostering to adopt
- Adopting from abroad; and
- Surrogacy ('parental order parents')

Application for Ordinary Paternity Leave

- 6.3. Complete the Application for Ordinary Paternity Leave (see Toolkit) and Form SC3 "Becoming a Parent" form (from www.dti.gov.uk) to be submitted to line manager at least 28 days before requested start of leave or within 7 days of being matched with an adopted child.

See also Shared Parental Leave Section 8 below.

7. Adoption

Adoption leave is intended to enable an employee who is the primary /main carer, whether adopting within the UK or from abroad, to care for an adopted child, at the time of adoption. The rights of the primary adopter largely mirror maternity rights.

Duration of Adoption Leave and whether paid or not

- 7.1. The primary adopter can take up to 26 weeks paid leave and up to a further 26 weeks unpaid leave. From April 2015 there is no longer a qualifying period of continuous employment to gain entitlement to take Ordinary Adoption Leave.

Employees must have 12 months NHS service at the week of matching notification to qualify for Occupational Adoption pay.

In relation to any Adoption Pay period which begins on or after 5th April 2015, Statutory Adoption Pay will be paid mirroring the mechanism that applies in the case of Statutory Maternity pay:

- For the first 6 weeks, the 'earnings related rate' (90% of normal weekly earnings) and

- The lesser of 90% of normal weekly earnings and the prescribed rate (as amended annually) for the remaining 33 weeks.

NB - The employee must give 28 days' notice before returning to work, if they are intending to return before the end of the full leave entitlement.

In addition, applicants may apply for paid time off work to attend up to 5 adoption appointments after they have been matched with a child and prior to the adoption for the purpose of making necessary preliminary arrangements e.g. attending legal proceedings.

Who qualifies for Adoption Leave?

- 7.2.** One adoptive parent who is newly matched with a child below the age of 18

From April 2015 the following also give rise to an entitlement to Adoption Leave:

- Fostering to adopt
- Adopting from abroad; and
- Surrogacy ('parental order parents')

NB. Where an established relationship already exists with the child the amount of leave and pay applicable would be locally determined. Guidance is provided at www.gov.uk

Employees do not qualify for adoption leave or pay if they:

- Arrange a private adoption
- Become a special guardian or kinship carer
- Adopt a step-child
- Adopt a family member or step-child

Applying for Adoption Leave

- 7.3.** Written notification must be given by the employee to their line manager within 7 days of being matched using 'Application for Ordinary Adoption Leave' (see Toolkit) to include:-

- the expected date of adoption placement.
- the date on which the Adoption Leave is expected to commence.
- a copy of the matching certificate.

Requests for leave prior to adoption must be made in writing to the line manager. Requests at short notice will not be unreasonably refused.

Adoption leave can start:

- up to 14 days before the date the child starts living with the employee (UK adoptions)

- when the child arrives in the UK or within 28 days of this date (overseas adoptions)
- the day the child is born or the day after (where a surrogate has been used to have a child)

See also Shared Parental Leave Section 8 below.

8. Shared Parental Leave

Shared parental leave is a new right which relates to babies due, or adoption matches/placements made, on or after 5th April 2015, that will enable eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed. Managers and employees must refer to the HR Operations Team for advice before making final decisions about taking shared parental leave.

Shared parental leave replaces the additional paternity leave regime. It is separate from the right to unpaid parental leave and will not replace the current maternity leave and pay regime (outlined in Section 5 above).

From April 2015 fostering to adopt and adopting from abroad also give rise to an entitlement to Shared Parental Leave. The intended parents in a surrogacy arrangement ('parental order parents') will also be entitled to take advantage of shared parental leave.

Shared parental leave is designed to give parents / adopters more flexibility in how to share the care of their child in the first year following birth or adoption. An eligible employee can share up to 50 weeks leave, and can decide to be off work at the same time and/or take it in turns to have periods of leave to look after the child.

Parents can choose to opt into shared parental leave at any time, so long as there is some untaken maternity leave to share.

Eligibility

- 8.1. Shared parental leave allows the mother to choose to bring her maternity leave to an end at any point after the initial two week compulsory maternity leave period following the birth of the child. Mothers can elect to bring maternity leave to an early end and opt-in to a period of shared parental leave and pay instead; the parents can then choose how to split up the remaining weeks of leave between them. Once a mother has elected to terminate their maternity leave and opted-in to shared parental leave they cannot reinstate their maternity leave or the arrangements they would have been entitled to had they continued to take a continuous period of maternity leave.

The two week period of ordinary paternity leave will continue to be available. Ordinary paternity leave must be taken during the eight weeks (56 days) following the birth of the child (but is not compulsory) and may not be shared with the mother.

Additional paternity leave and additional statutory paternity pay is abolished and replaced with shared parental leave and pay.

To be eligible for shared parental leave a mother must:

- Have a partner
- Be entitled to either maternity/adoption leave or to statutory maternity/adoption pay or maternity allowance
- Have curtailed, or given notice to reduce, their maternity/adoption leave, or their maternity/adoption pay/allowance.

A partner intending to take shared parental leave must:

- Be an employee i.e. be working in an employed capacity
- Share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption
- Have properly notified their employer of their entitlement and have provided the necessary declarations and evidence.

In addition, a parent (mother) wanting to take shared parental leave is required to satisfy the 'continuity of employment test' and their partner (maternity support) must meet the 'employment and earnings test'.

Continuity of Employment Test	Employment and Earnings Test
The individual has worked for the same employer (i.e. has worked in the NHS) for at least 26 weeks at the end of the 15th week before the child's expected due date/matching date and is still working for the employer at the start of each leave period.	In the 66 weeks leading up to the baby's expected due date/matching date, the person has worked for at least 26 weeks and earned an average of at least £30 (as of 2015) a week in any 13 weeks.

- 8.2.** They must have provided any evidence requested by the Trust within 14 days of the request. This may include a copy of the birth certificate, or a declaration from the parents confirming the date and place of the child's birth if the birth certificate is not yet available, and the name and address of the other parent's employer

They must have given the Trust a period of leave notice (see below).

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

There is no need for employers to contact one another to make checks on the eligibility criteria or declarations.

Note: The mother can share her leave with only one other person

Fraudulent Claims

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

Amount of shared parental leave available

- 8.4.** The maximum amount of leave that can be shared between the parents is 50 weeks. The leave can be taken during the 12 months following the birth, or adoption, of the child, but cannot begin earlier than two weeks following the child's birth as the two weeks of compulsory maternity leave may not be shared in this way.

An adopter in the role of mother can end their adoption leave once they have taken it for two weeks.

Therefore any period of maternity/adoption leave taken by the mother will be deducted from the period of 50 weeks' shared parental leave, with the balance available to be shared between the parents.

Shared parental leave only becomes available once the mother has given notice to end her entitlement to maternity /adoption leave. Once a mother has ended her right to maternity leave she cannot reinstate that right and will be bound by the decision to take shared parental leave.

The leave can be taken separately or at the same time, subject to the following requirements:

- The minimum period of leave must be one week
- The leave must be taken in multiples of complete weeks, and
- The leave may be taken as one continuous period or as discontinuous periods.

This means that the mother can return to work after maternity leave and take shared parental leave at a later date or dates (subject to the notice periods explained below). Similarly, the father/partner can take shared parental leave at any time; it does not need to start as soon as the mother has given notice to curtail her entitlement to maternity leave or after she has returned to work.

Shared parental leave can also be taken when the other partner is on another type of leave, such as paternity leave or unpaid parental leave. A father/partner could start a period of shared parental leave while the mother is still on maternity leave provided she has given a binding notice to end her entitlement to maternity leave (see below).

Notifications and requests to take shared parental leave

8.5. There are different notices required by both parents at different times.

The process starts with the mother giving notice to end her maternity leave early. The parent or parents wishing to take shared parental leave must then give notice of this intention to their employer. Separately, they must also give notice of the period of leave requested (see Toolkit).

Notice to end maternity leave

8.6. If one or both parents wish to take shared parental leave they must submit a written “notice of entitlement” to their own employer at least eight weeks before the start of the first period of shared parental leave. The notice should include certain information including:

- The mother’s and father’s/partner’s names and National Insurance numbers
- The start and end date of any period of statutory maternity leave taken/to be taken by the mother
- The start and end date of any statutory maternity pay or maternity allowance received or to be received by the mother
- The expected week of childbirth and/or actual date of birth of the child or the date of matching for adoption or adoption following fostering to adopt.
- The total amount of shared parental leave available
- Confirmation that the mother/father/partner is sharing child care responsibilities with their partner
- A non-binding indication of how much shared parental leave both parties are entitled to take, how much they intend to take and the proposed start and end dates of such leave
- A declaration from each parent (see Toolkit) to confirm that:
 - The mother satisfies the eligibility criteria
 - The father/partner satisfies the eligibility criteria
 - That the information given is accurate
 - That if either parent ceases to meet the conditions of entitlement to shared parental leave then they will immediately notify the employer

The parents may vary the amount of shared parental leave they intend to take by giving written notice to their employers. There is no limit on the number of times the parents may make a variation to a notice of entitlement to shared parental leave, so long as this is done before the formal “period of leave” notice has been given (see below).

Period of leave notice

8.7. Parents must also provide their employers with a written “period of leave” notice by giving the start and end dates of the periods of leave requested. The period of leave notice triggers a discussion with the employer/manager to agree the leave.

- The notice must be given not less than eight weeks prior to the requested start date
- The notice can be given at the same time as the notice of entitlement referred to above, or can be given later
- The notice can request one or more periods of leave
- If the notice has been given before the child is born/adopted then the start date may be expressed as a number of days from the date the child is born/adopted
- Only three periods of leave notices in total can be given by each parent, including requests to vary a period of leave that has already been arranged. (See form in *Toolkit*)

Agreeing shared parental leave with employees

8.8. The rules on agreeing requests for shared parental leave with the employee vary depending on the pattern of leave that has been asked for.

Continuous periods of shared parental leave

8.9. If an employee simply requests one period of continuous shared parental leave, the employee is entitled to take that period of leave. The Trust cannot refuse this request provided the employee meets the eligibility criteria stated above.

Discontinuous periods of shared parental leave

8.10. Agreement is necessary if an employee requests discontinuous periods of shared parental leave, meaning two or more periods of leave separated by periods at work. Within two weeks of the date of the period of leave notice the manager may:

- Agree to the periods of leave requested
- Propose alternative dates, or
- Refuse the leave without proposing alternative dates.

If the parties can agree the periods of leave within this two week period then the employee is entitled to take that leave on the agreed dates. If the parties cannot agree the periods of leave then the employee may either withdraw the request or take the total amount of leave requested as one continuous period of leave. The default position is that leave should be taken in a single block commencing on a date specified by the employee but with at least eight weeks' notice to the employer.

Variations to a period of shared parental leave

- 8.11.** Once the parties have agreed a period of leave, if the employee wishes to amend the period they must send the Trust written notice to vary the leave. See Toolkit.

The variation notice may:

- Vary start and end dates
- Vary the amount of leave; or
- Ask for a single period of leave to become discontinuous or vice versa.

The notice must be given at least eight weeks before the date to be varied and the new date. The employee must only give three periods of leave notices and/or requests for variations in leave in total.

Change in employees' circumstances

- 8.12.** It is possible that a parent's circumstances may change after periods of shared parental leave have been arranged. This could be difficult for the Trust if the change is at short notice and arrangements to cover the absence are already in place, therefore the Regulations allow the Trust to hold the employee to the agreed arrangements in certain circumstances. This is to ensure that the Trust will always have at least eight weeks' notice of a change in the planned arrangements.

If less than eight weeks before either parent is due to take a period of shared parental leave:

- The parent informs the Trust that they no longer meet the conditions of entitlement and
- It is not reasonably practicable for the Trust to accommodate this change in circumstances

Then the Trust may still require that parent to take the period of leave. The leave must be treated as shared parental leave and will start on the same date that the next period of shared parental leave was due to start. It will either end on the same end date, or eight weeks from the date the Trust is informed of the change in circumstances, whichever is earlier.

Shared Parental Pay

8.13. Entitlement to shared parental pay

A mother, subject to certain criteria set out in the section on Maternity above, will be entitled to statutory maternity pay/adoption pay/maternity allowance for up to 39 weeks. If the mother gives notice to reduce their entitlement before they will have received it for 39 weeks then any remaining weeks could become available as shared parental pay.

So up to 37 weeks of shared parental pay will be available to be shared between the parents as the mother must take her two compulsory weeks of maternity/adoption leave.

To qualify for shared parental pay an employee needs to have met the 'continuity of employment test' and their partner must meet the 'employment and earnings test' as set out in Section 8.1 above. In addition, the employee must also have earned above the 'Lower Earnings Limit' in the eight weeks leading up to and including the 15th week before the child's due date/matching date and still be employed with the same employer at the start of the first period of shared parental pay. The Lower Earnings Limit is the amount of gross weekly earnings that allow an employee to qualify for certain state benefits; this changes each April.

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

Statutory shared parental pay is for up to 37 weeks at the lower of the statutory prescribed rate of maternity/paternity pay or 90% of the relevant parent's normal weekly earnings (subject to the lower earnings limit). The remaining 13 weeks of shared parental leave are unpaid.

This means that statutory shared parental pay is paid at the lower level throughout the leave period. Unlike with statutory maternity pay there is no provision for the first six weeks to be paid at 90% of the parent's actual weekly earnings. This is the case even if the mother returns from maternity leave after only two weeks, during the period when the higher level of maternity pay would have been available to her.

Information on the current rates for the Lower Earnings Limit and for shared parental pay can be found at www.acas.org.uk/spl.

Shared parental pay

To qualify for statutory pay the employee and their partner must first meet certain qualifying conditions as described in the relevant legislation. Details of qualifying conditions can be found on the www.gov.uk.

Shared Parental Leave in Touch (SPLIT) Days

- 8.14.** Shared Parental Leave in Touch (SPLIT) days are being introduced for parents taking shared parental leave. These will be in addition to the KIT days already available for women on statutory maternity leave. Each parent will be entitled to 20 SPLIT days under shared parental leave. (Form in *Toolkit*)

Protections for employees taking up shared parental leave

- 8.15.** As with maternity, paternity and adoption leave, protections have been put in place for employees who take shared parental leave in order to ensure that they are not disadvantaged by taking this leave. These protections relate to terms of employment, return to work and general treatment.

Employees who take shared parental leave are entitled to the benefit of all terms and conditions of employment, except remuneration, which would have applied if they had not been absent.

An employee's right to return to the same job following a period(s) of shared parental leave varies depending on the length of the leave. The key time period is 26 weeks, including any combination of maternity, adoption, paternity or shared parental leave. Employees are entitled to return to the same job if they have taken leave of 26 weeks or less, regardless of how many periods of leave they have taken. Employees who take more than 26 weeks' leave have the right to return to either the same job, or a similar job if it is not reasonably practicable to return to the same position.

Employees have protection against dismissal or detriment for making or proposing to make use of the new shared parental leave system.

Adoption and surrogacy

- 8.16.** Shared parental leave will apply to parents who are adopting a child due to be placed on or after 5th April 2015 via an adoption agency. In order for adoptive parents to take shared parental leave in respect of any child they must meet similar eligibility criteria as described above, and be entitled to statutory adoption leave. Adoptive parents must provide a similar notice of entitlement to their employers. However, the notice must additionally confirm:

- The date the parents were notified as having been matched with the child
- The date the child is expected to be placed with the parents, and
- A declaration which includes the parents' National Insurance numbers and consent to the amount of time the other parent intends to take.

If the Trust requests any evidence of eligibility then, instead of providing a birth certificate, the employee may be required to provide copies of documents issued by the adoption agency confirming the date the parents were matched with the child. The other requirements such as for giving notice, timeframes and periods of continuous or discontinuous parental leave follow the same process as outlined above. (Form in *Toolkit*)

For surrogacy arrangements, if the intended parents have applied, or intend to apply, for a “parental order” then, subject to meeting qualifying conditions, the nominated “primary” adopter will be entitled to take adoption leave and pay and to end their adoption leave early and move onto shared parental leave.

9. Unpaid Parental Leave

Unpaid parental leave is intended to enable employees with parental responsibilities to take time off to care for either a child under 18 (from 5th April 2015).

Entitlement to apply for Unpaid Parental Leave

- 9.1. Eligible employees are entitled to apply for 18 weeks **unpaid** leave per child in total. Leave must be taken as whole weeks (e.g. 1 week or 2 weeks) rather than individual days, unless the Trust agrees otherwise. The employee does not have to take all the leave at once. Parental leave applies to each child not to an individual's job; untaken unpaid parental leave can be carried forward from a previous job or to a next job.

A ‘week’ equals the length of time an employee is normally contracted to work over 7 consecutive calendar days.

Eligibility to apply for Unpaid Parental Leave

- 9.2. All employees with parental responsibilities for children under 18 who have 12 months continuous NHS service at the time of application.

NB – Unpaid parental leave can be postponed for up to 6 months if it would unduly disrupt the business, unless the leave is taken immediately after birth / adoption.

Application

- 9.3. Written notification to line manager at least 21 days before intended start of leave by completing ‘Application for Unpaid Parental Leave’ (see *Toolkit*).

10. Time off to Accompany a Pregnant Woman to Ante-Natal Appointments)

Time off can be requested to enable a person who has a relationship with the pregnant woman or her unborn child to accompany an expectant mother to up to two of her ante-natal appointments. There is no qualifying period for employees (this is a “day one” right).

Employees accompanying the expectant mother to her ante-natal appointments are entitled to **unpaid** leave for up to 2 appointments. The time off is capped at 6.5 hours for each appointment.

A person can take the leave needed, up to a maximum of 6.5 hours for each appointment, to cover travelling time, waiting time and attendance at the appointment. It is expected that no more than half a day will be needed for the ante-natal appointment, including travelling and waiting and this is reflected in the statutory entitlement.

Where employees wish to attend more ante-natal appointments with the expectant mother, or if it is demonstrated that extra time is needed over and above the 6.5 hours provided for, this may be taken as either unpaid leave or as annual leave, but will only be granted by the manager once the needs of the service have been taken into consideration.

Employees and qualifying agency workers can apply for this leave if they are:

- a) the baby’s father;
- b) the expectant mother’s spouse, her civil partner, or partner (of either sex) in an enduring relationship; or
- c) intended parents of a child in a surrogacy arrangement if they expect to be entitled to and intend to apply for a parental order in respect of that child

Note:

- Where the woman’s husband is not the father of the child both the partner or husband and the father may each have the right to time off for up to 2 appointments and:
- a man who is an expectant father with two different women can take time off to attend appointments with each pregnant partner if he is an employee or an agency worker who meets the qualifying requirements
- The Trust is not entitled to ask the person requesting time off to accompany a pregnant woman to an ante-natal appointment for any evidence of the ante-natal appointments such as an appointment card, as this is the property of the expectant mother attending the appointment.

The employee must apply to their line manager in writing declaring that:

- they have a qualifying relationship with a pregnant woman or her expected child;
- the date and time of the appointment;
- that the time off is for the purpose of attending an ante-natal appointment with the expectant mother that has been made on the advice of a registered medical practitioner, nurse or midwife.

The Manager must complete the appropriate Leave Approval/Record Form (see *Toolkit*).

11. IVF Treatment

The Trust recognises that employees may need to take time off to undergo in vitro-fertilisation (IVF) treatment and all requests to take time off for this purpose must be dealt with sensitively.

Entitlement

- 11.1. Up to three days paid leave will be granted for each cycle of IVF treatment, to a maximum of 3 cycles. This leave can be taken in part or full days. Further leave will be unpaid or can be taken as annual leave.

Short appointments of 1-2 hours will be treated in line with current medical outpatient appointments.

Application

- 11.2. Employees wishing to apply for paid time off for IVF treatment should apply in writing to their line manager using the IVF Leave Approval/Record Form. Managers are to respond within 7 days and complete a Change of Circumstances and IVF Leave Approval/Record Form (see *Toolkit*) and provide both to payroll, also placing a copy into the employee's personal file.

Should a request be refused the appeal procedure set out in Appendix A of this Policy will apply.

Status of women undergoing IVF treatment

- 11.3. Special protection is afforded to women during the very short period following the laboratory fertilisation of eggs and implantation (usually 4-6 days). Any concerns that arise relating to a woman during this period should be discussed with the HR Operations Team prior to any discussion with the employee.

A woman undergoing IVF treatment should be regarded as pregnant when in vitro fertilised eggs are transferred into her womb. If the treatment is successful and the woman remains pregnant she will remain protected until the end of her maternity leave.

If the treatment is unsuccessful, the woman's protection will end two weeks after the end of the pregnancy. As a pregnancy test is taken two weeks after the implantation of an embryo, the woman will have special protection for those two weeks and, if the pregnancy test is negative, for a further two weeks from that time.

12. Monitoring Compliance with and the Effectiveness of the Policy

Process for Implementation and Monitoring Compliance and Effectiveness

12.1. This document will be:

- Published on BOB
- Announced in Chief Executive Bulletin
- Included in Induction information
- Shared through HR learning events

Monitoring compliance with this policy will be the responsibility of the HR Team. This will be undertaken by regular reviews at the HR Operations Team meetings policy agenda topic.

Where non-compliance is identified, support and advice will be provided to improve practice.

13. Equality Impact Assessment

Table 1: Equality impact Assessment

Group	Positive Impact	Negative Impact	No Impact	Comment
Age			X	
Disability			X	
Gender	X			
Gender Reassignment			X	

Human Rights (rights to privacy, dignity, liberty and non-degrading treatment), marriage and civil partnership	X			
Pregnancy	X			
Maternity and Breastfeeding	X			
Race (ethnic origin)			X	
Religion (or belief)			X	
Sexual Orientation			X	

Appendix A - Appeals Procedure

Appeals

Decisions regarding IVF Treatment, maternity, paternity, shared parental leave or unpaid parental leave should be applied as consistently as possible. An employee who believes that any application for family leave as detailed in this Policy has been unreasonably refused has the right of appeal against the decision.

The appeal must be in writing, dated, set out the grounds of the appeal and be sent to the relevant Assistant Director of Human Resources (Acute or Community) within 10 working days of the date of the meeting where the request was rejected. Arrangements will be made for a meeting to take place within 28 working days of receipt of the appeal (see below for situations requiring an urgent decision). The meeting will be held at a convenient time for all those attending and, the employee may be accompanied by a workplace colleague or Trade Union Representative

An Appeal Panel will be selected, specifically for the appeal; membership will normally be a Senior Manager (not previously involved in the decision making) and a Human Resources representative.

The proceedings of the Appeal would typically be as follows:

- The employee and/or representative will put their case
- The Trust's representative i.e. the manager who refused the request, and the panel may put questions to the employee
- The Trust's representative will put their case
- The employee or their representative and the panel, may put questions to the Trust representative
- The Trust's representative summarises their case
- The employee and/or their representative summarises their case
- The panel adjourn to consider the case and reconvene to confirm their decision
- Where possible decisions will be made on the day of the Hearing and will be communicated to both parties by recall. Where this is impractical the Hearing Panel has discretion to make alternative arrangements (e.g. re-convene at a later date or inform outcome by telephone, email or letter).
- Written confirmation of a decision will normally be provided within 5 working days and no longer than 7 working days from the appeal hearing unless an alternative agreed date is provided during the Hearing.

- The employee will be advised that the outcome of the appeal marks the end of the internal consideration of the case.

Where an applicant has an urgent need for leave under the terms of this policy/procedure and their initial request is refused by their immediate line manager, an immediate verbal appeal against the decision may be made to the local senior manager or anyone acting under their authority.