

LEAD EMPLOYER MATERNITY, PATERNITY AND ADOPTION LEAVE POLICY

Type of Document	Policy
Code:	
Policy Sponsor	Deputy Director of Human Resources
Lead Executive	Director of Human Resources
Approved by	LNC
Date Approved:	11.01.2018
Ratified by:	Workforce Council
Date Ratified :	24.01.2018
Author(s):	HR Project Manager
Date issued:	
Review date:	31.01.2020
Target audience:	Clinical Supervisors, Trust Management, host management, University management, Lead Employer HR, Heath Education England and trainees
Document purpose	To meet the statutory and regulatory requirements of the Trust. To provide Trainees including Public Health Trainees with consistent 'user friendly' accessible policy documents
Training requirements	The Lead Employer HR Department will be trained on the contents of the Policy and how to apply it.
Associated documents and Key References	<p>The Trust is bound by the following legislation and guidance with regard to Maternity, Paternity and Adoption pay:</p> <ul style="list-style-type: none"> Working Families Act 2006 Employment Act 2002 Employment Relations Act 1999 The Human Rights Act 1998 Employment Rights Act 1996 EU Directive on Pregnant Workers 1994 Management of Health and Safety at Work (NHSW) Regulations 1992 Equality Act 2010 <p>Maternity Toolkit Lead Employer Shared Parental Leave Policy</p>

Consultation, Communication and Implementation

Consultation Required	Authorised By	Date Authorised	Comments
Analysis of the effects on equality	HR Project Manager		
External Stakeholders	Health Education England		
Trust Trainees Consultation via Intranet	LNC Policy Subgroup January 2018		

Describe the Implementation Plan for the Policy (and guideline if impacts upon policy) (Considerations include; launch event, awareness sessions, communication / training via Divisions and other management structures, etc.)	By Whom will this be Delivered?
All trainees will be provided with a copy of this policy where requested and the policy will also be made available to trainees via the Lead Employer's internet site. The policy will be communicated in more detail to managers by the Lead Employer HR Service Managers who will also make the hosts, universities and Health Education England aware of the policy.	Lead Employer Head of HR, HR Service Managers

Monitoring Compliance with the Policy

Describe Key Performance Indicators (KPIs)	Target	How will the KPI be Monitored?	Which Committee will Monitor this KPI?	Frequency of Review	Lead
Full legal and contractual compliance		Audit of Maternity application/ Mat B1 form receipt date and response letter date (Appendix 6)		annual	Head of HR

Performance Management of the Policy

Who is Responsible for Producing Action Plans if KPIs are not met?	Which committee will monitor these action plans?	Frequency of Review (To be agreed by Committee)
Head of HR	Workforce Council	annual

How will Learning occur?	Who is responsible
Understanding of the Policy will be supplemented by coaching as required	HR Team

Archiving including retrieval of archived document	By whom will policy be archived and retrieved

Document Version History

Date	Version	Author Designation	Summary of key changes
October 13	1	HR Project Manager	N/A
Jan 15	2	HR Project Manager	Reflecting legal changes
Feb 16	3	HR Project Manager	Inclusion of Student Physician Associates
May 16	4	HR Project Admin	Updated HEE references and contact number for Annette Craghill
Sep 17	5	HR Project Admin	Extended review date to Dec 2017
Oct 17	6	HR Project Admin	Extended review date to 31.01.18, process for requesting keeping in touch days

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Executive Summary

1. Policy Aim

This policy is designed to ensure that all trainees (see below) are aware of their entitlement to maternity leave and pay, and to ensure that trainees who qualify understand those rights. It also covers provisions for Paternity Leave and Adoption Leave.

2. Policy Description

This policy is designed to inform management and trainees of their eligibility and the application for Maternity/Paternity/Adoption Leave.

SECTION 1

1. Introduction

This policy sets out the arrangements for and incorporates the legislation in relation to the amount of Maternity/Paternity/Adoption Leave that may be taken. The policy does not cover Shared Parental Leave which can be found in the Lead Employer Shared Parental Leave Policy

2. Policy Objectives

The objectives of the policy are to ensure that the Lead Employer:-

- is legally compliant
- promotes the Policy within the organisation
- provides an easily understood process for trainees to follow when applying for Maternity/Paternity or Adoption leave

3. Definitions

The following definitions/abbreviations will be used throughout the policy:

SMP:	Statutory Maternity Pay
OMP:	Occupational Maternity Pay
EDC:	Expected Date of Childbirth. The date is confirmed in the MatB1 Certificate
EWC:	Expected Week of Childbirth. This is calculated from Sunday to Saturday, i.e. the week in which the baby is due
MA:	Maternity Allowance
SAP:	Statutory Adoption Pay
OAP:	Occupational Adoption Pay
AA:	Adoption Allowance
EWM:	Expected Week of Matching

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OPP: Occupational Paternity Pay
SPP: Statutory Paternity Pay

Qualifying Week is the 15th week prior to the EWC (i.e. 25 weeks pregnant).

The Trust is bound by the following legislation and guidance with regard to Maternity, Paternity and Adoption pay:

- Working Families Act 2006
- Employment Act 2002
- Employment Relations Act 1999
- The Human Rights Act 1998
- Employment Rights Act 1996
- EU Directive on Pregnant Workers 1994
- Management of Health and Safety at Work (NHSW) Regulations 1992
- The Equal Pay (Amendment) Act 1986
- Sex Discrimination Act 1975

This list is not exhaustive

Trainees - Specialty Trainees which includes the following:

- Core trainees
- Specialist Registrars
- Fixed Term Specialty Training Appointments
- Locum Appointments for Training
- SHO (Oral and Maxillo Facial Surgery)
- Medical and Dental Public Health Trainee s
- Non-medical Public Health Trainees
- Student Physician Associates (NB For such employees this policy needs to be read in conjunction with the contract of employment in order to ensure that the requirements of the highly structured training plan are met).

Hereafter, referred to as the 'trainees'.

St Helens and Knowsley NHS Trust – Acts a Lead Employer for all trainees (as defined above) and is referred to as the 'Trust' throughout this policy.

Host Organisation – the location where the trainee is undertaking their on the job training NB where the term is used in this policy it should be regarded as including Sponsoring Organisations for Student Physician Associates.

In the case of Student Physician Associates while on academic placements in University the manager is the individual designated as such by the University Programme Director. This applies to the term throughout this policy.

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SECTION 2

4. Duties Accountabilities and Responsibilities

4.1 The Chief Executive

The ultimate responsibility in the area of legislative adherence lies with the Chief Executive.

4.2 Board of Directors

The Board are responsible for ensuring that the policy is being adhered to, both collectively and by the management and trainees in their area of responsibility. The monitoring of the impact of the policy will be delegated to the Workforce Council and the auditing to the HR management team; however the HR Director and Workforce Council will highlight any areas of significant shortfall identified to the Board.

4.3 Trainees

It is the responsibility of the trainee to inform the Lead Employer Human Resources Department and their supervising consultant, GP partner, manager or Medical Staffing at the host organisation as soon as reasonably practicable and no later than the end of the 15th week before expected week of confinement or the intended start date of Paternity/Adoption Leave that they wish to take this leave. It is also the responsibility of the trainee to ensure that the relevant documentation such as the MATB1 form, SC3 - Statutory Paternity Pay/paternity leave form and matching certificate is passed to the Lead Employer Human Resources Department to process no later than 28 days before the start of the leave.

4.4 Supervising Consultant/Medical Staffing/Manager

The supervising consultant, GP partner, manager or Medical Staffing at the host organisation must ensure they complete a Risk Assessment as soon as is reasonably practicable after being informed that an employee is pregnant NB This must be no later than 3 weeks after information has been received and earlier if the trainee is in the latter stages of pregnancy. A copy of this risk assessment must be returned to the Lead Employer Human Resources Department and any potential significant changes to working practices or hours of work arising out of health concerns highlighted in the risk assessment must be referred to Lead Employer HR before action is taken (unless in an emergency). **(Please refer to Appendix 6)**. NB If the trainee changes host organisation during the pregnancy before her maternity leave commences then the supervising consultant, GP partner, manager or Medical Staffing at the host organisation must conduct a further risk assessment based on the new position, premises etc.

Before the trainee goes on maternity leave, the supervising consultant, manager or Medical Staffing at the host organisation must discuss and agree arrangements for keeping in touch during leave including

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developments at work, vacancies, social events, minutes of team meetings and 'Keeping in Touch Days'. If the trainee transfers to an alternative host organisation these 'Keeping in Touch Days' should be agreed with the new host organisation

The supervising consultant, GP partner, manager or Medical Staffing host organisation to which the trainee will return to following her maternity leave must also undertake a further risk assessment prior to the trainee's return to work.

4.5 Lead Employer Human Resources Department

It is the responsibility of the Lead Employer HR Department to oversee that maternity provisions applicable to the trainee and ensure compliance with this policy. In particular they are responsible for confirming to the employee their eligibility for Occupational Maternity/Paternity/Adoption Leave or Statutory Maternity/Paternity/Adoption Leave entitlement. Human Resources must also inform the Payroll and Staff Services of the leave that is to be taken by trainees so that their pay can be calculated in a timely manner.

Any potential significant changes to working practices or hours of work arising out of health concerns highlighted in the risk assessment must be referred to Lead Employer Health Work and Well Being for advice.

4.6 Lead Employer Pay and Staff Services

It is the responsibility of the Pay and Staff Services to confirm to the trainee their eligibility for Occupational Maternity/Adoption Pay or Statutory Maternity/Adoption Pay including the details of the amount of pay that will be received during the period of Maternity/Paternity/Adoption Leave and to ensure payment is made.

4.7 Lead Employer Health, Work and Well Being Department

Consider those risk assessments sent to them and provide advice on any concerns arising from those risk assessments or subsequently during the maternity period.

5 Policy Information

5.1 Maternity Leave

Eligibility

Occupational Maternity Pay (OMP) may be granted to trainees who have 12 months continuous service with the Trust or another NHS organisation at the beginning of the 11th week before the expected week of childbirth (EWC). The Trust must be notified in writing before the 15th week before the EWC stating the date she wishes to start her maternity leave; provides a MATB1

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certificate and intends to return to work with the Trust or another NHS employer for a minimum period of three months.

To be eligible for **Statutory Maternity Pay (SMP)** The trainee must have completed 26 weeks continuous service with the Trust by the 15th week before the expected week of childbirth

If a mother elects to take Shared Parental Leave she will cease her Maternity Leave (see the Lead Employer Shared Parental Leave Policy) and will no longer be entitled able to claim either OMP or SMP.

Commencement of Leave

Maternity leave shall not normally commence prior to the 11th week before the EWC (29 weeks pregnant) but can commence at any time up to the EWC.

Entitlement

Trainees who are eligible for **OMP** as outlined above will be entitled to the following:-

For the first 8 weeks of leave - full pay (less any SMP or Maternity Allowance to which they may be entitled).

For the next eighteen weeks of leave - half of full pay plus SMP or Maternity Allowance (reduced only to the extent that half pay and SMP do not exceed full pay).

For the next 13 weeks of Leave - SMP only (Extension of Maternity Pay)

For the next 13 weeks – Trainees may take additional unpaid maternity leave making a total of 52 weeks.

By prior agreement with the employer this entitlement 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.

Trainees who are eligible for **SMP** will be entitled to the following:-

For the first 6 weeks of leave - 90% of salary

For the next 33 weeks of leave - standard rate of SMP or 90% of the employee's average weekly earnings if lower

The additional 13 weeks - will be unpaid

Trainees who are not eligible for SMP may be entitled to **Maternity Allowance (MA)**.

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MA - a flat rate allowance is paid by the Department of Social Security for up to 39 weeks to individuals who are not entitled to SMP. Trainees who do not meet the criteria for SMP but have worked at least 26 weeks in the 66-weeks ending with the week before the EWC may be eligible for this allowance.

Trainees who are entitled to MA will receive 39 weeks paid at a rate of 90% of the employee's earning, or at the lesser rate of MA, whichever is lower.

Mothers will be able to transfer up to six months of their maternity leave to the baby's father when they return to work. This is known as Additional Paternity Leave. The definition of father covers partners and civil partners of mothers and adoptive mothers. Please see Section 6 for further information with regards to Paternity Leave.

Irrespective of entitlement to OMP, SMP or MA all trainees have the right to take 52 weeks of maternity leave.

Calculation of Maternity Pay

Full pay will be calculated using the average weekly earnings rules used for calculating SMP entitlements (including any banding payments). NB This excludes any income earned by the trainee outside their contract of employment e.g. locum work.

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 SMP calculation period.

If such a pay award was agreed retrospectively, the maternity pay should be re-calculated on the same basis.

In the event of a pay award or annual increment being implemented during the paid maternity leave period, the maternity pay due from the date of the pay award or annual increment should be increased accordingly. If such a pay award was agreed retrospectively, the maternity pay should be re-calculated on a regular basis.

In the case of a trainee 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 SMP purposes, average weekly earnings for the period of sick absence shall be calculated on the basis of notional full sick pay.

Health and Safety Pre and Post Birth

The Management of Health and Safety at Work (Amendment) Regulations 1994 requires employers to make special provision, where necessary, to

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safeguard the health and safety of new and expectant mothers and their babies.

Trainees should have a risk assessment of their working conditions with their supervising consultant GP partner, manager or Medical Staffing at the host organisation regardless of whether there are any work-related precautions that need to be taken whilst working during pregnancy. Any potential significant changes to working practices or hours of work arising out of health concerns highlighted in the risk assessment must be referred to Lead Employer HR who need to refer the matter to the Lead Employer Health, Work and Well Being Department for advice before action is taken (unless in an emergency). Equally pregnant trainees are advised to consult with the Lead Employer Health, Work and Wellbeing Department if they have any concerns. Where changes are made the trainee shall receive no less than her normal rate of pay. For further information see www.hse.gov.uk/mothers/faqs.htm

On returning from Maternity leave trainees should have a further health and safety risk assessment particularly for the first six months following the birth and whilst the employee is breast feeding. The Lead Employer HR will liaise with the host organisation or university to arrange for this assessment to be undertaken upon return to training. Any potential significant changes to working practices or hours of work arising out of health concerns highlighted in the risk assessment must be referred to Lead Employer HR before action is taken (unless in an emergency)

Ante - Natal Leave

Prior to the birth, pregnant trainees are entitled to paid time off to attend antenatal care, which may include relaxation and parent craft classes when these cannot be arranged outside normal working hours. Trainees must provide evidence for their supervising consultant, GP partner, manager or Medical Staffing at the host organisation that they are attending appointments.

Sickness and Absence Prior to the Birth

The normal sick leave provisions apply up to the commencement of maternity leave.

If a trainee becomes ill with a pregnancy-related illness during the last four weeks before the EWC then maternity leave will normally commence at the beginning of the fourth week before the expected date of childbirth or at the beginning of the next week after the employee last worked, whichever is later.

Pension

If you are pensionable, all service including periods of no pay will be subject to superannuation payments. This will be repaid on return to work by payroll deductions over the same period of time as the unpaid leave

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Accrual of Annual Leave

Trainees will continue to accrue annual leave during maternity leave including Bank Holidays. To avoid a negative impact on the trainee's training this accrued annual leave will normally be taken prior to her actually returning to work; the exception to this may be that of Student Physician Associates where the leave is all pre-allocated. All efforts should be made by trainees to take any outstanding holidays before they start their Maternity Leave.

If a trainee wishes to return to work on different hours at the end of their maternity leave, they should discuss their requirements with the Health Education England by completing and returning the relevant form on their web site at the earliest opportunity and informing the Lead Employer HR department. Should a request be approved the new holiday entitlement will be calculated from the date for which their request is agreed. The exception to this is that of Student Physician Associates where such application should be made to the Lead Employer and will be considered in line with the requirements of the structured training plan.

On returning from Maternity Leave to less than full time hours, holiday entitlement will be calculated on the new annual leave entitlement from the date of the agreement. The trainee should arrange to meet with their supervising consultant, GP partner, manager or Medical Staffing at the host organisation as soon as possible to discuss any suggested alteration to hours.

Childcare Provision

If a trainee needs to consider options for child care they can contact the HR Department at their host organisation or university who may be able to advise them on child care provision in their area.

Keeping in Touch

Trainees will, with agreement, be able to go into work for up to 10 "keep in touch" days without losing their right to Maternity Leave or a week's Statutory Pay. Before going on leave (unless the trainee will be changing host organisation whilst on maternity leave), their supervising consultant, GP partner, manager or Medical Staffing at the host organisation should discuss and agree any voluntary arrangements for keeping in touch during the trainees' maternity leave including anything they may find helpful with developments at work, training and, nearer the time, anything which may assist with their smooth return to the workplace. Trainees will be paid for work carried out on 'Keep in Touch Days' as and when these are worked at their basic hourly rate minus any maternity pay/allowance received. Payment should be sought for these 'Keep In Touch' days by completing the relevant 'KIT day' form contained within the ***Maternity Toolkit*** and submitted to Lead Employer, please note that the form should be submitted in the same calendar month that the 'KIT day' is worked.

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If the trainee transfers to an alternative host organisation these 'Keeping in Touch Days' should be in the new host and she should contact the relevant supervising consultant, GP partner, manager or Medical Staffing to facilitate this.

Please be aware that 'Keep in Touch Days' should only be worked whilst the trainee is on Maternity Leave and not during the period of accrued annual leave taken immediately after Maternity Leave.

Premature Births

If a trainee's child is born before her elected date for the commencement of her maternity leave her actual maternity leave will commence the day after the birth. She should inform the Lead Employer Human Resources Department as soon as possible in order to ensure that appropriate payments are made.

If a trainee's baby is born alive prematurely the trainee will be entitled to the same amount of maternity leave and pay as if her baby was born at full term. Where the employee's baby is born before the eleventh 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 eleventh 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.

If a trainee's baby is stillborn after the 23 weeks and 6 days of pregnancy the trainee will be entitled to the same amount of maternity leave and pay as if her baby was born alive.

If a trainee has a miscarriage before the 24 week of pregnancy normal sick leave provisions will apply as necessary.

In line with Terms and Conditions where an trainee's baby is born before the eleventh week before the expected week of childbirth and the baby is in hospital the trainee may spilt her maternity leave entitlement, taking a minimum period of two weeks' leave immediately after childbirth and the rest of her leave following her baby's discharge from hospital.

Returning to Work

Trainees should give 8 weeks statutory notice of their return to work date or in any case a minimum of 28 days must be given to the Lead Employer Human Resources Department. See also Lead Employer Shared Parental Leave Policy. For Student Physician Associate any return to work must a fit with the requirements of the structured training programme (see contract of employment).

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Failure to Return to Work

If a trainee fails to return to work, after they have informed the Lead Employer HR Department that they intend to do so, or fails to provide evidence of employment with another NHS employer within 15 months of the beginning of their Maternity leave, they will be liable to repay the whole of the Maternity pay less any Statutory Pay to which they were entitled. The Trust will normally expect immediate repayment of outstanding monies.

5.2 Paternity Leave

Eligibility

Occupational Paternity Pay (OPP) (Ordinary Paternity leave) may be granted to biological and adoptive fathers, nominated carers and partners who have 12 months continuous service with the NHS at the beginning of the expected week of childbirth or expected date of adoption.

To be eligible for **Statutory Paternity Pay (SPP)** (Ordinary Paternity leave) the trainee must have completed 26 weeks continuous service with the NHS by the 15th week before the expected date of childbirth or expected date of adoption. The trainee must also be the biological or adoptive father or the mother's husband or partner (of either sex provided they have an enduring relationship and live with the mother) who is to have or expected to have responsibility for the child's upbringing.

Mothers of babies will be able to transfer up to six months of their maternity leave to the baby's father when they return to work. This is known as Additional Paternity Leave. The definition of father covers partners and civil partners of mothers and adoptive mothers.

Additional Paternity Leave will be available to an employee if:-

- (i) The mother qualifies for Statutory Maternity Pay (SMP), Statutory Adoption Pay or Maternity Allowance;
- (ii) He/She is the child's father or is married to, or is the partner of, the child's mother;
- (iii) He/She expects to have parental responsibility for the child and he/she is taking the leave to care for the child;
- (iv) He/She has been continuously employed by the Trust for 26 weeks ending with the expected week of childbirth (EWC) and remains in the same employment until he/she commences Additional Paternity Leave;
- (v) His/Her earnings are on average at least equal to the lower statutory earnings limit during the eight weeks prior to the Expected Week of Childbirth or Expected Date of Adoption.
- (vi) Their partner has at least 2 weeks left of their maternity or adoption pay

HRMC will conduct randomised checks on those people opting to take additional paternity leave to ensure that their partner has returned to work.

NB Additional Paternity Leave will not be available for trainees whose baby is due on or after 5th April 2015. For babies due on or after 5th April 2015, the Trusts Shared Parental Leave policy will apply.

There is no right for a trainee to take Paternity Leave when fostering a child.

Entitlement

Trainees cannot start their Paternity leave before the child is born. There must be some flexibility in host organisations to allow for changes in delivery dates.

Trainees who are eligible for Occupational Paternity Leave (Ordinary Paternity leave) as outlined above will be entitled to 2 weeks Ordinary Paternity Leave, paid at their normal rate of pay. This will be inclusive of any SPP to which they may be entitled. They must provide a copy of their partners MATB1 Certificate and SC3 form (which will be provided by the Human Resources Department). The leave must be taken within 56 days following the date of birth or adoption. **NB** under Agenda for Change relatives who are nominated as carers are eligible for OPP however they are not entitled to SPP.

If trainees are eligible for SPP as outlined previously they will be entitled to up to 2 weeks leave at the Statutory Paternity Leave pay rate which can be taken any time within the 56 days following the birth. This allows the leave to be taken in either a one or two week block but not two separate weeks.

Trainees who are eligible for Additional Paternity Leave will be able to take up to 26 weeks leave. It must be taken in one block of time, cannot start earlier than 20 weeks after the birth and must end before the baby's first birthday. Additional Paternity Leave cannot start unless the mother has returned to work, although there can be a gap between her returning to work and the father starting his Additional Paternity Leave. The trainee must give the Lead Employer 8 week's notice of their intention to take additional paternity leave and cannot be taken unless this notice has been given.

If the Additional Paternity Leave is taken during the mother's 39 week statutory maternity pay period then the period remaining will be paid at the same rate as SMP. Leave taken after this period will be unpaid.

Ante-Natal Leave

From day one of employment such a trainee with a 'qualifying relationship' is entitled by law to unpaid leave to attend up to 2 appointments to 'accompany' a pregnant woman with the maximum time capped at 6.5 hours each appointment. A 'qualifying relationship' is defined as being 'the woman's husband or civil partner, lives with the woman in an 'enduring family relationship' or is the expected child's father'. However under this policy a

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trainee is entitled, on a non-contractual basis to claim up to six hours of this time in total across these two appointments as additional paid leave.

The trainee wishing to use such leave will be asked for a written declaration stating the date and time of the appointment, the nature of the relationship between them and the expectant mother or child and for confirmation that the appointment has been made on the recommendation of a medical professional (such as a doctor, midwife or nurse). This declaration should be provided to the trainee's clinical supervisor or medical staffing manager and then forwarded to the Lead Employer HR.

The granting of time off for additional appointments will be at the discretion of the trainee's clinical supervisor or medical staffing manager and if granted will be unpaid or covered by annual leave as agreed between the two parties.

Such paid leave will be entered on ESR as anti natal leave and unpaid as additional unpaid leave hours plus 'other' in the drop down menu.

NB The Lead Employer can, where there is a suspicion that fraudulent information may have been provided investigate the matter further in accordance with the Lead Employer disciplinary policy. Providing misleading or false information including claiming eligibility where no eligibility exists could result in disciplinary action being taken up to and including an allegation of gross misconduct. In addition, the Lead Employer reserves the right to bring any such cases to the attention of MIAA.

Contractual Benefits

Trainees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to wages or salary, throughout their paternity leave. However most trainees will be entitled to SPP or OPP for this period.

General Principles

The trainee needs to inform the Lead Employer Human Resources Department and supervising consultant, GP partner, manager or Medical Staffing at the host organisation that their partner is pregnant or that they are adopting a child. Trainees are expected to give at least 28 days' notice of their requirement to take Paternity Leave (NB 8 weeks for Additional Paternity Leave).

The Lead Employer Human Resources Department will then send a Paternity Application form (Appendix 5) and Inland Revenue SC3 Form to the employee to be completed and returned to Lead Employer Human Resources to process. The Lead Employer Human Resources Department will confirm the eligibility and entitlement in writing to the trainee.

5.3. Adoption Leave

Eligibility

Occupational Adoption Pay (OAP) may be granted to trainees who:

- have 12 months continuous service with the Trust or another NHS organisation at the beginning of the 11th week before the expected week of matching (EWM);
- who has primary care responsibilities for that child and notifies the Lead Employer Human Resources Department in writing before the 15th week before the EWM stating the date they wish to start their adoption leave;
- provide a matching certificate and intends to return to work with the Trust or another NHS employer for a minimum period of three months.

To be eligible for **Statutory Adoption Pay (SAP)** the trainee must have completed 26 weeks continuous service with the Trust ending with the week in which they were notified of being matched with a child for adoption.

Commencement of Leave

Adoption leave will not normally commence prior to two weeks before the adoption.

Entitlement (incorporating commencement of leave)

Trainees who are eligible for **OAP** as outlined above will be entitled to the following:-

For the first 8 weeks of leave - full pay (less any statutory adoption pay to which they may be entitled).

For the next eighteen weeks of leave - half of full pay plus SAP (reduced only to the extent that half pay and SAP do not exceed full pay).

For the next 13 weeks of Leave - SAP only (Extension of Adoption Pay).

For the next 13 weeks – trainees may take additional unpaid adoption leave making a total of 52 weeks.

By prior agreement with the employer this entitlement 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 adoption leave period.

Trainees who are eligible for SAP as outlined will be entitled to the following:-

For the first 6 weeks of leave - 90% of salary

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For the next 33 weeks of leave - standard rate of SAP or 90% of the employee's average weekly earnings if lower

The additional 13 weeks - will be unpaid

Trainees who are not eligible for SAP may be entitled to **Adoption Allowance (AA)**.

Adoption Allowance - a flat rate allowance is paid by the Department of Social Security for up to 39 weeks to individuals who are not entitled to SAP. If they do not meet the criteria for SAP but have worked at least 26 weeks in the 66-weeks ending with the week before the EWA they may be eligible for this allowance.

Trainees who are entitled to AA will receive 39 weeks paid at a rate of 90% of the employee's earning, or at the lesser rate of AA, whichever is lower.

Calculation of Adoption Pay

Full pay will be calculated using the average weekly earnings rules used for calculating SAP entitlements.

In the event of a pay award or annual increment being implemented before the paid adoption leave period begins, the adoption pay should be calculated as though the pay award or annual increment had effect throughout the entire SAP calculation period.

If such a pay award was agreed retrospectively, the adoption pay should be re-calculated on the same basis.

In the event of a pay award or annual increment being implemented during the paid adoption leave period, the adoption pay due from the date of the pay award or annual increment should be increased accordingly. If such a pay award was agreed retrospectively, the adoption pay should be re-calculated on a regular basis.

In the case of a trainee 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 SAP purposes, average weekly earnings for the period of sick absence shall be calculated on the basis of notional full sick pay.

Leave for Adoption Appointments

From day one of employment a trainee looking to adopt who has been notified by an adoption agency that a child is to be, or is expected to be, placed for adoption is entitled to leave to attend adoption appointments arranged by or at the request of the adoption agency which made the notification.

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A trainee proposing to adopt a child on either their own or jointly having elected to be the primary adopter for the purposes of the adoption is entitled take paid time off for up to 6.5 hours on each occasion to attend up to five such adoption appointments. The Trainee wishing to use such leave will be asked for a document showing the date and time of the appointment in question and that it has been arranged by the adoption agency. Trainees jointly adopting and wishing to claim such paid time off will be required to sign a declaration that they have elected to be the primary adopter for the purposes of the adoption. The document and declaration should be provided to the trainee's clinical supervisor, manager or medical staffing manager and then forwarded to the Lead Employer HR.

Secondary adopters are entitled by law to unpaid leave to attend up to 2 appointments with the maximum time capped at 6.5 hours for each appointment. However under this policy a trainee is entitled, on a non-contractual basis to claim up to six hours of this time in total across these two appointments as additional paid leave. Trainees jointly adopting and wishing to claim such paid time off will be required to sign a declaration that they have elected to be the secondary adopter for the purposes of the adoption. The document and declaration should be provided to the trainee's clinical supervisor, manager or medical staffing manager and then forwarded to the Lead Employer HR.

The granting of time off for additional appointments will be at the discretion of the trainee's clinical supervisor, manager or medical staffing manager and if granted will be unpaid or covered by annual leave as agreed between the two parties.

Until ESR is modified such paid leave will be entered on ESR as anti natal leave and unpaid as additional unpaid leave hours plus 'other' in the drop down menu.

NB The Lead Employer can, where there is a suspicion that fraudulent information may have been provided investigate the matter further in accordance with the Lead Employer disciplinary policy. Providing misleading or false information including claiming eligibility where no eligibility exists could result in disciplinary action being taken up to and including an allegation of gross misconduct. In addition, the Lead Employer reserves the right to bring any such cases to the attention of MIAA.

6. Policy Implementation Plan

The policy will be implemented for all trainees following discussions with the Lead Employer Joint Local Negotiating Committee, HR Policy Group and ratification by the Workforce Council. The policy will then be made available on the internet and disseminated to all host organisations.

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The policy will be reviewed every 3 years, more frequent if there is a significant change in legislation or good practice.

7. Rotations

For Maternity, Additional Paternity and Adoption Leave where a trainee is on a planned rotation of appointments as part of their agreed programme of training, they 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 or adoption had not occurred. In such circumstances the employee's contract will be extended to enable them to complete the agreed programme of training. For Student Physician Associates this right to return applies but is tempered by the requirements of the structured training programme – see contract of employment.

8) Equality Analysis

Equality Analysis Stage 1 Screening	
Title of Policy:	Maternity, Paternity and Adoption Leave Policy (Lead Employer)
Policy Author(s):	HR Project Manager
Lead Executive:	Director of HR
Policy Sponsor	Deputy Director of HR
Target Audience	All management (Host and Lead Employer), Lead Employer and host HR departments and trainees
Document Purpose:	To lay down processes and procedure to ensure that Maternity, Paternity and Adoption Leave are managed legally, fairly and equitably.
Please state how the policy is relevant to the Trusts general equality duties to: <ul style="list-style-type: none"> eliminate discrimination advance equality of opportunity foster good relations 	This policy is designed to ensure that trainees are treated in a legal, fair, consistent and reasonable manner
List key groups involved or to be involved in policy development (e.g. staff side reps, service users, partner agencies) and how these groups will be engaged	HR professionals, managers and staff side representatives
<i>NB Having read the guidance notes provided when assessing the questions below you must consider,</i>	
<ul style="list-style-type: none"> Be very conscious of any indirect or unintentional outcomes of a potentially 	

discriminatory nature <ul style="list-style-type: none"> • Will the policy create any problems or barriers to any protected group? • Will any protected group be excluded because of the policy? • Will the policy have a negative impact on community relations? If in any doubt please consult with the Patient and Workforce Equality Lead		
Does the policy significantly affect one group less or more favourably than another on the basis of: answer 'Yes/No' (please add any qualification or explanation to your answer particularly if you answer yes)		
	Yes/No	Comments/ Rationale
• Race/ethnicity	No	
• Disability (includes Learning Disability, physical or mental disability and sensory impairment)	No	
• Gender	Yes	Yes by their very nature maternity and paternity leave and pay issues largely affect one gender
• Religion/belief (including non-belief)	No	
• Sexual orientation	Potentially yes	Homosexuals are statistically less likely to utilise maternity and paternity leave and pay
• Age	Yes	Age significantly affects the potential opportunity to utilise maternity and paternity leave and pay
• Gender reassignment	Potentially yes	Gender reassignment can affect the potential opportunity to utilise maternity and paternity leave and pay
• Pregnancy and Maternity	Yes	Self-evident
• Marriage and Civil partnership	No	
• Carer status	No	
Will the policy affect the Human Rights of any of the above protected groups?	No	
If you have identified potential discrimination, are there any	No	

	exceptions valid, legal and/or justifiable?		
	If you have identified a negative impact on any of the above protected groups can the impact be avoided or reduced by taking different action?	No	
	How will the effect of the policy be reviewed after implementation?	Annually by HR management or sooner if concerns are highlighted by trainees, managers or trade union representatives.	
If you have entered yes in any of the above boxes you must contact the Patient and Workforce Equality Lead (0151 430 1042/ Annette.craghill@sthk.nhs.uk) to discuss the outcome and ascertain whether a Stage 2 Equality Analysis Assessment must be completed.			
Name of manager completing assessment: (must be one of the authors)		Jim Flynn	
Job Title of Manager completing assessment		HR Project Manager	
Date of Completion:		2 nd December 2013	

9. Training

Lead Employer HR Staff will be trained on the contents of the policy as required following needs analysis or personal development plan.

10. Appendices

Appendix 1

Other Relevant Policies

- Lead Employer Annual Leave Policy

The Trust is bound by the following legislation and guidance with regard to Maternity, Paternity and Adoption pay:

- Working Families Act 2006
- Management of Health and Safety at Work (NHSW) Regulations 1992
- Employment Rights Act 1996
- Employment Relations Act 1999
- Employment Act 2002
- Equality Act 2010
- The Human Rights Act 1998
- EU Directive on Pregnant Workers 1994
- Shared Parental Leave Policy

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Appendix 2

FREQUENTLY ASKED QUESTIONS & ANSWERS

Q. *What is a MATB1 form?*

A. This is the form that officially certifies that you are pregnant and indicates your expected week of childbirth. You should receive this form from your midwife or GP around 19 weeks into your pregnancy.

Q. *What happens if I decide not to return to work?*

A. If you have indicated that you intended to return to work but then decide not to do so, you do not have to pay back payments made to you under Statutory Maternity Pay. However, if you have qualified for and been paid Occupational Maternity Pay you do have to return to work for at least three months, otherwise you would have to pay back those payments (minus your entitlements to SMP).

Q. *Can I come back to reduced or flexible hours?*

A. Any request for consideration to changes in your contracted hours when you return to work must be discussed with the Health Education England.

Q. *Can I change the start date for my maternity leave once I have submitted my forms?*

A. Yes, but you must inform your supervising consultant, GP partner, manager or Medical Staffing at the host organisation and the Lead Employer Human Resources Department as soon as possible, preferably giving them at least 28 days written notice.

Q. *Is my incremental date affected by my going on maternity leave?*

A. No, your incremental date is not affected at all.

Q. *Will I get the normal cost of living increase if it is awarded whilst I am on maternity leave?*

A. In the event of any pay increase being implemented whilst you are on maternity leave your pay entitlement will automatically be re-calculated to take this into account.

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Q. *Can I return to work earlier than originally planned?*

A. Yes. Normally 8 weeks (56 days) written notice is required before returning to work, but clearly if you are planning to return to work earlier than originally planned you should discuss this with your supervising consultant, GP partner, manager or Medical Staffing at the host organisation and the Lead Employer HR Department at the earliest opportunity. There is also a statutory requirement that you take at least two weeks maternity leave following the birth of your baby.

Q. *What if I am unsure about returning for work?*

A. If you have one year's NHS continuous service but are not sure about whether or not you wish to return to work following your maternity leave, you will be paid as though you are not returning to work (see Section 5). If you then do return to work you will then receive the difference between that and full Occupational Maternity Pay once you have been back at work for three months.

Q. *What happens if I am on a fixed term contract that expires during my maternity leave?*

A. If you are employed on a temporary or fixed term contract which expires during the period from 11 weeks before your baby is due, to fifteen weeks after the expected week of childbirth, and you would have otherwise have qualified for Occupational Maternity Pay, your contract would be extended to enable you to receive that entitlement. As you would not have the right to return to work because your contract would have expired if your pregnancy had not occurred, you would not have to repay any monies to the Trust.

If you do not qualify for OMP, your contract would be extended to cover any period of SMP you are entitled to.

Q. *How much notice do I need to give of my intention to take maternity leave?*

A. You must notify the Lead Employer Human Resources Department in writing before the end of the 15th week before the expected date of childbirth.

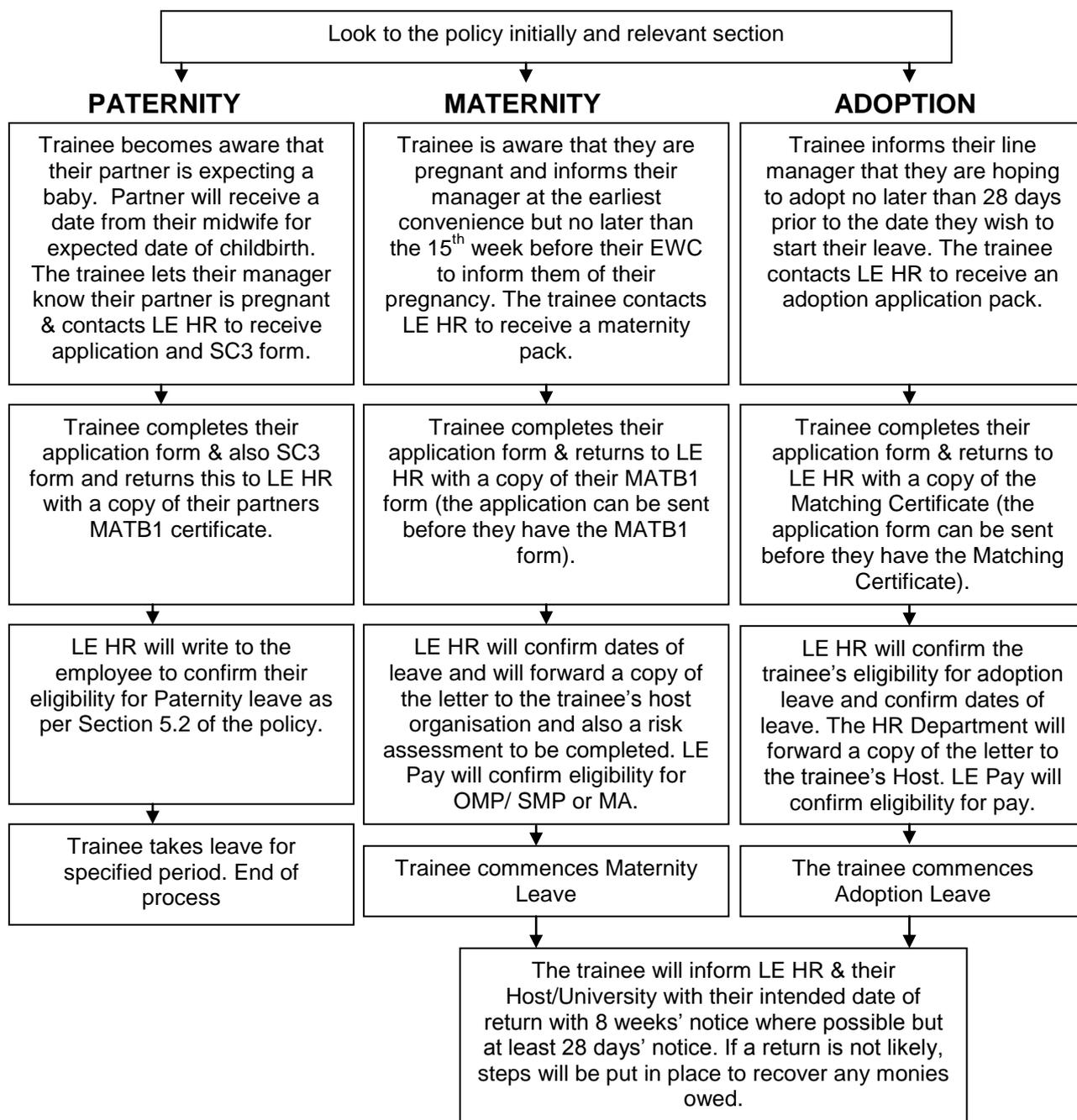
Q. *Can I return to work with another NHS employer?*

A. Yes. Your entitlement to maternity leave and pay is not affected if you return to work with another NHS employer rather than this Trust (the same requirement to return to work for at least three months still applies). This is dependent on your notifying the Trust of this intention no later than 21 days before your maternity leave is due to end. You would also need to provide a copy of your letter of appointment with the

other NHS employer within 15 months of the start of your maternity leave. Failure to do so would result in the Trust seeking to recover any Occupational Maternity Pay that you had received.

Appendix 3

**WHAT DO I DO WHEN I FIND OUT I OR MY PARTNER IS PREGNANT/
WHEN I WANT TO ADOPT?**



Appendix 4 Table of Entitlements

<p>Occupational Maternity Pay Entitlement</p> <p>By prior agreement with the Lead Employer this entitlement may be paid in a different way, for example a combination of full pay & half pay or a fixed amount spread equally over the maternity leave period</p>	<p>For the first 8 weeks of leave</p> <p>Full pay (less any SMP to which they may be entitled).</p>	<p>For the next 18 weeks of leave</p> <p>half of full pay plus SMP (reduced only to the extent that half pay and SMP do not exceed full pay)</p>	<p>For the next 13 weeks of Leave</p> <p>SMP only (Extension of Maternity Pay)</p>	<p>For the next 13 weeks</p> <p>Trainees may take additional unpaid maternity leave making a total of 52 weeks</p>
<p>Statutory Maternity Pay (SMP) Entitlement</p>	<p>For the first 6 weeks of leave</p> <p>90% of salary</p>	<p>For the next 33 weeks of leave</p> <p>standard rate of SMP or 90% of the employee's average weekly earnings if lower</p>	<p>The additional 13 weeks</p> <p>will be unpaid</p>	
<p>Trainees who are not eligible for SMP may be entitled to Maternity Allowance (MA)</p>	<p>Maternity Allowance</p> <p>A flat rate allowance is paid by the Department of Work and Pensions for up to 39 weeks to individuals who are not entitled to SMP. Trainees who do not meet the criteria for SMP but have worked at least 26 weeks in the 66-weeks ending with the week before the EWC may be eligible for this allowance</p>	<p>Trainees who are entitled to MA will receive 39 weeks paid at a rate of 90% of the employee's earning, or at the lesser rate of MA, whichever is lower</p>	<p>Full pay will be calculated using the average weekly earnings rules used for calculating Statutory Maternity Pay entitlements</p>	
<p>Occupational Paternity Pay (Ordinary Paternity)</p>	<p>Ordinary Paternity leave</p> <p>Will be entitled to 2 weeks Ordinary Paternity Leave, paid at their normal rate of pay. This will be inclusive of any statutory paternity pay to which they may be entitled</p>	<p>Statutory Paternity Pay</p> <p>Up to 2 weeks leave at the Statutory Paternity Leave pay rate which can be taken any time within the 56 days following the birth. This allows the leave to be taken in either a one or two week block but not two separate weeks</p>	<p>Note under Agenda for Change whereas relatives who are nominated as carers are eligible for Occupational Paternity Pay they are not entitled to SPP</p>	

<p>Occupational Adoption Leave Adoption Leave Entitlement</p> <p>By prior agreement with the Lead Employer this entitlement 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 adoption leave period</p>	<p>For the first 8 weeks of leave</p> <p>Full pay (less any statutory adoption pay to which they may be entitled)</p>	<p>For the next 18 weeks of leave</p> <p>Half of full pay plus SAP (reduced only to the extent that half pay and SAP do not exceed full pay)</p>	<p>For the next 13 weeks of Leave</p> <p>SAP only (Extension of Adoption Pay)</p>	<p>For the next 13 weeks</p> <p>Trainees may take additional unpaid adoption leave making a total of 52 weeks</p>
<p>Statutory Adoption Pay (SAP)</p>	<p>For the first 6 weeks of leave,</p> <p>90% of salary</p>	<p>For the next 33 weeks of leave,</p> <p>standard rate of SAP or 90% of the employee's average weekly earnings if lower</p>	<p>The additional 13 weeks</p> <p>will be unpaid</p>	
<p>If trainees do not meet the criteria for SAP but have worked at least 26 weeks in the 66-weeks ending with the week before the EWA they may be eligible for Adoption Allowance AA</p>	<p>Adoption Allowance, (AA) a flat rate allowance is paid by the Department of Work and Pensions up to 39 weeks to individuals who are not entitled to SAP</p>	<p>Trainees who are entitled to AA will receive 39 weeks paid at a rate of 90% of the employee's earning, or at the lesser rate of AA, whichever is lower.</p>		