

Family Leave Policy

2019 - 2022

Version:	1.1
Approved by:	Remuneration and Terms of Service Committees
Date approved:	July 2019
Date of issue (communicated to staff):	September 2019
Next review date:	July 2022
Document author:	HR Manager and Head of HR & OD

CONTROL RECORD			
Reference Number N&N HR-005	Version 1.1	Status Final	Author HR Manager Head of HR & OD Sponsor Executive Director of Transition Team Human Resources
Title	Family Leave Policy		
Amendments	N/A		
Purpose	The policy provides the details regarding the leave options associated with family.		
Superseded Documents	Maternity and adoption Policy. Parental Leave Policy. Maternity, paternity, adoption and parental leave policy.		
Audience	All staff within the Nottinghamshire CCGs.		
Consulted with	Staff Engagement Group and Trade Unions.		
Equality Impact Assessment	July 2019		
Approving Body	Remuneration and Terms of Service Committees	Date approved	July 2019
Date of Issue	September 2019		
Review Date	July 2022		
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Contents

	Page	
1	Definitions	4
2	Introduction	5
3	Purpose and Scope	5
4	Roles and Responsibilities	5
5	General Principles	6
6	Pregnancy and Maternity Provisions	6
7	Adoption Leave Provisions	8
8	Important Information for Employees Going on Maternity and Adoption Leave to Consider	10
9	Paternity Leave Provision	11
10	Shared Parental Leave	14
11	Parental Leave	18
12	Equality and Diversity Statement	19
13	Interaction with Other Policies and Procedures	19
14	Communication, Monitoring and Review	20
15	References	20
	Appendix A - Telling us about your Pregnancy or Intention to Adopt	21
	Appendix B - Expectant and New Mother's Risk Assessment Guidance	23
	Appendix C - Returning to Work following Maternity or Adoption Leave	25
	Appendix D - Keeping in Touch Days	27
	Appendix E - Shared Parental Leave	28
	Appendix F - Equality Impact Assessment	29

1. Definitions

Ordinary Maternity Leave (OML) – the first 26 weeks of maternity leave.

Additional Maternity Leave (AML) – the last 26 weeks of maternity leave.

Statutory Maternity Pay (SMP) – is an employee benefit, part of the provision of parental leave in the UK, which is paid for up to 39 weeks.

Occupational Maternity Pay (OMP) – is an optional payment that an employer makes to eligible staff.

Statutory Adoption Pay (SAP) – is an employee benefit, part of the provision of parental leave in the UK. It is paid the same as the statutory maternity pay.

Occupational Adoption Pay (OAP) – is an optional payment that an employer makes to eligible staff.

Ordinary Adoption Leave (OAL) – the first 26 weeks of adoption leave.

Additional Adoption Leave (AAL) – the last 26 weeks of adoption leave.

Paternity Leave (PL) – a period of absence from work granted to a father after or shortly before the birth of his child.

Statutory Paternity Pay (SPP) – is an employee benefit, part of the provision of parental leave in the UK. It is paid for either one or two consecutive weeks at 90% of your average weekly earnings or at Government fixed amount whichever is lower.

Occupational Paternity Pay (OPP) – is an optional payment that an employer makes to eligible staff. If you are eligible, you will receive full pay for up to two weeks.

Shared Parental Leave (SPL) – enables eligible mothers, fathers, partners and adopters to choose how to share time off work after their child is born or placed for adoption.

Shared Parental Pay (ShPP) – is the pay associated with Shared Parental Leave.

Parental Leave – is time off that employees who are parents can take to spend time with their child up until the child's 18th birthday. It is usually unpaid and can last up to 18 weeks.

Keeping in Touch Days (KIT) – employees can work up to ten **days** during their maternity, adoption or additional paternity leave without their leave coming to an end. This will be remunerated up on their return to employment.

Shared Parental Leave in Touch Days (SPLIT) – employees can work up to 20 days during shared parental leave without it coming to an end. This is in addition to the ten KIT days.

2. Introduction

2.1 This policy is designed to help employees understand their rights in the following areas:

- When you are pregnant, on maternity leave and on your return to work after your baby is born.
- Paternity leave when your partner gives birth or adopts a child (and you are not taking adoption leave).
- If you are an adoptive parent wanting to take adoption leave from work.
- Shared Parental Leave.
- Entitlement as a mother or father to take time off from work to look after your child.

3. Purpose and Scope

3.1 To help Line Managers understand employees' rights to maternity, paternity, adoption and shared parental leave and ensure that there is a consistent and fair approach to expectant mother and parents upon their return to work.

3.2 The policy will provide guidance to Line Managers and employees to ensure a safe working and continuation of duties during pregnancy and return to work where necessary.

3.3 This policy applies to all staff that are eligible to maternity, paternity, adoption or shared parental leave, who are employed under a contract of employment with the organisation.

3.4 This policy does not apply to independent contractors and agency workers working for the organisation under a contract for services.

4. Roles and Responsibilities

4.1 Employees

4.1.1 Employees are responsible for:

- Communicating appropriately with their Line Manager when absent from work as outlined in the Sickness Absence Policy.
- Co-operating in the use of these procedures.
- Attending review meetings and return-to-work meetings with the appropriate manager.

4.2 Line Managers

4.2.1 It is the responsibility of Line Managers to ensure that they:

- Are familiar with this policy and their responsibilities within this process.
- Communicate appropriately with employees.

- Deal with actions in a timely manner.
- Maintain and retain accurate records in line with the Data Protection Act 2018.
- Maintain confidentiality at all times.
- Attend training on policy updates and/or legislation changes.

4.3 Human Resources

4.3.1 Human resources will provide support and advice on all aspects of the application of this policy and process.

5 General Principles

- 5.1 The law relating to parental rights is complex and where possible this policy has simplified the process for all employees.
- 5.2 Employees and Line Managers should seek further guidance from the HR Team if further information is required.

6 Pregnancy and Maternity Provisions

6.1 Informing us of your pregnancy

6.1.1 We encourage you to tell us about your pregnancy as soon as you feel comfortable in doing so but you **must** tell your Line Manager by the start of your 25th week of pregnancy (15 weeks before the baby is due). This is the latest date you can tell us that you plan to take maternity leave. More information and relevant forms about how to do this are included in **Appendix A**.

6.2 Taking time off during pregnancy

- 6.2.1 You are entitled to reasonable paid time off to attend antenatal care appointments. This includes appointments with your doctor, midwife or any hospital or other appointments recommended by a health professional that are connected to your pregnancy.
- 6.2.2 You may be asked for copies of your appointment cards or referral letters from your health professional stating that you are pregnant to facilitate the paid time off.

6.3 Maternity Leave

- 6.3.1 You are entitled to 52 weeks maternity leave, regardless of your hours of work or length of service. It is important however, that you give your Line Managers the correct notice.
- 6.3.2 Maternity leave is made up of 26 weeks Ordinary Maternity Leave (OML) followed by 26 weeks Additional Maternity Leave (AML).
- 6.3.3 In accordance with legislation you **must** take a minimum of two weeks leave after giving birth.

- 6.3.4 You cannot start your maternity leave earlier than your 29th week of pregnancy, unless your baby is born prematurely.
- 6.3.5 If you are on sick leave for reasons related to your pregnancy at any time after your 36th week of pregnancy this will automatically trigger the start of your maternity leave.
- 6.3.6 You must inform your Line Manager of your intended return to work date (see **Appendix C** for further information).

6.4 Maternity Pay

- 6.4.1 The qualifying conditions for Statutory Maternity Pay (SMP) and Occupational Maternity Pay (OMP) are different to the conditions for maternity leave.
- 6.4.2 To qualify for Statutory Maternity Pay you must:
- Have been continuously employed by an organisation within the Nottingham and Nottinghamshire CCGs for 26 or more weeks by the end of your 25th week of pregnancy.
 - Have stopped working for reasons connected to your pregnancy or the pregnancy itself.
 - Be pregnant or have had the baby by the 29th week of pregnancy.
 - Not have average earnings below the lower earnings limit set by the Government.
 - Have given at least 28 days' notice of the date you expect to start receiving Statutory Maternity Pay (usually the day you wish to start your maternity leave).
 - Have supplied a certificate (usually a MATB1) from a midwife or doctor, confirming the date of your expected week of childbirth.
- 6.4.3 Statutory Maternity Pay is payable for 39 weeks in total. You will receive your Statutory Maternity Pay during the whole period of your Ordinary Maternity Leave and for the first 13 weeks of your Additional Maternity Leave.
- 6.4.4 Statutory Maternity Pay is paid at 90% of your average weekly earnings for the first six weeks of your maternity leave and will then reduce to the statutory lower amount for the remaining 33 weeks. This amount is fixed each year by the Government.
- 6.4.5 Statutory Maternity Pay replaces your usual salary whilst you are on maternity leave. Should you return to work before the end of the 39 week period, SMP will cease and you will return to your normal salary.
- 6.4.6 Statutory Maternity Pay is subject to normal tax and national insurance deductions.

6.5 Occupational Maternity Pay

- 6.5.1 To be eligible to receive Occupational Maternity Pay you will have been continuously employed for 12 months or more with one or more NHS

employers at the beginning of your 29th week of pregnancy and complied with the notification process.

6.5.2 Where you intend to return to work after the end of your maternity leave with one of the Nottingham and Nottinghamshire CCGs or another NHS employer for a minimum of three months, you will receive Occupational Maternity Pay. It will be paid as follows:

- For the first eight weeks of your maternity leave you will receive full pay, less any Statutory Maternity Pay or maternity allowance receivable.
- For the next 18 weeks you will receive half of full pay, **plus** any statutory maternity pay or maternity allowance provided that it does not exceed your normal full pay.

6.5.3 The HR5 form provides opportunity for your maternity payments to be paid in equal amounts over the duration of your maternity leave. However, it is not possible to change the way that Statutory Maternity Pay is paid which will result in higher payments for the first six weeks of your maternity leave.

6.6 Unplanned end of pregnancy/premature birth

6.6.1 If you experience a miscarriage before the end of your 24th week of pregnancy then normal sick leave provisions will apply. Please see Sickness Absence Policy for further information.

6.6.2 If your baby is stillborn after the end of your 24th week of pregnancy you will be entitled to the same amount of maternity leave and pay as if your baby was born alive.

6.6.3 Should your baby be born earlier than your 29th week of pregnancy, maternity leave will commence the day after the birth of your baby.

7 Adoption Leave Provisions

7.1 Informing us of your adoption

7.1.1 We encourage employees who are looking to adopt to let your Line Manager know as soon as you feel comfortable in doing so.

7.1.2 You **must** notify your Line Manager within seven days of being told by your adoption agency that you have been matched with a child or as soon as is practicably possible. More information on the process is detailed in **Appendix A**.

7.1.3 You will need to advise your Line Manager of the following:

- When the child is expected to be placed with you.
- When you want your adoption leave to start.

7.2 Adoption Appointments

7.2.1 You are entitled to take paid time off for up to five adoption appointments in line with the statutory guidance.

7.3 Adoption Leave

7.3.1 You are entitled to 52 weeks' adoption leave from the first day of your employment with the CCGs, provided that you meet the eligibility criteria listed below:

- You are newly matched with a child for adoption by an approved adoption agency.
- You are a member of a couple jointly matched with a child for adoption by an approved adoption agency.
- You have notified the agency that you are accepting the placement and have agreed a date for it to start.
- Your spouse or partner will not be taking adoption leave with their employer (although they may be entitled to take paternity leave).
- You have complied with the notification process detailed in Appendix A.

7.3.2 Adoption leave is split into 26 weeks' Ordinary Adoption Leave and 26 weeks' Additional Adoption Leave.

7.3.3 You are not eligible for adoption leave or pay if you already have caring responsibilities for the child e.g. as step-parent or foster carer.

7.3.4 You can start your adoption leave on the day that the child is placed with you or 14 days before the date you expect the child to be placed with you.

7.4 Adoption Pay

7.4.1 In order to be eligible for and to receive your Statutory Adoption pay you must meet all the criteria set out in Section 6.3.1 and in addition confirm the following:

- That your average earnings are not below the lower earnings limit set by the Government.
- Your name and address.
- That you intend to take statutory adoption pay and not paternity pay.

7.4.2 You must notify your Line Manager at least 28 days before you want your Statutory Adoption Pay to start.

7.4.3 The provision of Statutory Adoption Pay is the same as detailed in section 6.4.3 to 6.4.6 for Statutory Maternity Pay.

7.4.4 To be eligible for Occupational Adoption Pay you must have continuous NHS service with one or more employer for 12 months or

more ending with the week in which you are notified of being matched with a child.

7.4.5 The provision of Occupational Adoption Pay is the same as those detailed in sections 6.5.2 to 6.5.3 for Occupational Maternity Pay.

7.5 Disruption to Adoption Leave

7.5.1 If during Ordinary Adoption Leave or Additional Adoption Leave:

- The adoption agency informs you that the child will no longer be matched with you; or
- The child's placement with you ends,

then your adoption leave will end eight weeks after the end of the week in which the disruption took place or the end of your Statutory Adoption Pay if this date is sooner. Your right to Statutory Adoption Pay will also end at the same time. Occupational Adoption Pay will also terminate at this time.

7.5.2 If during Ordinary Adoption Leave or Additional Adoption Leave, the child dies, you will be entitled to the same amount of adoption leave and occupational adoption pay as if your baby was born alive.

8. Important Information for Employees Going on Maternity and Adoption Leave to Consider

8.1 Employees in a Salary Sacrifice Scheme

8.1.1 If an employee is participating in a Salary Sacrifice Scheme you should contact the provider and take advice on the impact of the scheme on the calculation of your Maternity or Adoption Pay. This should be done before your 25th week of pregnancy, or as soon as you have been informed that you have been matched to a child.

8.2 Accrual of Annual Leave whilst on Maternity or Adoption Leave

8.2.1 Annual leave continues to be accrued during the period of maternity or adoption leave. This includes the accrual of bank and public holidays that you would normally be entitled to.

8.2.2 Paid annual leave cannot be taken during a period of maternity or adoption leave.

8.2.3 Where accrued annual leave exceeds the carry over provisions detailed in the CCGs' Leave Policy you must mutually agree with your Line Manager when to use your leave.

8.3 Pensions

8.3.1 Whilst you are on maternity or adoption leave your pension contributions will be calculated as a percentage of the pay you actually receive.

- 8.3.2 Employer contributions to your pension continue to be made on the earnings you would have received if you were not on maternity or adoption leave.
- 8.3.3 Any period of unpaid maternity or adoption leave will not be treated as pensionable service under the NHS Pension Scheme. When you return to work you will be offered the opportunity to pay the contributions for the period of unpaid leave. The contributions will be based on the amount of pay you were receiving immediately before you went on to nil pay.

8.4 Keeping in Touch Days – Maternity and Adoption Leave

- 8.4.1 You are entitled to carry out up to ten paid days' work with the CCGs during your maternity or adoption leave. There is no obligation for you to do this or for the CCGs to provide work for you to do. These days are known as 'Keeping in Touch Days' – see **Appendix D** for more information.

8.5 Returning to Work from Maternity or Adoption Leave

- 8.5.1 If you return to work at the end of your OML or OAL you are entitled to return to the same job on the same terms and conditions as if you had not been away (unless a redundancy situation has arisen in the meantime).
- 8.5.2 If you return to work at the end of you AML or AAL you are entitled to return to the same job on the same terms and conditions as if you had not been away unless it is not reasonably practicable for you to return to the same role. Further information is available in **Appendix C**.
- 8.5.3 We have a duty of care to take care of your general health and safety whilst at work. As part of that duty of care we will have to carry out a risk assessment for all women who are pregnant, have given birth in the last six months or who are breastfeeding.
- 8.5.4 If you intend to continue breastfeeding once you have returned to work you need to inform your Line Manager of this at the earliest opportunity to ensure that the appropriate provisions are in place.

9 Paternity Leave Provision

9.1 Informing us of your need for Paternity Leave

- 9.1.1 We encourage all employees to inform their Line Managers, as soon as they feel comfortable to do so, of their need for Paternity Leave.
- 9.1.2 If you require Paternity Leave following the birth of your child you must provide us with the following information:
- When the baby is expected to be born.
 - When you want your paternity leave to start.

- Whether you want to take one or two weeks' leave.

9.1.3 You must provide confirmation by the 25th week of pregnancy.

9.1.4 If you require Paternity Leave following the matching of a child for adoption you must confirm the following:

- The date of placement for adoption.
- When you want adoption related paternity leave to start.
- Whether you want one or two weeks' leave.

9.1.5 You must provide notification of your need for adoption related paternity leave no later than seven days after receiving notification that a child is being placed for adoption.

9.2 Length of Paternity Leave

9.2.1 Whether taking paternity leave following the birth of your child or following the placement of a child for adoption, you are entitled to two weeks' paternity leave.

9.2.2 Leave must be taken in a single block and cannot be taken as odd days or as two separate weeks.

9.2.3 You can take the leave either as one single week or two consecutive weeks but you **cannot** take individual days or take the second week at a later date.

9.3 Antenatal or Adoption Appointments

9.3.1 If you are the expectant father or partner of a pregnant woman, married to or the partner of the child's adopter or the potential applicant for a parental order in relation to a child who is expected to be born to a surrogate mother, you are entitled to take unpaid leave to attend two antenatal or adoption appointments, lasting no more than six and a half hours each.

9.3.2 You may be asked by your Line Manager for confirmation of the dates and times of any appointments you wish to attend.

9.4 Birth Related Paternity Leave

9.4.1 You are eligible for Paternity Leave following the birth of your child if you meet the following criteria:

- You have worked for an organisation within the Nottingham and Nottinghamshire CCGs as an employee continuously for at least 26 weeks by the end of the 25th week of pregnancy and you are still employed by the CCGs when the baby is born.
- You are the baby's biological father or the mother's husband or partner.
- You have or expect to have responsibility for the child's upbringing.
- You have not taken any shared parental leave.

9.4.2 You can start your paternity leave:

- On the date of the child's birth (whether this is earlier or later than expected).
- On any date within 56 days/8 weeks of the birth of the child.
- If the child is born early, within the period of the actual date of birth and 8 weeks after the expected week of birth.

9.4.3 You can only take one period of paternity leave even if your partner has more than one child from the same pregnancy.

9.5 Adoption Related Paternity Leave

9.5.1 You are eligible for adoption related paternity leave if you meet the following conditions:

- You have worked for an organisation within the Nottingham and Nottinghamshire CCGs as an employee continuously for at least 26 weeks by the time your spouse or partner is notified of being matched with a child for adoption and you are still employed with the CCGs when the child is placed for adoption.
- You are married to or are the partner of the child's adopter.
- You have or expect to have responsibility for the child's upbringing.
- You are not taking Adoption Leave.
- You have not already taken shared parental leave.

9.5.2 You can start your paternity leave

- On the date of the child's placement with the adopter (whether this is earlier or later than expected).
- On any date within 56 days/8 weeks of the actual placement date (must complete the leave within the 8 weeks).

9.5.3 You can only take one period of Paternity Leave even if your spouse or partner has more than one child placed with them for adoption.

9.6 Statutory Paternity Pay

9.6.1 If you meet the qualifying conditions for Paternity Leave you will be entitled to Statutory Paternity Pay (SPP). In addition to the conditions for Paternity Leave your average earnings must not be below the lower earnings limit that is set by the Government in order to gain your Statutory Paternity Pay. Payroll or HR will inform you if your earnings fall below this standard.

9.6.2 In order to receive your Statutory Paternity Pay you must confirm the following:

For paternity pay relating to the birth of a child:

- Whether you want to receive SPP for one or two weeks and when you want this to commence.

- That you are the baby's biological father or mother's partner and that you will have responsibility for the child's upbringing.
- That you will care for the child or the child's mother whilst receiving SPP.

For paternity pay relating to the adoption of a child:

- Whether you want to receive SPP for one or two weeks and when you want this to start.
- That you are married to or are the partner of the child's adopter and that you will have responsibility for the child's upbringing.
- That you will care for the child or the child's adopter whilst receiving SPP.
- That you are not receiving Statutory Adoption Pay.

9.6.3 The amount of SPP is set by the Government each year and will be paid via normal payroll processes. SPP is subject to normal tax and National Insurance deductions and replaces your salary for the period of Paternity Leave.

9.6.4 If you come back to work before the end of your Paternity Leave period, SPP will stop and your usual salary will begin again.

9.7 Occupational Paternity Pay

9.7.1 To be eligible for Occupational Paternity Pay you must have continuous NHS employment for 12 months or more at the beginning of the week the baby is due to be born or that the child is being placed for adoption.

9.7.2 Occupational Paternity Pay is payable for up to two weeks. You will receive full pay less any Statutory Paternity Pay.

9.7.3 If you are not eligible for Occupational Paternity Pay you may still be eligible for Statutory Paternity Pay as outlined in Section 9.6.

9.8 Return to Work

9.8.1 You are entitled to return to the same job when your Paternity Leave finishes.

9.9 Pensions

9.9.1 Pension provisions for Paternity Leave are the same as outlined in section 8.3.

10 Shared Parental Leave

10.1 What is Shared Parental Leave?

10.1.1 Shared Parental Leave provides parents and adopters to consider the best arrangements to care for their child during the child's first year by

giving parents the opportunity to split leave periods between them during the course of the year.

10.1.2 The amount of leave available is calculated using the mother's/adopter's entitlement to Maternity/Adoption Leave, which allows them to take up to 52 weeks leave following the birth of their baby or placement of their child.

10.1.3 Unlike Maternity and Adoption Leave, eligible employees are able to stop and start their Shared Parental Leave and return to work between periods of leave.

10.2 Eligibility for Shared Parental Leave (SPL)

10.2.1 To qualify for SPL a mother or adopter must:

- Have a partner.
- Be entitled to either Maternity or Adoption Leave, Statutory Maternity or Adoption Pay **or** Maternity Allowance.
- Have curtailed or given notice to reduce their Maternity or Adoption Leave **or** their Pay/Allowance.

The Father or Partner must:

- Be an employee.
- Share the primary responsibility for the child with the other parent at the time of the birth or placement for adoption.
- Have properly notified their Line Manager of their entitlement and have provided the necessary declarations and evidence.
- Meet the 'Continuity of Employment Test'.
- In addition, the Partner must meet the 'Employment and Earnings Test'.

Continuity of Employment Test	Employment and Earnings Test
The individual has worked for the same employer for at least 26 weeks at the 25 th week of pregnancy or 15 weeks before the placement of the adoptive child and is still working for the same employer at the start of the each leave period.	In the 66 weeks leading up to the baby's expected due date or matching date the person has worked for at least 26 weeks and earned an average of at least £30 a week in any 13 weeks.

10.2.2 On occasions only one parent will meet the eligibility criteria. For example – a self-employed parent will not be entitled to Shared Parental Leave themselves but they can still pass the employment and earnings test so their partner may still qualify if they are an employee.

10.2.3 If both parents are employees and meet the eligibility criteria then there will be a joint entitlement to Shared Parental Leave. The parents will determine how they divide the leave entitlement once the mother/adopter has decided to curtail their maternity or adoption leave

10.3 Shared Parental Leave

10.3.1 Mum's can end their maternity leave after two weeks and split up to 50 weeks of shared parental leave with partners, anyway they like.

- For example, both parents take 25 weeks at the same time, Mum takes 44 weeks, Partner takes the first 6 weeks at the same time, Mum takes the first 12 weeks, and then Partner takes the remaining 38 weeks.

10.3.2 Shared Parental Leave can start on any day of the week but can only be taken in complete weeks i.e. Tuesday to Tuesday.

10.3.3 SPL can be taken using three separate booking notices to allow parents the opportunity to be flexible with their arrangements.

10.3.4 The leave can also be taken by the partner whilst the mother or adopter is still on Maternity or Adoption Leave provided that they have reduced their entitlement to their Maternity or Adoption Leave.

10.4 Shared Parental Pay

10.4.1 Should a mother or adopter qualify for Statutory Maternity or Adoption Pay or the Maternity Allowance and do not wish to take the full 39 weeks of this pay entitlement, the funds could become available for Shared Parental Pay.

10.4.2 Shared Parental Pay is paid at the same rate as Statutory Maternity or Adoption Pay.

10.4.3 To qualify for Shared Parental Pay the mother or adopter must:

- Meet the 'Continuity of Employment Test'.
- Have earned above the 'Lower Earnings Limit' leading up to and including the 15th week before the child's due/matching date.
- Still be employed by the same employer at the start of the first period of Shared Parental Leave.

The partner must:

- Meet the 'Employment and Earnings Test'.

10.4.4 If the employment of either the partner or the mother/adopter 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 somewhere else.

10.5 Continuous or Discontinuous Leave

10.5.1 Shared Parental Leave can either be booked in 'continuous' blocks of leave or multiple 'discontinuous' blocks of leave.

- 10.5.2 A continuous block of leave means taking an unbroken period of leave.
- 10.5.3 A discontinuous block of leave means asking for leave over a set period with breaks in between the leave dates.
- 10.5.4 Your Line Manager must discuss your leave requests within 14 calendar days of the submission to them.
- 10.5.5 All staff are encouraged to discuss the options for Shared Parental Leave with their Line Manager as soon as practicably possible to ensure that they are mutually agreeable for the individual and for the organisation. Further guidance is available by contacting the HR Team.

10.6 Informing Us of Your Intention to Take Shared Parental Leave

- 10.6.1 Provided that you are eligible for Shared Parental Leave we encourage all staff to inform their Line Managers of their intentions to take Shared Parental Leave as soon as is practicably possible.
- 10.6.2 As Shared Parental Leave could involve separate organisations across different industries, the CCGs need certain information to ensure that process is being applied appropriately.

10.7 Shared Parental Leave in Touch (SPLIT) Days

- 10.7.1 You can work up to 20 days during Shared Parental Leave without bringing the leave period to an end. These days are optional.
- 10.7.2 The 20 SPLIT days are in addition to the ten KIT days already available to those on Maternity or Adoption Leave.
- 10.7.3 You will be paid for any SPLIT days when you return to work. The days will be paid at your normal hourly rate minus any Shared Parental Pay you may have received.

10.8 Annual Leave

- 10.8.1 You continue to accrue annual leave whilst on Shared Parental Leave.

10.9 Childcare Vouchers

- 10.9.1 Childcare Vouchers will continue to be made available to you during Shared Parental Leave.
- 10.9.2 Shared Parental Pay **cannot** be sacrificed to fund the payment of Childcare Vouchers.
- 10.9.3 If you do choose to continue to take the childcare vouchers whilst in receipt of Shared Parental Pay only or on no pay, the organisation will cover the cost of the vouchers – **you will need to speak with HMRC for more information.**

10.10 Surrogate Parents

10.10.1 Intended parents in surrogacy arrangements who use a parental order may qualify for Shared Parent Leave and Pay.

11 Parental Leave

11.1 What is Parental Leave?

11.1.1 Parental Leave enable parents to take unpaid leave from work to look after their children's welfare.

11.1.2 You have to have worked with the CCGs continuously for 12 months before you are eligible to request Parental Leave. Your child/ren also have to be under 18 years of age and you must have or expect to have parental responsibility for the child/ren.

11.1.3 You can take up to 18 weeks' Parental Leave for each eligible child up to their 18th birthday. The 18 week entitlement **does not** start again if you move employment.

11.1.4 Parental Leave must be taken in blocks of one week up to a maximum of four weeks in any 12 month period. If your child is disabled you can take your Parental Leave in single days.

11.1.5 Your terms and conditions of employment will remain unchanged during a period of Parental Leave and you are entitled to return to the same job after a period of four weeks' leave or less.

11.2 Applying for Parental Leave

11.2.1 If you wish to take Parental Leave you must complete an Application form for Parental leave which is available on the intranet and submit this to your Line Manager.

11.2.2 You must give your Line Manager at least 28 days' notice of when you would like your Parental Leave to start.

11.2.3 If you are taking Parental Leave for the first time with the CCGs you must provide evidence of the following:

- Your responsibility for the child.
- The child's birth date or date of adoption.
- Whether you have previously taken any Parental Leave for this child with another employer and how much leave you took.

11.2.4 Your Line Manager will always allow Parental Leave if it is requested to coincide with the birth or placement of your child.

11.2.5 For other requests, occasionally Line Managers may have to postpone your Parental Leave request if:

- You have not provided 28 days' notice.

- The business would be particularly disrupted during the dates you have requested.

11.2.6 Should your Line Manager postpone your Parental Leave they will write you within seven days of receiving your request explaining why it is being postponed and when they anticipate you being able to take it.

11.2.7 Parental Leave will not be postponed for more than six months.

11.3 Pensions

11.3.1 Any period of unpaid Parental Leave will not be treated as pensionable service. When you return to work you will be offered the opportunity to pay the contributions for such period of unpaid parental leave so that it is treated as pensionable.

12 Equality and Diversity Statement

12.1 The Nottingham and Nottinghamshire CCGs pay due regard to the requirements of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in policy development and implementation, both as commissioners and as employers.

12.2 As a commissioning organisation, we are committed to ensuring our activities do not unlawfully discriminate on the grounds of any of the protected characteristics defined by the Equality Act, which are age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

12.3 We are committed to ensuring that our commissioning activities also consider the disadvantages that some people in our diverse population experience when accessing health services. Such disadvantaged groups include people experiencing economic and social deprivation, carers, refugees and asylum seekers, people who are homeless, workers in stigmatised occupations, people who are geographically isolated, gypsies, roma and travellers.

12.4 As employers, we are committed to promoting equality of opportunity in recruitment, training and career progression and to valuing and increasing diversity within our workforce.

12.5 To help ensure that these commitments are embedded in our day-to-day working practices, an Equality Impact Assessment has been completed for, and is attached to, this policy.

13 Interaction with Other Policies and Procedures

13.1 This policy document should be read in conjunction with the 'NHS Terms and Conditions of Service Handbook' as amended from time to time.

14 Communication, Monitoring and Review

- 14.1 This policy will be reviewed as required and no later than three years following its implementation date. The policy is stored on the CCGs' intranet and within the HR Department.
- 14.2 The application of this policy and the effectiveness of the provision of awareness training will be monitored by the Workforce Directorate as and when required.
- 14.3 Any individual who has queries regarding the content of this policy, or has difficulty understanding how this policy relates to their role, should contact the "document author".

15 References

- 15.1 NHS Agenda for Change Terms and Conditions of Service.
- 15.2 NHS Pensions Terms and Conditions.
- 15.3 <https://www.gov.uk/employers-maternity-pay-leave/entitlement>
- 15.4 <https://www.gov.uk/shared-parental-leave-and-pay/overview>
- 15.5 <https://www.gov.uk/employers-adoption-pay-leave/entitlement>
- 15.6 <https://www.gov.uk/parental-leave/overview>

Appendix A

Telling us about your Pregnancy or Intention to Adopt

Maternity Leave

To ensure that you receive your maternity leave and your maternity pay (if you are eligible), you need to inform your Line Manager and provide them with the following:

- When the baby is expected to be born.
- When you want your maternity leave to start.

You will need to write to your Line Manager before the 15th week before your baby is due (your 25th week of pregnancy) confirming the date that you expect your maternity leave to start and also submit your MATB1 form. You will be given your MATB1 form from your Doctor or a midwife and it confirms the baby's expected date of birth.

The HR team needs to see your original MATB1 form in order to confirm to payroll the original has been seen. If you provide a photocopy and the HR Team cannot verify the original for payroll, your maternity pay will remain unprocessed.

Changing the date of your Maternity Leave

Be mindful of the implications changing the start date of your maternity leave may have on the team and have a discussion with your Line Manager if this is something you think you would like to do.

What your Line Manager needs to do

Now that your Line Manager is aware that you are pregnant they will be able to carry out a risk assessment of the workplace at the appropriate stages of your pregnancy, guidance on this is available in **Appendix B**.

Your Line Manager will liaise with you to complete the HR5 New Parent Form which will be submitted alongside your MATB1 and your letter to the HR Team who will pass it on to Payroll.

Your Line Manager or the HR team will write to you within 28 days of receiving the notification regarding going on Maternity Leave. The letter will confirm your expected maternity leave commencement date and the date that we expect you to return to work if you were to take your full 52 week entitlement.

Adoption Leave

To ensure that you receive your adoption leave and your adoption pay (if you are eligible), you need to provide your Line Manager with the following:

- Information regarding when the child is expected to be placed with you.

- When you want your adoption leave to start.

You will need to provide your Line Manager with the above information as soon as reasonably possible of being advised by your Adoption Agency that you have been matched with a child.

Your Line Manager will need to see the original 'Matching Certificate' which can be obtained from your Adoption Agency. The 'Matching Certificate' should include the following information:

- The name and address of the Adoption Agency.
- The name and date of birth of the child.
- The date on which you were notified that you had been matched with the child.
- The date on which the agency expects to place the child with you or if the placement has already occurred, the date the placement commenced.

Your Line Manager will then submit an HR5 New Parent Form along with your 'Matching Certificate' to payroll in order to start your adoption leave and pay.

Changing the date of your Adoption Leave

If the date changes of when your adoption leave is due to start, please be mindful of your team and give reasonable notice.

You cannot start your adoption leave later than the day after the placement started or 14 days prior to the commencement of the placement.

Fostering for Adoption

The Fostering for Adoption scheme enables a child to be placed with potential adoptive parents rather than being placed in foster care. If the courts decide that the child should be adopted and the Adoption Agency approves the match with the current carers the placement will then become an adoption placement.

If you are fostering a child as part of this scheme and placement becomes permanent you may be entitled to adoption leave and pay.

What your Line Manager needs to do

Your Line Manager will liaise with you to complete the HR5 New Parent Form and submit this and your 'Matching Certificate' to Payroll to start the processes to begin your adoption leave and pay.

Your Line Manager or the HR Team will write to you within 28 days of receiving the notification regarding going on Adoption Leave. The letter will confirm your expected adoption leave commencement date and the date that we expect you to return to work if you were to take your full 52 week entitlement.

Appendix B

Expectant and New Mother's Risk Assessment Guidance

The CCGs expects that expectant and new mothers are treated fairly. It is important that all expectant mothers will have a risk assessment performed at regular intervals throughout her pregnancy. Where risks are identified these will be reduced to a safe level or where this is not possible temporary adjustments will be made to the role – (detailed in management responsibilities).

Legal Requirements

Regulation 3 of the Management of Health and Safety at Work Regulations 1999 requires every employer to assess workplace risks for all their employees, and take practical action to control those risks.

Employers must take particular account of the risks to expectant and new mothers.

Definition

An expectant or new mother is defined as someone who is:

- Pregnant.
- Who has given birth within the previous six months.
- Breastfeeding.

Risk Assessments

Employers need to ensure that expectant and new mothers are not exposed to any significant risks that could cause harm to them, their unborn child, or their child (if still breastfeeding).

A risk assessment should take into account the following areas:

- Physical.
- Biological.
- Chemical.
- Working/Environmental Hazards.

A risk assessment for expectant mothers is available on the intranet. The template for new mothers is featured beneath the first risk assessment.

Management Responsibilities

The Line Manager will discuss with the expectant or new mum the potential risks within the working environment and complete the relevant risk assessment. For expectant mothers, the risk assessment needs to be completed in each trimester to ensure that the CCGs mitigate any changing risks to the employee.

If a risk is identified, further advice must be sought from the Occupational Health Team, the HR Team or the Head of Corporate Assurance.

If the risk cannot be reduced or eliminated, the Line Manager together with the HR Team will consider the following:

- Temporary adjustment to an employee's working conditions or hours.
- Offer suitable alternative work if available.
- If alternative work is not available, consider medical suspension.

Risk assessments for expectant and new mothers should be reviewed regularly and where necessary be repeated to ensure the mother's safety in the workplace. All completed risk assessments should be kept on the individual's personnel file.

It is a legal requirement for the CCGs to provide pregnant and breastfeeding mothers suitable rest facilities. The CCGs will also provide mothers who wish to express and store breast milk a safe and private environment in which they can do this.

Employee Responsibilities

Employees who are pregnant must inform their Line Manager of their pregnancy as soon as they feel comfortable doing so to ensure that the appropriate risk assessment is carried out.

If any safety measures are put in place as a result of the risk assessment the employee must comply with these measures.

If there are any changes in the employee's health due to the pregnancy they must inform their Line Manager at the earliest possible time.

Appendix C

Returning to Work following Maternity or Adoption Leave

When you are returning from your leave, you will need to complete the HR5 New Parent Form. You may wish to speak with your Line Manager prior to returning to work so that you are fully briefed on the service/projects you will be working on prior to returning to work.

Early return

If you decide to return earlier than you indicated on your original HR5 New Parent Form, please notify your Line Manager four weeks prior to your intended return date. It is expected that you will be in regular contact with your Line Manager whilst on maternity leave.

Later return

If you wish to return to work after your 52 weeks' entitlement you should either request Parental Leave, via email to your Line Manager and the HR Team or arrange to use any outstanding Annual Leave with your Line Manager. All requests will be considered in line with the appropriate policy.

Not returning

If you decide you do not want to return to work following your maternity leave you **must** provide the relevant notice as detailed in your Contract of Employment.

If you fail to return to work with your current Employer or another NHS Employer following your maternity/adoption leave you will have to repay all of your Occupational Maternity/Adoption Pay, less any Statutory Maternity/Adoption Pay you may have received. Please liaise with your line manager and the HR team in these circumstances. If repaying your OMP could potentially cause hardship the organisation will consider the circumstances and may in certain circumstances waive the right to reclaim the monies.

Returning on different contractual terms

Ordinarily when you return to work after your Maternity/Adoption/Shared Parental leave you will be entitled to return to the same job on the same Terms and Conditions as you were on before you left.

However, on occasions this may not be reasonably practicable for the organisation to facilitate this return. Below are some examples of the reasons for this. Please note that this list is not exhaustive:

- Request for reduced hours would impact on the ability for the role to deliver.
- Request to job share cannot be fulfilled.

Should this situation arise the organisation has a duty of care to offer you a suitable alternative role that is similar to your substantive post – unless a redundancy situation has arisen, in which case you will be consulted with and informed of the process that you will need to follow.

If you are unhappy with the post that has been offered to you as an alternative to your substantive post you must inform your Line Manager and the HR Team as soon as practicably possible.

Appendix D

Keeping in Touch Days

Whilst on Maternity or Adoption leave you are entitled to ten 'Keeping in Touch' (KIT) days and whilst on Shared Parental Leave 20 "shared parental leave in touch" (SPLIT) days. The days are optional and do not have to be taken up by you and the CCGs are not obligated to provide you with work whilst on maternity/adoption/shared parental leave.

Before you go on your maternity/adoption leave your Line Manager should have a discussion with you about KIT/SPLIT days to see if this is something that you would like to do but the specific dates will be arranged whilst you are on maternity/adoption/shared parental leave.

Why have KIT/SPLIT days?

The KIT/SPLIT days are designed for the employee to return to work on odd days throughout their leave to keep up-to-date with developments within the CCGs and your team. There are a number of other reasons you may wish to attend work, these are detailed below but are by no means an exhaustive list:

- Changes to the team, work priorities or focus.
- To be kept abreast of any developments in your specific areas of work.
- To attend training sessions or team away days.
- To participate in your appraisal.

What happens to my pay?

If you come into work for a KIT/SPLIT day and carry out any tasks for us you can be assured that your statutory maternity/adoption pay will not be at risk. Your SMP/SAP/ShPP is topped up by the CCGs to reflect the time you have been at work.

For example – if you worked three days for us in any one week, we would calculate your substantive pay for three days' work and deduct your SMP/SAP/ShPP allowance as you are already in receipt of this pay. We will then make a payment to you for the remaining balance.

Travel time to and from your base will not be counted as working time when we calculate your pay.

Usually the top-up payments for your KIT/SPLIT days will be made to you when you return from maternity/adoption leave.

Where do I work from on my KIT/SPLIT days?

Normally your Line Manager will ask you to come into your usual base for your KIT/SPLIT days but on occasions there maybe work that you can carry out at home.

Your Line Manager will contact you during your maternity leave if an opportunity for work comes up and will give you as much notice as practicably possible.

Appendix E

Shared Parental Leave

It is important to discuss your leave requirement with your Line Manager at the earliest opportunity.

Shared Parental Leave is complex and can often seem daunting when first considering this as an option. Your Line Manager or the HR Team will be able to discuss with you the options available when taking your leave.

The Policy refers to **continuous** and **discontinuous** blocks of leave:

- A **continuous block** is a period of unbroken leave, for example: this could be a notification for a period of six weeks' leave, at any point after the baby/child is born/placed with you. Eligible employees have a statutory right to take SPL in this way and the CCGs cannot refuse it.
- A **discontinuous block** describes the circumstance when you ask for a leave over a period of time but with breaks where you will return to work in between the leave periods. For example; you can request four weeks' SPL, immediately followed by three weeks back at work, followed by a further four weeks' SPL. This single notice of discontinuous leave must be agreed with your Line Manager before you take it. Remember you are only entitled to three leave requests.

What happens if my leave request is not agreed within 14 days?

If your leave request is not discussed or agreed with you within the designated time period you must take the total amount of leave in the request as one continuous block, starting on a date of your choosing. If you do not choose, the start date of your leave will default to the start date in your original request.

Alternatively, you could withdraw the leave notification. If you choose to withdraw the leave notification it will not count as one of your three notices to book leave.

Appendix F

Equality Impact Assessment

Date of assessment:	July 2019			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
Age¹	No	N/A	N/A	N/A
Disability²	Yes	Mechanisms are in place via the Communications and Engagement Team to enable the policy to be available in a range other accessible formats.	N/A	N/A
Gender reassignment³	No	N/A	N/A	N/A
Marriage and civil partnership⁴	No	N/A	N/A	N/A
Pregnancy and maternity⁵	No	N/A	N/A	N/A

¹ A person belonging to a particular age (for example 32 year olds) or range of ages (for example 18 to 30 year olds).

² A person has a disability if she or he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

³ The process of transitioning from one gender to another.

⁴ Marriage is a union between a man and a woman or between a same-sex couple.

Same-sex couples can also have their relationships legally recognised as 'civil partnerships'.

⁵ Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

Date of assessment:	July 2019			
For the policy, and its implementation, please answer the questions against each of the protected characteristic and inclusion health groups:	Has the risk of any potential adverse impact on people in this protected characteristic group been identified, such as barriers to access or inequality of opportunity?	If yes, are there any mechanisms already in place to mitigate the adverse impacts identified?	Are there any remaining adverse impacts that need to be addressed? If so, please state any mitigating actions planned.	Are there any positive impacts identified for people within this protected characteristic group? If yes, please briefly describe.
Race⁶	No	N/A	N/A	N/A
Religion or belief⁷	No	N/A	N/A	N/A
Sex⁸	No	N/A	N/A	N/A
Sexual orientation⁹	No	N/A	N/A	N/A
Carers¹⁰	No	N/A	N/A	N/A

⁶ Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

⁷ Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

⁸ A man or a woman.

⁹ Whether a person's sexual attraction is towards their own sex, the opposite sex, to both sexes or none. <https://www.equalityhumanrights.com/en/equality-act/protected-characteristics>

¹⁰ Individuals within the CCGs which may have carer responsibilities.