

TRUST-WIDE NON-CLINICAL POLICY DOCUMENT

LEAVE FOR PERSONAL AND FAMILY REASONS (Including Parental Leave)

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2020 – Version 5

Striving for perfect care
and a just culture

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Further information about this document:

Document name	Leave for Personal and Family Reasons (including Parental Leave) HR04
Document summary	This Policy details the principles regarding supporting Colleagues in balancing their responsibilities at work with their personal commitments and outlines the process and duties of Managers and Colleagues
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SUPPORTING STATEMENTS

this document should be read in conjunction with the following statements:

SAFEGUARDING IS EVERYBODY'S BUSINESS

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and adults, including:

- being alert to the possibility of child / adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child / adult;
- knowing how to deal with a disclosure or allegation of child /adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child / adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

EQUALITY AND HUMAN RIGHTS

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, sex, race, religion and belief (or lack thereof), sexual orientation, gender reassignment, pregnancy and maternity and marital and civil partnership status. The Equality Act also requires regard to socio-economic factors.

The trust is committed to promoting and advancing equality and removing and reducing discrimination and harassment and fostering good relations between people that hold a protected characteristic and those that do not both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line with a Human Rights based approach and the FREDA principles of **F**airness, **R**espect, **E**quality **D**ignity, and **A**utonomy

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1 PURPOSE AND RATIONALE

- 1.1 **Purpose** – The Trust recognises that all Colleagues should be supported in trying to implement a work life balance. This policy is designed to fully explain the commitment that Mersey Care NHS Foundation Trust has towards supporting Colleagues in balancing their responsibilities at work with their personal commitments and to provide a framework for the Trust to support Colleagues with family and personal commitments.
- 1.2 **Rationale** – Mersey Care NHS Foundation Trust recognises that all Colleagues should be supported in balancing their responsibilities at work with their personal commitments. The Trust has inherited a number of policies on this subject from predecessor Trust and this policy builds on those principles, taking account of provisions of the Employment Act 2008 and the NHS Improving Working Lives initiative.

2 OUTCOME FOCUSED AIMS AND OBJECTIVES

- 2.1 For this Leave for Personal and Family Reasons (Including Parental Leave) policy the aims and objectives are as follows.
- (a) To enable all Colleagues to be supported in trying to implement a work life balance.

3 SCOPE

- 3.1 This policy applies to all Colleagues employed by the Mersey Care NHS Foundation Trust (whether on a Temporary or Permanent contract of employment)

4 DUTIES

- 4.1 **Board of Directors** – The Board of Directors has delegated responsibility for ensuring compliance with the relevant employment laws to the Executive Director of Workforce.
- 4.2 **Lead Executive Director** – the Lead Executive Director for this policy (Executive Director of Workforce) has strategic responsibility for ensuring that a robust system is in place, which will ensure compliance with the Leave for Family and Personal Reasons (Including Parental Leave) policy.
- They will ensure that all Directors, Managers, Human Resources Business Partners, Human Resources Advisors and Colleagues are fully aware of the Leave for Family and Personal Reasons (Including Parental Leave) policy and are aware of their responsibilities.
- 4.3 **The Line Manager** - The line manager has a duty to ensure that all Colleagues are aware of the policy and ensure that all Colleagues who access the policy follow the correct procedure when applying for the varying types of leave, with support from the Human Resources Department.
- 4.4 **All Colleagues** – All Colleagues are responsible for adhering to the requirements of this policy and associated procedures. Colleagues are responsible for the correct application of this policy when requesting leave.

5 PROCESS / PROCEDURE

5.1 Carers leave/ Time off for dependants (with pay)

- 5.1.1 This form of leave covers all Colleagues and there is no length of service qualification.
- 5.1.2 The definition of a dependant is the child, partner or parent of the colleague, someone else who lives with the colleague as a member of their family, or someone who relies on the colleague in an emergency. Managers should interpret this flexibly to include others with a close relationship to a colleague.
- 5.1.3 The aim is to provide an immediate short term, compassionate response to an individuals needs which could not have been predicted in advance. This will include the many and varied domestic situations which may occur, e.g.
- Illness, accident or assaults of a dependent including were the individual is hurt or distressed rather than injured physically.
 - When a partner is having a baby.
 - To make longer term care arrangements for a dependent who is ill or injured.
 - To deal with the breakdown of normal care arrangements e.g. If a child-minder is sick or if nursery/school provision is closed unexpectedly
 - To deal with an incident involving an employee's child during school hours.
 - To attend emergency hospital/clinic appointments with dependent's.

Please note that the above list is not exhaustive.

- 5.1.4 It is reasonable for a manager to ask for details of the reasons for the request for leave, and for proof of appointments or other confirmation of the need for a colleague to take such leave. This information should be provided were practical.
- 5.1.5 Staff must obtain permission from their immediate line manager as soon as possible for the proposed period to be covered by Carer's leave, the reason for this and how long they expect will be needed to stabilise the issue/situation. In exceptional circumstances this may not be possible beforehand, but such periods must be explained to the line manager by the next working day. It is recognised that this information may be of a sensitive nature which must be kept confidential.
- 5.1.6 The period of paid leave will vary depending upon individual circumstances but will normally be limited to a Colleagues weekly contractual hours in a 12 month period (April to March- in line with the financial year) (i.e. a Colleague contracted to 24 hours a week can be granted a maximum of 24 hours Carers leave within the 12 month period) This should be reviewed on a regular basis. In exceptional circumstances further Carers Leave maybe granted up to a maximum of their weekly contractual hours but this must be discussed and approved by the Senior Manager of the service. However, this is for exceptional circumstances only and where possible staff should take annual leave. By Law all employees are entitled to a reasonable amount of unpaid time off to deal with unforeseen emergency situations involving a dependant. If you have exhausted the above entitlement you can request further unpaid leave. The Human Resources Department can be contacted for advice on the granting of carers leave if necessary.
- 5.1.7 It may be appropriate for managers to seek advice from their HR Business Partner (or a more Senior Manager out of office hours) if they propose to refuse a request for this leave.

- 5.1.8 If the decision is to refuse carers leave, then other alternatives (e.g. annual leave, time owing, unpaid leave) should be discussed and agreed with the member of staff concerned, to enable them to take time off. If the leave is refused staff should be informed for the reason of this in writing.
- 5.1.9 Colleagues who feel they have been unreasonably refused paid carers leave, or feel they have been victimised for taking it should firstly raise this with their manager. They are entitled to a written explanation for refusal of such time off and if they are dissatisfied should use the Trust's Early Resolution Procedure (HR41)
- 5.1.10 If the need for time off continues, other options may be considered e.g. career break or a period of unpaid leave. Such additional leave is subject to the needs of the service but will not unreasonably be refused.

5.2 Bereavement Leave

- 5.2.1 This is to support staff in a compassionate way when
- A dependent dies
 - To make funeral arrangements.
 - To attend a funeral.
- 5.2.2 The period of leave will vary depending upon individual circumstances but will normally be limited to a maximum of one working week (pro-rata for part time) paid leave. In exceptional circumstance this may be extended following further discussion with the line manager up to a maximum of a further working week (pro-rata for part time) paid leave maybe granted.
- 5.2.3 A colleague who is a bereaved parent of a child under 18 years of age will be entitled to two working weeks (pro-rata for part time) paid leave in the period after the child's death. The weeks can be taken as a single block of two weeks, or as two separate blocks of one week taken at different times across the first year after the loss of their child. The Trust is committed in supporting Colleagues who have suffered the loss of a child. Managers should discuss what further support could be provided following the two week bereavement leave period and sensitive consideration should be given to the use of the Supporting Attendance Policy (HR07)

5.3 Medical/Dental/Counselling Appointments

- 5.3.1 Managers have the discretion to agree appropriate time off with Colleagues to enable them to attend medical/dental appointments. Colleagues maybe required to provide proof of their appointment and should give reasonable notice beforehand. Where possible staff should plan their appointments at the beginning or end of their working day.
- 5.3.2 If it has been agreed that it is beneficial for a colleague to attend Staff Support Services/Counselling Services then appropriate time off should be given.
- 5.3.3 If a colleague has a condition which is covered by the Equality Act, the appropriate time off will be given for medical appointments. Managers should refer to the HR27: Supporting Staff with mental or physical disabilities policy if appropriate.
- 5.3.4 Monitoring of refusal to attend appointments will be undertaken by the Human Resources Department.

5.4 Emergency Circumstances

- 5.4.1 If a colleague has an unforeseen emergency situation then a short period (maximum of 1 working day/shift) of paid time off can be requested to deal with the initial response. Examples

of emergency circumstances that could be considered are: *Domestic issue such as house fire or flood, gas leak, burglary, car accident.*

5.5 Training with Reserve or Cadet Forces

- 5.5.1 The Trust recognises the importance of the training undertaken by Reservists that enables them to develop skills and abilities that are of benefit to their respective Reserve Force, the individual and the Trust. Line Managers will facilitate work rosters where possible to allow attendance at annual training and other training commitments (e.g. weekly or weekend training sessions) unless there are exceptional circumstances.
- 5.5.2 Reservist Colleagues should give as much notice as possible of training commitments to allow appropriate planning. Permission once given will not be rescinded unless there are exceptional circumstances due to service need.
- 5.5.3 Colleagues who, with the consent of the Trust, volunteer for service with Reserve or Cadet Forces, or who at the time of their appointment declare their membership; will be entitled to 10 days paid leave (pro-rata for part time) in each annual leave year.
- 5.5.4 Authorised unpaid leave may be granted for any subsequent week(s) at camp, or alternatively the employee may choose to utilise their annual leave entitlement. For prolonged periods of leave, consideration should be given to the use of the Career Break Policy (HR20)
- 5.5.5 An employee who has been called out or recalled will as far as is reasonably possible return to the same position under the same terms and conditions. Where this is not practicable, the employee will be offered a post with equivalent terms and conditions of employment.
- 5.5.6 Mobilisation is the process of calling Reservists into full time service with the Regular Forces, in order to make them available for military operations. The maximum period of mobilisation will depend on the scale and the nature of the operation and is typically no longer than 12 months. Call-out papers for mobilisation need to be provided to the Trust, the documentation will include the call-out date and the anticipated timeline. Whenever possible, the MoD aims to give at least 28 days' notice of the date that a Reservist will be required to report for mobilisation, although there is no statutory requirement for a warning period prior to mobilisation. Consideration should be given to the use of the Career Break Policy (HR20) at times of Mobilisation. For advice on managing and supporting employees in the NHS who are members of the Reserve Forces, please see <http://www.nhsemployers.org/case-studies-and-resources/2016/11/a-guide-to-employing-reservists-in-the-nhs>
- 5.5.7 In all cases of mobilisation, the Trust will release the Reservist to report for duty unless there are exceptional circumstances, whereby the decision and reasoning will be explained to the Reservist. In such circumstances Divisional Senior Leadership Teams have the right to seek exemption, deferral or revocation if the Reservist's absence is considered to cause serious harm to service delivery. Details of how to apply for an exemption are included in the call-out pack.
- 5.5.8 Reservists will not accrue annual leave whilst mobilised and should be encouraged to take any accrued annual leave before mobilisation. If it is not practically possible to take all accrued annual leave before the point of mobilisation, all untaken annual leave may be carried over to the following year. However, this must be discussed with your line manager prior to mobilisation.
- 5.5.9 A Reservist's employment cannot be terminated on the grounds of their military duties or their liability to be mobilised. To do so would be a criminal offence under s.17 of The Reserve Forces (Safeguarding of Employment) Act 1985.

- 5.5.10 Reservists can be included in the redundancy pool if this is necessary. However, all employees should be treated consistently, and redundancy criteria should not discriminate against Reservists on the grounds of their Reserve service or call-up liability.
- 5.5.11 Prior to returning to work the Reservist must write to their employer as soon as reasonably practicable after their last day of full time service making their request to return to work and suggesting a date which should fall within 6 weeks of their last day of full-time service.
- 5.5.12 A Reservist returning to work will benefit from a smooth re-integration into the workplace. Supportive measures such as Occupation Health, Staff Support and Phased return should be discussed.
- 5.5.13 Further sources of guidance and information can be obtained from the following:
- Defence Relationship Management; <https://www.gov.uk/government/groups/defence-relationship-management>
 - Helpline: – 0800 389 5459. This is a free telephone helpline open during office hours where advice and guidance can be obtained on training, mobilisation and employment issues

5.6 Jury Service/ Magistrates Duties/Public Duties

- 5.6.1 A colleague who is summoned to attend for jury service will be given paid time off for that purpose. The colleague will be required to provide a copy of the letter.
- 5.6.2 A colleague who has volunteered for Magistrates Duties will be given a maximum of 13 days per year to attend court and undertake training days as required. This time must be mutually agreed with the line manager. (In exceptional circumstances this can be extended by agreement with a Director.) Any additional time required should be taken as annual leave.
- 5.6.3 Following discussion with the line manager 5 days leave per year will be granted to a colleague to enable them to perform the duties of a public office or to be a member of a public body. Examples of public duties include: a local councillor or a school governor.

5.7 Interviews

- 5.7.1 Time off with pay will be given to attend interviews for other positions within the NHS. (Managers should request proof of interview). The length of time will depend on the location of the interview. Time off for interviews with other employers will usually be from annual leave entitlement, except in times of Organisational Change where an individual may be at risk of redundancy and there is a requirement for them to attend redeployment interviews/discussions. In this situation paid time off to attend interviews will be given.

5.8 Severe Weather

- 5.8.1 It is recognised that there is a need to balance each colleague's personal responsibility to attend work at the normal time without the undoubted difficulties which many Colleagues encounter during severe weather.
- 5.8.2 The prime responsibility of Colleagues to present for work at the normal time and for the normal duty remains. It is recognised, however, that the weather may so adversely affect travelling conditions that travel to work may become difficult and on occasions impossible.

- 5.8.3 Where Colleagues are unable to attend work because of severe weather, then they will have the option, with agreement from the relevant Senior Manager, of covering their absence by:
- Taking annual leave, lieu time or flexi leave.
 - Arranging to work the time lost at a later date by mutual agreement.
 - Consider attendance at work at an alternative location
 - Agreeing that a member of staff can work from home if appropriate
 - Taking leave without pay
- 5.8.4 Services should refer to their Local Business Continuity Plan in situations where severe weather could potentially affect service delivery.

5.9. Leave for Volunteering purposes

- 5.9.1 The Trust is committed to supporting, enabling and celebrating Colleagues who wish to volunteer. Volunteering can be defined as spending time, unpaid, doing something that aims to benefit the environment or someone (individual or group) who you are not closely related to. To support this colleague's can request a period of volunteering leave.
- 5.9.2 Written proof must be provided and verified by the line manager before leave for volunteering purposes can be granted. The proof must be submitted from a relevant contact in relation to the volunteering activity and must confirm the volunteering activity, and the period of time required for the activity.
- 5.9.3 Following discussion and agreement with the line manager a period of up to a maximum of 5 days paid leave per year can be granted. However, the amount of leave granted must be equally matched by the colleague with annual leave. (e.g. a colleague requires 6 days for volunteering purposes; 3 days should be recorded as annual leave and the Trust will match their equal commitment with 3 days paid leave)
- 5.9.4 If a period of over 10 days (i.e. 5 days annual leave and 5 days paid volunteering leave) is required other options may be considered e.g. career break or a period of unpaid leave. Such additional leave is subject to the needs of the service but will not unreasonably be refused.
- 5.9.5 Colleagues who feel they have been unreasonably refused volunteering leave should raise this with their manager in the first instance. They are entitled to a written explanation for refusal of such time off and if they are dissatisfied should use the Trust's Grievance Procedure.

5.10 Recording of leave

- 5.10.1 Managers should ensure that all such leave is recorded appropriately on to ESR using the appropriate system e.g. Health roster/SVL/ESR direct input. This will enable the Trust to monitor the uptake of such leave and to ensure that the policy is applied equally throughout the Trust. In addition, where time off for dependent's has been refused, or parental leave postponed, this should also be recorded with reasons. This will help to monitor the effectiveness of the policy.

6 MATERNITY LEAVE

Entitlements to Maternity Leave and Pay

- 6.1.1 Entitlements to Maternity Leave and pay are governed by both the Trust's Terms and Conditions, including benefits under Agenda for Change with effect from 1 October 2004, and also by statutory legislation. The information contained below is therefore specific to NHS employees.
- 6.1.2 All Colleagues will have the right to take 52 weeks of maternity leave. During this period all Colleagues are entitled to receive Statutory Maternity Pay or Maternity Allowance.
- 6.1.3 There may be an entitlement to receive Occupational Maternity Pay in addition to Statutory Maternity Pay or Maternity Allowance. These entitlements will vary according to length of service, level of pay and the number of hours worked.
- 6.1.4 All Colleagues (full or part-time) will have a minimum entitlement of 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave, irrespective of the date employment commenced.
- 6.1.5 If you intend to return to work and have more than 1 year's continuous service with Mersey Care, by the 11th week before the expected week of childbirth will be entitled to:
- 8 weeks full pay inclusive of Statutory Maternity Pay or maternity allowance
 - A further 18 weeks half pay plus Statutory Maternity Pay or maternity allowance
 - 13 weeks Statutory Maternity Pay (SMP).
 - 13 weeks unpaid Additional Maternity Leave (AML)
- 6.1.6 If you do not qualify for the above but have completed 26 weeks service by the 15th week before the expected date of childbirth, you will be entitled to claim Statutory Maternity Pay
- 6.1.7 To qualify for statutory maternity pay an employee has to have 26 weeks continuous service with the one (current) employer by the beginning of the fifteenth week before the expected week of childbirth. Therefore, if you have more than 1 year's continuous service with the NHS but less than 26 weeks continuous service with Mersey Care you will not be entitled to claim SMP internally from Mersey Care. Colleagues who do not qualify for SMP, whether due to the statutory continuous employment rule or because of another aspect of eligibility, maybe entitled to claim maternity allowance (please refer to paragraph 6.1.67)
- 6.1.8 Statutory Maternity Pay is currently paid at 90% of your average gross weekly earnings with no upper limit for the first 6 weeks; and for the remaining 33 weeks at either the standard rate or 90 per cent of your average gross weekly earnings (if this 90 per cent rate is less than the standard rate).
- By prior agreement with the employer, maternity 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.
- 6.1.9 If you do not intend to return to work following the birth, you will only receive Statutory Maternity Pay (if entitled) and you will lose your statutory right to return to work after your maternity leave. It is important to consider this carefully as you cannot change your decision after you leave work.
- 6.1.10 For those Colleagues entitled to 39 weeks Statutory Maternity Pay; their last day of duty will be extended by a further 13 weeks to give a last day of service.

- 6.1.11 Any allowances will cease with effect from the last day of service.
- 6.1.12 If you are not sure whether you will return to work following the birth, you will be entitled to receive the same benefits as if you had chosen not to return to work but you will retain the right to return to work should you wish.
- 6.1.13 The advantages of choosing this option if you are uncertain at this stage about returning to work are:
- If you decide not to return to work you will not have to make any refunds to the Trust
 - If you decide to return to work you will be entitled to receive the appropriate benefits
 - You are not committing yourself at this stage to returning or not returning to work, but you will retain your right to work.
- 6.1.14 If you decide that you will return to work following the birth, you will be entitled to receive the benefits detailed in Section 6.1.5, which will depend on your length of service.

Length of maternity leave for colleagues who are on Fixed-Term/Temporary Contracts

- 6.1.15 Colleagues subject to fixed-term or training contracts which expire after the 11th week before the expected week of childbirth and who have 12 months continuous services, have notified their employer in writing before the end of the 15th week before the expected date of childbirth, and have provided a MATB1 form, shall have their contracts extended so as to allow them to receive the 52 weeks, which includes paid contractual and statutory maternity pay, and the remaining 13 weeks of unpaid maternity leave.
- 6.1.16 Absence on maternity leave (paid and unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service.
- 6.1.17 If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred, repayment provisions will not apply.
- 6.1.18 Colleagues on fixed-term contracts who do not meet the 12 months continuous service condition, may still be entitled to Statutory Maternity Pay.

Length of maternity leave for Colleagues who are on Rotational Training Contracts

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

Notification of Pregnancy and Risk Assessment

- 6.1.21 You must inform your manager, in writing as soon as possible of your pregnancy so that they can arrange a risk assessment to be carried out to assess the suitability of your current work in view of your pregnancy. It is essential that a risk assessment is undertaken once the employer has been informed, in writing of a colleague's pregnancy.
- 6.1.22 Please see Health and Safety Procedure HS2 Risk Assessments of New/Expectant Mothers. This procedure is available on both Mersey Care's intranet and internet website.

Application for Maternity Leave and Pay

6.1.23 You are formally required to notify your manager in writing of your intention to take maternity leave by the 15th week prior to your expected week before the expected date of childbirth, unless this is not reasonably practicable.

You will need to tell your manager:

- That you are pregnant
- The week your baby is expected to be born
- When you want your maternity leave to start
- Whether you intend to return to work following the birth of your baby
- You also need to complete the Maternity Leave Request Form which is online via the Workforce page of the Trust intranet.

6.1.24 When you have completed the form you should forward your original Certificate of Childbirth (MAT B1) to *Mersey Care Employment Services, St Helens and Knowsley Teaching Hospital NHS Trust, Third Floor, The Court, Alexandra Business Park, St. Helens, Merseyside, WA10 3TP* from your doctor or midwife, if you have already received this, as evidence of your pregnancy and your expected date of childbirth. Prior to sending the MAT B1, it is advised you take a copy for your records. However, the earliest that this certificate may be issued by your doctor or midwife is 20 weeks before the expected week of childbirth (around the 21st week of your pregnancy).

6.1.25 You will be able to change your mind about when you want to start your leave providing you tell your manager at least 28 days in advance. Please also notify Employment Services at merseycare.employmentservices@sthk.nhs.uk.

6.1.26 The earliest date that you can commence maternity leave is the beginning of the 11th week before the expected date of childbirth.

6.1.27 Employment Services will respond to your Application for Maternity Leave and receipt of your MAT B1 form within 28 days confirming your expected date of childbirth and the date on which you are expected to return to work should you take your full entitlement (if applicable).

Time off for Ante-Natal Care

6.1.28 You are entitled to reasonable paid time off during your working hours for antenatal care, including hospital or doctor's appointments and antenatal classes. You must however, give your manager reasonable notice for this in order that your absence can be covered if necessary.

6.1.29 After the first such appointment you may be asked to produce your appointment card as proof of subsequent appointments.

6.1.30 You will not be required to make up any working time lost due to attendance at antenatal appointments. However, where possible, you should try to arrange appointments at the beginning or end of your working day to ensure minimum disruption on your working time and service delivery.

6.1.31 Your Line Manager can ask you to re-arrange your appointments where it is reasonable to do so. However, you cannot be asked to schedule antenatal appointments outside working hours.

- 6.1.32 An Expectant Father or a partner of a pregnant colleague is entitled to unpaid leave to attend up to 2 ante-natal appointments up to a maximum amount of 6.5 hours of time off per appointment.
- 6.1.34 Any colleague who has a 'qualifying relationship' with a pregnant woman or her expected child will be entitled to time off. Your line manager may request proof of appointment.
- 6.1.35 A colleague will qualify if he or she is the woman's husband or civil partner, lives with the woman in an 'enduring family relationship' or is the expected child's father. Relatives of the pregnant woman will not qualify.

Sickness Prior to Childbirth

- 6.1.36 If a colleague is off work ill, or becomes ill, with a pregnancy related illness during the last four weeks before the expected week of childbirth, maternity leave will normally commence at the beginning of the fourth week before the expected week of childbirth or the beginning of the next week after the colleague last worked, whichever is the later.
- 6.1.37 Absence prior to the last four weeks before the expected week of childbirth, supported by a medical statement of incapacity for work, or a self-certificate, shall be treated as sick leave in accordance with normal leave provisions.
- 6.1.38 Intermittent occasions of short term pregnancy related illness during this period may be disregarded if the colleague wishes to continue working until the maternity leave start date previously notified to the employer.

Premature Birth

- 6.1.39 When a colleague's baby is born alive prematurely the colleague will be entitled to the same amount of maternity leave and pay as if her baby was born at full term.
- 6.1.40 When a Colleagues baby is born before the 11th week before the expected week of childbirth and the colleague has worked during the actual week of childbirth, maternity leave will start on the first day of the Colleagues absence.
- 6.1.41 When a Colleagues baby is born before the 11th week before the expected week of childbirth and the Colleague 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.
- 6.1.42 When a Colleagues baby is born before the 11th week before the expected week of childbirth and the baby is in hospital, the colleague 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.

Still Birth

- 6.1.43 When a Colleagues baby is still born after the 24th week of pregnancy the colleague will be entitled to the same amount of maternity leave and pay as if her baby was born alive.

Miscarriage

- 6.1.44 When a colleague has a miscarriage before the 25th week of pregnancy normal sick leave provisions will apply as necessary.

Annual Leave

- 6.1.45 Annual leave will continue to accrue during maternity leave, whether paid or unpaid which will also include Bank Holiday entitlement.
- 6.1.46 When the amount of accrued annual leave would exceed normal carry over provisions, it may be mutually beneficial to both the employer and colleague for the colleague to take annual leave before and/or after the formal (paid and unpaid) maternity leave period.
- 6.1.47 The amount of annual leave to be taken in this way, or carried over, should be discussed and agreed between the colleague and employer. Payment in lieu may be considered as an option where accrual of annual leave exceeds normal carry over provisions.

Returning to work after Maternity Leave

- 6.1.48 Should you opt to take your full entitlement to maternity leave (that is Ordinary Maternity Leave plus Additional Maternity Leave) then you are not required to provide any further notification to your manager.
- 6.1.49 However, if you wish to return to work before the end of your full maternity leave or decide to change the date on which you intend to return to work from that previously submitted on your Application for Maternity Leave, you must give your manager and Employment services 28 days written notice of the date you wish to return to work.
- 6.1.50 In order to ensure that your pay is calculated correctly, when returning back to work from maternity leave, your manager will be asked to confirm the end date via the online form on SharePoint.
- 6.1.51 If you have notified the Trust of your intention to return to work and do not do so, or if you do return but leave the Trust before a minimum period of 3 months, or if you have another post with another NHS employer and have not submitted a copy of your appointment letter to Mersey Care NHS Foundation Trust within 15 months of the beginning of your maternity leave, you may be liable to repay the whole of the Maternity Pay you received, less any Statutory Maternity Pay to which you are entitled. It should be noted that the amount to be repaid is net of Income tax and NHS Pension contributions but not National Insurance contributions.

Keeping in Touch during Maternity Leave

- 6.1.52 Before going on leave, the employer and the colleague should also discuss and agree any voluntary arrangements for keeping in touch during the Colleagues maternity leave including:
- any voluntary arrangements that the colleague may find helpful to help her keep in touch with developments at work and, nearer the time of her return, to help facilitate her return to work
 - keeping the employer in touch with any developments that may affect her intended date of return
 - copies of relevant information and briefings you may require can be sent to your home address throughout the duration of your maternity leave.
- 6.1.53 You can access current vacancies via NHS Jobs whilst on Maternity Leave. It is your responsibility to check for vacancies while on Maternity leave. External vacancies are advertised on jobs.nhs.uk website. Internal only vacancies are available via the link http://www.jobs.nhs.uk/xi/search_vacancy/582752e99d21a9bedb6299bb012ee2b2/?action=search&master_id=121087
- 6.1.54 Keeping in Touch (KIT) Days, allow Colleagues the right to go into work / undertake training or other events and keep in touch with the Trust, for up to a maximum of 10 days without losing the right to maternity pay.

- 6.1.55 If you work for more than 10 days, you will lose one week's Statutory Maternity Pay for each week or part week that you work under your contract for the employer paying you Statutory Maternity Pay.
- 6.1.56 These days will be by arrangement between the employer and the colleague. An employer will have no right to demand that work is undertaken and a colleague will have no right to demand a Keeping in Touch day.
- 6.1.57 Any amount of work done on a KIT day counts as one full KIT day, even coming into work for a one hour training session or to attend a meeting, one KIT day has been used.
- 6.1.58 The colleague will be paid at their basic daily rate for the hours worked, less appropriate maternity leave payment for KIT days worked

Levels of Pay, Pension and Deductions

- 6.1.59 Your maternity pay is subject to the following deductions:
- **Income Tax:** Payments of Statutory Maternity Pay and Occupational Maternity Pay are subject to income tax in the same way as normal earnings.
 - **National Insurance:** Payments of Statutory Maternity Pay and Occupational Maternity Pay are subject to National Insurance in the same way as normal earnings.
- 6.1.60 It is now optional as to whether you carry on paying into the NHS Pension Scheme, whilst receiving your maternity pay. However, should you decide you no longer wish to contribute, then you need to complete form SD502 which is available from Employment Services (merseycare.employmentservices@sthk.nhs.uk) in order to cease contributions. This will then be classed as break in service with regards to your pension calculations.
- 6.1.61 If you pay into the NHS Pension Scheme then Statutory Maternity Pay and Occupational Maternity Pay will be subject to pension deductions as long as you have decided to return to work after your baby is born. The deductions are made even if you are on reduced or no pay and are based on the remuneration you receive during your maternity leave.
- 6.1.62 The arrears of contributions which occur during any period of unpaid leave are recoverable immediately upon your return to work over a period equivalent to the period of unpaid leave. If you are not returning to work, no deductions for pension will be made from any maternity payments allocated. For advice on any other pension issues or queries, please contact Pensions on 0151 430 1943 or merseycare.pensions@sthk.nhs.uk
- 6.1.63 The Trust must continue during AML (as well as OML) to provide any non-cash benefits that they have agreed to provide as a term of the employment contract, such as Childcare Vouchers and Lease Cars.
- 6.1.64 Occupational Maternity Pay is calculated using average weekly earnings during the 17th-24th week of pregnancy for Colleagues paid weekly or the average of the 2 months paid before the 25th week of the pregnancy for monthly paid Colleagues.
- 6.1.65 To qualify for SMP you will need to have worked for the Trust for 26 weeks by the 15th week before the expected week of childbirth, and earn over the National Insurance Lower Earnings Limit. However, the following factors can exclude you from Statutory Maternity Pay:
- Late notification of pregnancy
 - No medical evidence of pregnancy
 - If you are in legal custody at any time in the first week of a payment of Statutory Maternity Pay.

- 6.1.66 You cannot be paid Statutory Maternity Pay for any week in which you do any work for the employer paying you Statutory Maternity Pay. Your Statutory Maternity Pay will also be stopped if, after your baby is born, you start working for a new employer who did not employ you in your qualifying week.
- 6.1.67 If you are not entitled to receive Statutory Maternity Pay, Payroll will send you a SMP1 Form, which explains the reasons for this. Your Mat B1 form will also be returned to you. On completion of the SMP1 Form, you should forward it on to your local Social Security/Jobcentre Plus to claim Maternity Allowance from them (if you are entitled to it), Maternity Allowance is a weekly benefit paid to pregnant women who do not qualify for Statutory Maternity Pay. You can be paid Maternity Allowance for up to 39 weeks. There is a standard weekly rate of Maternity Allowance, but if your earnings are very low the amount of Maternity Allowance may vary.
- 6.1.68 Payment of Statutory Maternity Pay and Occupational Maternity Pay will be made on the normal paydays as appropriate and by your normal method of payment.
- 6.1.69 Maternity leave, whether paid or unpaid, shall count towards the normal increments on the employees scale, in accordance with Agenda for Change Terms and Conditions

Flexible Working

- 6.1.70 If, at the end of maternity leave, the colleague wishes to return to work on different hours, the colleague must request this in writing via the Trust Flexible Working Policy (HR03). The Trust has a duty to facilitate this request wherever possible, however it does not provide for an automatic right to work in a specific flexible way. If this is not possible, the employer must provide written, objectively justifiable reasons for this, in line with the Flexible Working Policy, and the colleague should return to the same grade and work of a similar nature and status to that which they held prior to their maternity absence.
- 6.1.71 If it is agreed that the colleague will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period, this will not affect the Colleagues right to return to her job under her original contract at the end of the agreed period.
- 6.1.72 If you wish to discuss flexible working arrangements, please contact your line manager at least 1 month before you return to work following your maternity leave. For further information, please see the Trust's Flexible Working Policy. For more information regarding maternity/paternity leave, go to www.direct.gov.uk

Childcare Vouchers

- 6.1.73 Childcare Vouchers/Tax Free Childcare scheme
- 6.1.73 Childcare Vouchers are still available to all Mersey Care Colleagues through Busybees Benefits if you joined the scheme and your salary was adjusted before the scheme closed in October 2018 and you do not take an unpaid career break of longer than a year. From 4 October 2018 access to the childcare voucher scheme is no longer available to new applicants but you may be eligible for tax free childcare - <https://www.gov.uk/get-tax-free-childcare>.

6.2 MATERNITY SUPPORT (PATERNITY) LEAVE (PAID AND UNPAID)

6.2.1 Colleagues must satisfy the following conditions in order to qualify for maternity support (paternity) leave. They must:

- have or expect to have responsibility for the child's upbringing
- be the biological or adoptive father of the child or the mother's husband or partner (including same sex relationships).
- have worked continuously in Mersey Care for 26 weeks by the beginning of the 15th week before the baby is due.

6.2.2 The entitlement is for either one week (on two separate occasions) or two consecutive weeks paid maternity support (paternity) leave at full pay per birth. Colleagues with less than 26 weeks service in the NHS will be entitled to the same amount of leave but with no pay.

6.2.3 Colleagues who are not eligible for 2 weeks of Occupational Paternity Pay, may still be entitled to Statutory Paternity Pay, subject to meeting the qualifying conditions. Leave can be taken either from:

- the date of the child's birth (whether earlier or later than expected)
- a chosen number of days or weeks after the date of the child's birth (whether earlier or later than expected)
- a chosen date later than the first week in which the baby is expected to be born.

6.2.4 Leave can start on any day of the week on or following the child's birth but must be completed within 56 days of the actual date of birth of the child or if the child is born early, within the period from the actual date of birth up to 56 days after the first day of the expected week of birth.

6.2.5 Colleagues must tell their manager of their intention to take maternity support (paternity) leave by the end of the 15th week before the baby is expected, unless this is not reasonably practicable. Colleagues should agree with their manager how this leave will be taken, and give reasonable notice of the dates on which they wish to take it. Only one period of leave may be taken per pregnancy irrespective of whether more than one child is born as a result of the same pregnancy. Evidence of the birth must be provided to the manager e.g. baby's birth certificate or mother's certificate of confinement.

6.2.6 Rights during and after maternity support (paternity) leave are:

- entitlement to return to the same job following maternity support (paternity) leave
- entitlement to return to the same terms and conditions of employment
- not be subjected to any disadvantage, unfair treatment or dismissal.

6.2.7 Time off to attend ante-natal classes will also be given as explained in Sections 6.1.32 to 6.1.35.

6.2.8 Qualifying fathers/carers are also entitled to unpaid parental leave and to request flexible working.

Applying for Maternity Support (Paternity) Leave

- 6.2.9 Colleagues must give their manager a completed SC3 form “Becoming a Parent” at least 28 days before they want their leave to start (or as soon as reasonably practical). This form can be obtained from the local benefits office, or from the following web site <http://www.hmrc.gov.uk/forms/sc3.pdf>
- 6.2.10 In addition to the SC3 form, evidence of the birth is also accepted, for example, the baby's birth certificate or mother's certificate of confinement (MATB1 certificate). Once you have completed this form, please submit to the Employment Services (*St Helens and Knowsley Teaching Hospital NHS Trust, Second Floor, The Court, Alexandra Business Park, St. Helens, Merseyside, WA10 3TP*), who will provide acknowledgement and details of your entitlement in writing.

6.3 ADOPTION LEAVE

- 6.3.1 This leave will be granted subject to Colleagues providing written confirmation that they have been newly matched with a child for adoption by an adoption agency as soon as this is given. This should be in the form of a letter or 'matching certificate' from a recognised adoption agency. Colleagues who become long-term fosterers of a child or children with a view to adoption are not covered by statutory provisions but should contact a Human Resources Business Partner/Manager for advice
- 6.3.2 In circumstances where a Colleagues gains parental responsibility for a child as a result of a surrogacy agreement then adoption leave will be granted. Documentation to support such an arrangement should be provided as soon as it is available e.g. written surrogacy agreement or solicitors correspondence. In such cases it is acknowledged that confidentiality may be an issue and the colleague should contact a Human Resources Business Partner/ Manager for advice.
- 6.3.3 Eligibility for occupational adoption pay will be 12 months' continuous NHS service ending with the week in which they are notified of being matched with the child for adoption.
- 6.3.4 To get Statutory Adoption Pay you must have worked for Mersey Care continuously for at least 26 weeks by the week you were matched with a child.
- 6.3.5 Adoption leave is as follows:
- Eligible Colleagues can take up to 52 weeks adoption leave which mirrors the provisions of Maternity Leave, namely:
 - 8 weeks full pay inclusive of Statutory Adoption Pay (SAP)
 - A further 18 weeks half pay plus Statutory Adoption Pay
 - 13 weeks Statutory Adoption Pay (SAP)
 - 13 weeks unpaid Additional Adoption Leave (AAL)
- It will be available to people wishing to adopt a child who has primary carer responsibilities for that child.
- 6.3.6 Up to 10 keep in touch days can be worked during the period of adoption leave. As explained in Sections 6.1.52 to 6.1.58.

- 6.3.7 Colleagues who earn less than the Lower Limit for National Insurance Contributions do not qualify for Statutory Adoption Pay (such Colleagues should contact a Human Resources Business Partner for advice).
- 6.3.8 Where two Trust Colleagues are adopting jointly only one of the couple is eligible for adoption leave. The other member of the couple is eligible for Maternity Support (Paternity) Leave (Section 6.2).
- 6.3.9 Only one period of leave may be taken per pregnancy irrespective of whether more than one child is placed for adoption as part of the same arrangement.
- 6.3.10 Colleagues must tell their employer of their intention to take adoption leave within seven days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. How the period of leave is taken in each individual case should be agreed between the colleague and their manager.
- 6.3.11 The leave available is conditional on Colleagues returning to work for a minimum period of 3 months after the adoption leave. If a member of staff decides not to return they may be required to refund the pay they received during the adoption leave, with the exception of payments made under the Statutory Adoption Pay regulations.
- 6.3.12 In all cases where Colleagues approach their manager about adoption leave, the manager must obtain advice from a Human Resources Business Partner.

Time off for Adoption Process meetings

- 6.3.13 Once you have been matched to a child you are entitled to reasonable paid time off during your working hours for mandatory meetings for the adoption process. You must however, give your manager reasonable notice for this in order that your absence can be covered if necessary.
- 6.3.14 You may be asked by your manager to provide proof of these mandatory adoption meetings.
- 6.3.15 You will not be required to make up any working time lost due to attendance at mandatory meetings for the adoption process. However, where possible, you should try to arrange meetings at the beginning or end of your working day to ensure minimum disruption on your working time and service delivery.
- 6.3.16 Your Line Manager can ask you to re-arrange your appointments where it is reasonable to do so. However, you cannot be asked to schedule mandatory adoption meetings outside working hours.
- 6.3.17 **Returning to work after Adoption Leave**
- 6.3.18 Should you opt to take your full entitlement to adoption leave then you are not required to provide any further notification to your manager.
- 6.3.19 However, if you wish to return to work before the end of your full Adoption leave or decide to change the date on which you intend to return to work from that previously submitted on your Application for Adoption Leave, you must give your manager and Employment services 28 days written notice of the date you wish to return to work.
- 6.3.20 In order to ensure that your pay is calculated correctly, when returning back to work from Adoption leave, your manager will be asked to confirm the end date via the online form on SharePoint.
- 6.3.21 If you have notified the Trust of your intention to return to work and do not do so, or if you do return but leave the Trust before a minimum period of 3 months, or if you have another post

with another NHS employer and have not submitted a copy of your appointment letter to Mersey Care NHS Foundation Trust within 15 months of the beginning of your Adoption leave, you may be liable to repay the whole of the Adoption Pay you received, less any Statutory Adoption Pay to which you are entitled. It should be noted that the amount to be repaid is net of Income tax and NHS Pension contributions but not National Insurance contributions.

6.4 SHARED PARENTAL LEAVE (SPL)

6.4.1 Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption. Its purpose is to give parents more flexibility in considering how to best care for and bond with their child. All eligible Colleagues have a statutory right to take Shared Parental Leave. There may also be an entitlement to some Shared Parental Pay.

Eligibility

6.4.2 SPL can only be used by the mother/adopter and one of the following:

- the father of the child (in the case of birth)

or

- the spouse, civil partner or partner of the child's mother/ adopter.

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

6.4.4 Additionally a colleague seeking to take SPL must satisfy each of the following criteria:

- the mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
- the colleague must still be working for the organisation at the start of each period of SPL;
- the colleague must pass the 'continuity test' requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child's expected due date/matching date;
- the Colleague's partner must meet the 'employment and earnings test' requiring them in the 66 weeks leading up to the child's expected due date/matching date have worked for at least 26 weeks and earned an average of at least £30 (this is correct as of 2015 but may change annually) a week in any 13 of those weeks;
- the colleague must correctly notify the organisation of their entitlement and provide evidence as required.
- to check eligibility parents can use the online calculator at www.gov.uk/pay-leave-for-parents.
- Application forms for SPL can be found: <https://www.gov.uk/shared-parental-leave-and-pay/applying-for-leave-and-pay> The appropriate form should be completed and sent to Mersey Care Employment Services (St Helens and Knowsley Teaching Hospital NHS Trust, Second Floor, The Court, Alexandra Business Park, St. Helens, Merseyside, WA10 3TP)

Shared Parental Leave entitlement

- 6.4.5 Eligible Colleagues may be entitled to take up to 50 weeks SPL during the child's first year in their family. The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave.
- 6.4.6 If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.
- 6.4.7 A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.
- 6.4.8 If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), (e.g. if the mother is self employed) they must reduce their entitlement to less than the 39 weeks.
- 6.4.9 If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.
- 6.4.10 SPL can commence as follows:
- The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child.
 - The adopter can take SPL after taking at least two weeks of adoption leave.
 - The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements – currently 2 weeks leave paid or unpaid depending on eligibility (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).
- 6.4.11 Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.
- 6.4.12 SPL will generally commence on the Colleagues chosen start date specified in their leave booking notice, or in any subsequent variation notice (see "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave" below).
- 6.4.13 If the colleague is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period (see "Shared Parental Pay" below).
- 6.4.14 SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

Notifying the Trust of an entitlement to Shared Parental Leave

- 6.4.15 Once eligibility has been established a colleague entitled and intending to take SPL must give their line manager notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL.

You must complete the relevant shared parental leave forms and forward these to Mersey Care Employment Services (*St Helens and Knowsley Teaching Hospital NHS Trust, Second Floor, The Court, Alexandra Business Park, St. Helens, Merseyside, WA10 3TP*) who will confirm eligibility and provide written confirmation of this agreement (Appendix 1)

6.4.16 Part of the eligibility criteria requires the colleague to provide the organisation with correct notification. Notification must be in writing and requires each of the following:

- the name of the colleague;
- the name of the other parent;
- the start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available;
- the date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the colleague was notified of having been matched with the child and the date of placement for adoption;
- the amount of SPL the colleague and their partner each intend to take
- a non-binding indication of when the colleague expects to take the leave.

6.4.17 The colleague must provide the organisation with a signed declaration stating:

- that they meet, or will meet, the eligibility conditions and are entitled to take SPL;
- that the information they have given is accurate;
- if they are not the mother/adopter they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter;
- that should they cease to be eligible they will immediately inform the organisation.

6.4.18 The colleague must provide the organisation with a signed declaration from their partner confirming:

- their name, address and national insurance number (or a declaration that they do not have a national insurance number);
- that they are the mother/adopter of the child or they are the father of the child or are the spouse, civil partner or partner of the mother/adopter;
- that they satisfy the 'employment and earnings test' (see Section 6.4.2 to 6.4.4), and had at the date of the child's birth or placement for adoption the main responsibility for the child, along with the colleague;
- that they consent to the amount of SPL that the colleague intends to take;
- that they consent to the organisation processing the information contained in the declaration form; and
- (in the case whether the partner is the mother/adopter), that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

Requesting further evidence of eligibility

6.4.19 The organisation may, within 14 days of the SPL entitlement notification being given, request:

- the name and business address of the partner's employer (where the Colleague's partner is no longer employed or is self employed their contact details must be given instead)
- in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth).

- in the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption.

6.4.20 In order to be entitled to SPL, the colleague must produce this information within 14 days of the employer's request.

Fraudulent claims

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

Discussions regarding Shared Parental Leave

6.4.22 A colleague considering/taking SPL is encouraged to contact the HR Department to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the company to support the individual.

6.4.23 The line manager with input from the HR Department if required may upon receiving a notification of entitlement to take SPL seek to arrange an informal discussion with the colleague to talk about their intentions and how they currently expect to use their SPL entitlement.

6.4.24 Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can without further discussion be approved in the terms stated in the Colleagues notice booking leave, a meeting may not be necessary. (Colleagues have the right to request discontinuous leave but the employer can refuse the request).

6.4.25 At the meeting the colleague may, if they wish, be accompanied by a workplace colleague or trade union representative.

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

Booking Shared Parental Leave

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

6.4.28 The colleague has the right to submit up to three notifications specifying leave periods they are intending to take. Each notification may contain either:

- a single period of weeks of leave; or
- two or more weeks of discontinuous leave, where the colleague intends to return to work between periods of leave.

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

6.4.30 The colleague must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP. A request to change/add dates after the original notification has been submitted must be made to the line manager and to Employment Services so that agreement can be confirmed in order for an amended confirmation letter to be provided and for Payroll to be notified of the change (Appendix 2).

Continuous leave notifications

- 6.4.31 A notification can be for a period of continuous leave, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).
- 6.4.32 A colleague has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the employer has been given at least eight weeks' notice.
- 6.4.33 A colleague may submit up to three separate notifications for continuous periods of leave. Examples of this may be:
- to vary start and end dates
 - to vary the amount of leave, or
 - ask for a single period of leave to become discontinuous or vice versa

Discontinuous leave notifications

- 6.4.34 A single notification may also contain a request for two or more periods of discontinuous leave, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the colleague returns to work (for example, an arrangement where an colleague will take six weeks of SPL and work every other week for a period of three months).
- 6.4.35 Where there is concern over accommodating the notification, the organisation or the colleague may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the colleague and the organisation (see "Discussions regarding Shared Parental Leave" – Sections 6.4.22 to 6.4.26).
- 6.4.36 The organisation will consider a discontinuous leave notification but has the right to refuse it. If the leave pattern is refused, the colleague can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

Responding to a Shared Parental Leave notification

- 6.4.37 Once the line manager receives the leave booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th day after the leave request was made.
- 6.4.38 All notices for continuous leave will be confirmed in writing.
- 6.4.39 All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the colleague and to the organisation against any adverse impact to the business.
- 6.4.40 Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another colleague to be granted a similar pattern of SPL.

- 6.4.41 A meeting will then be convened to discuss the request for discontinuous leave and the colleague will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th day after the leave notification was made. The request may be granted in full or in part: for example, the organisation may propose a modified version of the request.
- 6.4.42 If a discontinuous leave pattern is refused then the colleague may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block.
- 6.4.43 If the colleague chooses to take the leave in a single continuous block, the colleague has until the 19th day from the date the original notification was given to choose when they want the leave period to begin.
- 6.4.44 The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the colleague does not choose a start date then the leave will begin on the first leave date requested in the original notification.

Variations to arranged Shared Parental Leave

- 6.4.45 The colleague is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the organisation in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.
- 6.4.46 Any variation or cancellation notification made by the colleague, including notice to return to work early, will usually count as a new notification reducing the Colleagues right to book/vary leave by one.
- 6.4.47 However, a change as a result of a child being born early, or as a result of the organisation requesting it be changed, and the colleague being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the organisation.

Statutory Shared Parental Pay (ShPP)

- 6.4.48 Eligible employees will be entitled to claim up to 37 weeks of statutory shared parental leave pay (ShPP), less any weeks of statutory maternity pay, maternity allowance or statutory adoption pay that has already been claimed by either partner. ShPP can be claimed following the birth or placement of the child, but not at the same time as the compulsory two weeks of leave following the birth or placement of the child. ShPP is paid at a rate set by the government each year.
- 6.4.49 In addition to meeting the eligibility requirements for SPL, a colleague seeking to claim ShPP must further satisfy each of the following criteria:
- the mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
 - the colleague must intend to care for the child during the week in which ShPP is payable;
 - the colleague must have an average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child's expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;
 - the colleague must remain in continuous employment until the first week of ShPP has begun;

- the colleague must give proper notification in accordance with the rules set out below.
- 6.4.50 Where a colleague is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.
- 6.4.51 In addition to what must be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for ShPP must include:
- the start and end dates of any maternity/adoption pay or maternity allowance;
 - the total amount of ShPP available, the amount of ShPP the colleague and their partner each intend to claim and a non-binding indication of when the colleague expects to claim ShPP;
 - a signed declaration from the colleague confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the organisation should they cease to be eligible.
- 6.4.52 It must be accompanied by a signed declaration from the Colleague's partner confirming:
- their agreement to the colleague claiming ShPP and for the organisation to process any ShPP payments to the colleague;
 - (in the case whether the partner is the mother/ adopter) that they have reduced their maternity/adoption pay or maternity allowance;
 - (in the case whether the partner is the mother/ adopter) that they will immediately inform their partner should they cease to satisfy the eligibility conditions.
- 6.4.53 Where an employee intends to return to work after a period of shared parental leave, the maximum joint entitlement of an eligible couple to occupational shared parental pay will be as set out below. The maximum entitlement will only apply where either parent has not already received statutory or occupational maternity pay or statutory or occupational adoption pay in respect of the child. Where such pay (excluding pay during the compulsory two-week maternity/adoption leave period) has been received by either parent, the maximum joint entitlement set out below will reduce proportionate to the amount of maternity or adoption pay which has either been taken and paid to either parent, or notified as intending to be taken by either parent.
- i) for the first six weeks of absence the employee will receive full pay. Full pay is inclusive of any ShPP. The total receivable cannot exceed full pay;
 - ii) for the next 18 weeks of absence the employee will receive half of full pay plus any ShPP. The total receivable cannot exceed full pay;
 - iii) for the next 13 weeks, the employee will receive any ShPP that they are entitled to under the statutory scheme.
 - iv) for the final 13 weeks, the employee will receive no pay.
- 6.4.54 Employees are also entitled to take a further 13 weeks as unpaid leave to bring the total for shared parental leave to 50 weeks. However, this may be extended by local agreement in exceptional circumstances.

Terms and conditions during Shared Parental Leave

- 6.4.55 During the period of SPL, the Colleagues contract of employment continues to be in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a company car, laptop, mobile phone and gym membership) will continue and contractual annual leave entitlement will continue to accrue.
- 6.4.56 Pension contributions will continue to be made during any period when the colleague is receiving ShPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the organisation's contributions will be based on the salary that the colleague would have received had they not been taking SPL.

Annual Leave

- 6.4.57 SPL is granted in addition to a Colleagues normal annual holiday entitlement. Colleagues are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee's holiday year.

Contact during Shared Parental Leave

- 6.4.58 Before a Colleagues SPL begins, the organisation will discuss the arrangements for them to keep in touch during their leave. The organisation reserves the right in any event to maintain reasonable contact with the colleague from time to time during their SPL. This may be to discuss the colleague's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

Shared Parental Leave in Touch days (SPLIT Days)

- 6.4.59 A colleague can agree to work for the organisation (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave In Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for the purpose of recording a "SPLIT" day. However, payment will be made for actual hours worked excluding statutory breaks.
- 6.4.60 The organisation has no right to require the colleague to carry out any work, and is under no obligation to offer the colleague any work, during the Colleagues SPL. Any work undertaken is a matter for agreement between the organisation and the colleague. If a SPLIT day occurs during a week when the colleague is receiving ShPP, this will be effectively 'topped up' so that the individual receives pay for the hours worked on the day in question. Any SPLIT days worked do not extend the period of SPL.
- 6.4.61 A colleague, with the agreement of the organisation, may use SPLIT days to work part of a week during SPL. The organisation and the colleague may use SPLIT days to effect a gradual return to work by the colleague towards the end of a long period of SPL or to trial a possible flexible working pattern.

Returning to work after Shared Parental Leave

- 6.4.62 The colleague will have been formally advised in writing by the organisation of the end date of any period of SPL. The colleague is expected to return on the next working day after this date, unless they notify the organisation otherwise. If they are unable to attend work due to sickness

or injury, the organisation's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

- 6.4.63 If the colleague wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the organisation at least 28 days notice of their date of early return.
- 6.4.64 On returning to work after SPL, the colleague is entitled to return to the same job under their original contract and on no less favourable terms and conditions.
- 6.4.65 If you have notified the Trust of your intention to return to work and do not do so, or if you do return but leave the Trust before a minimum period of 3 months, or if you have another post with another NHS employer and have not submitted a copy of your appointment letter to Mersey Care NHS Foundation Trust within 15 months of the beginning of your SPL leave, you may be liable to repay the whole of the Shared Parental Pay you received, less any Statutory Shared Parental Pay to which you are entitled. It should be noted that the amount to be repaid is net of Income tax and NHS Pension contributions but not National Insurance contributions.

6.5 Parental leave (unpaid)

- 6.5.1 There is a right to parental leave for Colleagues to take time off work to look after a child's welfare, this leave is normally unpaid, and is available for each child up to their 18th birthday. These rights apply to any natural or adoptive parent and those with parental responsibility for a child.
- 6.5.2 Parents may start taking parental leave when the child is born/adopted or as soon as they have completed 12 months service with the NHS, whichever is later.
- 6.5.3 The key elements of parental leave are:
- a total of 18 weeks unpaid leave for each child
 - Parental leave is applicable to any employee in the NHS who has nominated caring responsibility for a child under the age of 18
 - the right to take leave lasts until the child's 18th birthday.
 - leave should be taken in block or multiples of one week with a maximum of 4 weeks leave allowed in a year. The only exception is for the parents of disabled children who may take leave a day at a time and should give as much notice as possible to their manager.
 - Colleagues must give their manager at least 21 days notice of their intention to take such leave to enable managers to plan for their replacement. In cases where this may not be possible Colleagues should give as much notice as possible.
 - all such leave must be recorded on leave cards and on the appropriate Human Resources information system.
- 6.5.4 Managers are expected, in normal circumstances, to agree to the dates on which individual Colleagues request to take their parental leave. They do however have the right, in very exceptional circumstances to 'postpone' the member of Colleagues leave for up to 6 months where service needs are pressing. When the Colleague gives notice to take the leave immediately after the child is born or is adopted, this cannot be postponed. Managers should seek advice from their Human Resources Business Partner if they propose to postpone the granting of parental leave.
- 6.5.5 Whilst such leave should normally be taken in blocks of one week, an individual colleague and their manager may agree to vary this e.g. allowing a colleague to work reduced hours for a

period. Again such instances should be discussed with the appropriate Human Resources Business Partner.

6.5.6 Part time Colleagues qualify for all the above benefits on a pro-rata basis.

6.5.7 Colleagues who take unpaid parental leave will suffer no detriment as a result of taking this leave. However as contractual annual leave is not accrued during periods of unpaid leave, the appropriate adjustment will be made to the individual's contractual annual leave entitlement subject to the entitlement to annual leave as per the Working Time Regulations. Managers should take advice from a Human Resources Business Partner on how to calculate this.

7 CONSULTATION

7.1 The policy has been developed by the HR Policy Group, which consists of representatives from:

- Recognised Staff Organisations
- Senior Managers
- HR Staff

8. TRAINING AND SUPPORT

8.1 HR Staff will provide policy training on a regular basis.

9. MONITORING

9.1 Monitoring of compliance with this policy will be undertaken by Executive Director of Workforce in consultation with the HR policy group annually.

9.2 A report will be presented on an annual basis to HR Policy Group.

9.3 It is the duty of all Colleagues to monitor/capture their own leave correctly.

10. SUPPORTING DOCUMENTS

10.1 The following documents should be read in conjunction with this policy.

10.1.1 Equality Act 2010

10.1.2 10.1.2 Children and Families Act 2014

10 GLOSSARY OF TERMS

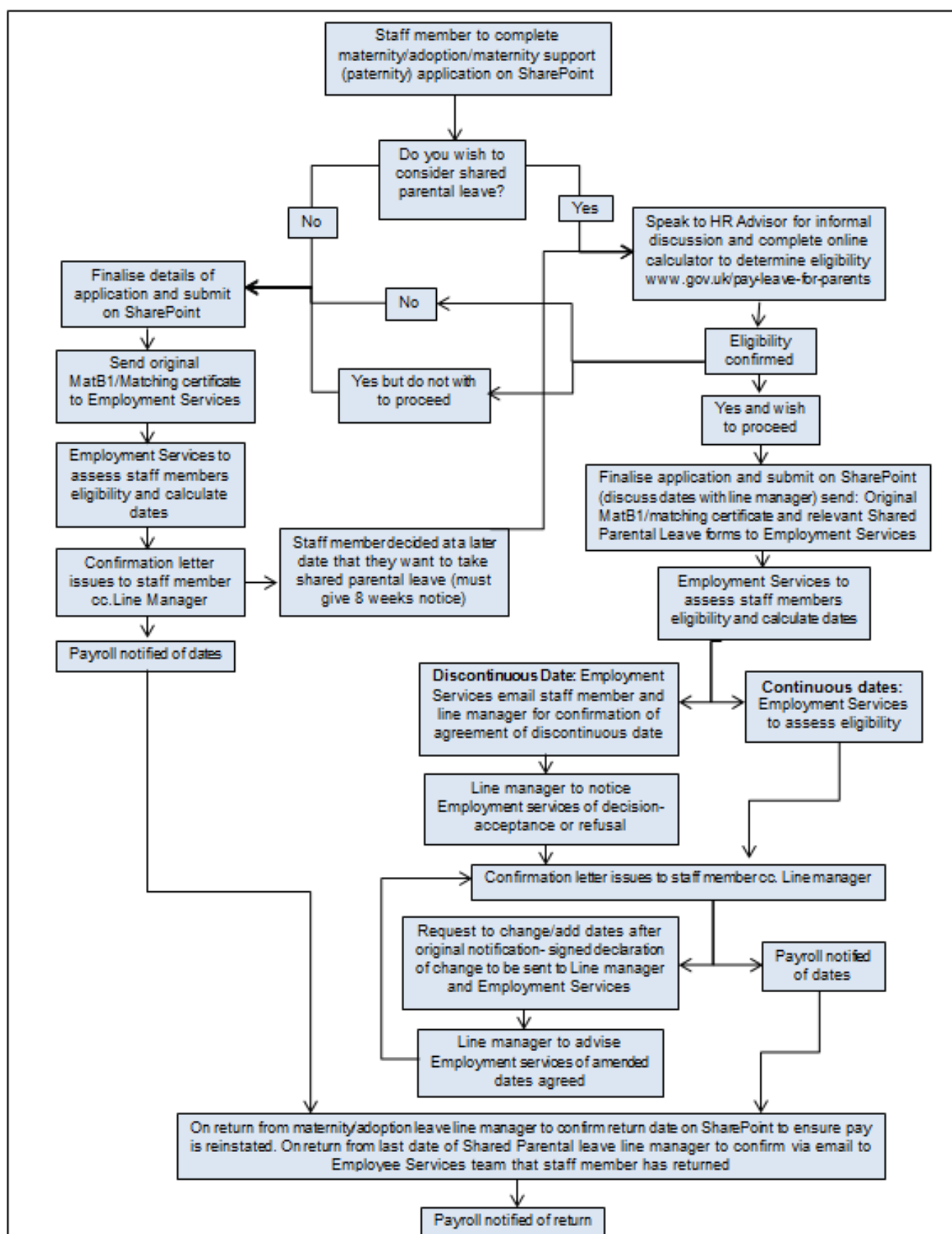
Glossary of Terms

Term	Description	Reference
OML	Ordinary Maternity Leave. The entitlement to a period of 26 weeks leave, regardless of how long you have worked for the NHS. This will be unpaid unless you qualify for Statutory Maternity Pay or Maternity Allowance.	
AML	Additional Maternity Leave. The entitlement to a further period of up to 26 weeks unpaid leave, regardless of how long you have worked for the Trust.	
SMP	Statutory Maternity Pay. The minimum level of maternity pay	

Term	Description	Reference
	that you are entitled to through State provision, if you have 26 weeks continuous with this Trust by the 15th week before your expected week of childbirth & paid sufficient N I Contributions.	
MA	Maternity Allowance. Paid by the Local Job Centre/Social Security Office to those employees who do not qualify for Statutory Maternity Pay. Eligibility is determined by the above Government Departments.	
OMP	Occupational Maternity Pay. Based on eligibility, maternity pay which is payable by your employer.	
MAT B1 Form	The certificate provided by your GP or Midwife anticipating the potential date of the birth of your baby.	
KIT Days	Keeping in Touch (KIT) Days, allow employees the right to go into work / undertake training or other events and keep in touch with the Trust, for up to a maximum of 10 days without losing the right to maternity pay	
SC3	The employee must give their manager a completed SC3 form "Becoming a Parent" at least 28 days before they want their leave to start (or as soon as reasonably practical).	
SAP	Statutory Adoption Pay	
SPL	Shared Parental Leave. Shared Parental Leave enables eligible parents to choose how to share the care of their child during the first year of birth or adoption	
ShPP	Shared Parental Pay. If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period	
HMRC	HM Revenue & Customs	
SPLIT	Shared Parental Leave in Touch days	

Appendix 1

Shared Parental Leave



Request to change/add dates after original shared parental leave notification submitted

These are the letters needed to give your line manager notification that you are taking a period of Shared Parental Leave (SPL). The letters can also be used to indicate if you wish to take Shared Parental Pay (ShPP) for any of the dates you have specified.

What letter needs to be completed?	
Notice booking a period of continuous SPL	Complete this if you want to book a period of SPL that is taken in one block. Your employer must accept this, although they can discuss it with you.
Notice booking a period of discontinuous SPL	Complete this if you want to book in a single notice SPL weeks that are arranged around some weeks where you want to work and some weeks where you want to take SPL. Your employer can refuse this or discuss it with you. However, if you do not reach an agreement with your employer, there are default provisions you can read about in the Acas guidance.

- You will need to edit your letter where the text is **in bold**. You will need to add in dates, personal details or delete parts that do not apply to you.
- If you don't want to claim ShPP for this particular notice, or if you don't qualify for ShPP, delete the parts in the letter that are about pay.
- You can only make notifications when you have confirmed your eligibility and entitlement to SPL and/or ShPP with both your own employer and the employer of the person you are sharing this entitlement with.
- You can usually make up to 3 separate statutory notifications.
- You must give 8 weeks' notice of any SPL or ShPP you want to take.

Notice booking a period of continuous SPL

[insert your address]

[insert the date]

Dear **[insert the name of your line manager]**

Notice booking a period of continuous Shared Parental Leave (SPL)

My current remaining entitlement to SPL is ***[insert the total number of weeks of SPL you have left]*** weeks.

This is my ***[insert 'first', 'second' or 'third' as appropriate]*** statutory notification to book leave.

This notice is to book a period of ***[insert the number of weeks SPL you want to take]*** weeks of SPL.

I will be taking a continuous period of leave from ***[insert when you want to start your SPL]*** to ***[insert when you want to end your SPL]***.

My current remaining entitlement to Statutory Shared Parental Pay (ShPP) is ***[insert the total number of weeks of SPL you have left]*** weeks.

During my period of SPL I would like to receive ***[insert the number of weeks SHPP you want to take]*** weeks ShPP.

I would like this paid from ***[insert when you want to start your SHPP]*** to ***[insert when you want to end your SHPP]***.

Yours sincerely

[insert your name and signature]

CC. Employment Services

Notice booking a period of discontinuous SPL

Community and Mental Health Services

[insert your address]

[insert the date you print or send the letter]

Dear **[insert the name of your line manager]**

Notice booking a period of discontinuous Shared Parental Leave (SPL)

My current remaining entitlement to SPL is **[insert the total number of weeks of SPL you have left]** weeks.

This is my **[insert 'first', 'second' or 'third' as appropriate]** statutory notification to book SPL.

This notice is to book a period of **[insert the number of weeks SPL you want to take]** weeks of SPL.

I would like to take a discontinuous period of leave. I propose that I take the following weeks as SPL:

- from **[insert start date for SPL]** to **[insert end date for SPL]**
- from **[insert start date for SPL]** to **[insert end date for SPL]**
- from **[insert start date for SPL]** to **[insert end date for SPL]**

I understand that you do not have to agree to this proposal and that if agreement is not reached within 14 days of the date on which I gave this notice to you (the Notice Date) I must either withdraw the notice 15 days after this Notice Date or take the total amount of SPL requested in this booking as one continuous period.. I understand that my leave will begin on the start date of the first period of leave I requested UNLESS I notify you within 19 days of the Notice Date of a different start date. A new start date must be at least 8 weeks after the Notice Date.

My current remaining entitlement to Statutory Shared Parental Pay (ShPP) is **[insert the total number of weeks of SPL you have left]** weeks.

During my period of SPL I would like to receive **[insert the number of weeks SHPP you want to take]** weeks ShPP.

If the proposed period of SPL is agreed I would like to be paid ShPP:

- from **[insert start date for SHPP]** to **[insert end date for SHPP]**
- from **[insert start date for SHPP]** to **[insert end date for SHPP]**
- from **[insert start date for SHPP]** to **[insert end date for SHPP]**

Yours sincerely

[insert your name and signature]

CC. Employment Services

Equality and Human Rights Analysis

Title: Leave for Family and Personal Reasons
Area covered: Trust-wide

What are the intended outcomes of this work? To review the new policy including the provisions for Shared Parental Leave (and previous equality impact assessment). This is a review.
Who will be affected? All staff

Evidence
What evidence have you considered? The policy and the previous equality impact assessment.
Disability inc. learning disability See cross-cutting plus childcare vouchers availability extended for children up to the age of 16 with disabilities
Sex See cross cutting
Race See cross-cutting
Age No age limits set on leave available
Gender reassignment (including transgender) See cross cutting
Sexual orientation See cross cutting
Religion or belief See cross cutting
Pregnancy and maternity Supportive of equality in relation to new requirements for Shared Parental Leave
Carers Entire policy is supportive of meeting needs of carers
Other identified groups N/A
Cross cutting Carers leave and parental leave would be considered for all staff

Human Rights	Is there an impact? How this right could be protected?
This section must not be left blank. If the Article is not engaged then this must be stated.	
Right to life (Article 2)	No issues identified
Right of freedom from inhuman and degrading treatment (Article 3)	No issues identified
Right to liberty (Article 5)	No issues identified

Right to a fair trial (Article 6)	6.69 – staff have the opportunity to raise a grievance if they feel they are unreasonably refused carer's leave
Right to private and family life (Article 8)	Human rights based approach supported
Right of freedom of religion or belief (Article 9)	No issues identified
Right to freedom of expression Note: this does not include insulting language such as racism (Article 10)	No issues identified
Right freedom from discrimination (Article 14)	Human rights based approach supported

Engagement and involvement
HR Policy Group
Staff-side
Senior Managers

Summary of Analysis
Eliminate discrimination, harassment and victimisation This policy has been developed taking into account the Equality Act 2010, legislation and NHS guidelines.
Advance equality of opportunity All eligible staff will be considered
Promote good relations between groups N/A

What is the overall impact? Application of this policy is intended to have a positive effect on health and wellbeing and promote work-life balance
--

Addressing the impact on equalities

See action plan below

Action planning for improvement

See action plan below

For the record

Name of persons who carried out this assessment (Min of 3):

George Sullivan, Kim Stanley, Rachel Webster

Date assessment completed: 10/02/2016

Name of responsible Director: Amanda Oates

Date assessment was assigned: February 2016

Action plan template

This part of the template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your policy.

Category	Actions	Target date	Person responsible and their Directorate
Monitoring, evaluating and reviewing	Monitor uptake of carer's leave by staff by gender	July 2016	Pauline Copland, Workforce
Transparency (including publication)	Impact Assessment to be placed with this policy on the Trust website	March 2016	Pauline Copland, Workforce