

MATERNITY POLICY

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All staff and Managers, and accredited Trade Union representatives

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1 Introduction

This document outlines Southend University Hospital NHS Foundation Trust's policy relating to pregnancy and maternity leave. The general principles contained in this policy also relate to adoption from within the UK and should be seen in conjunction with Section 12.11 and Appendix 2 of the Trust's local Terms and Conditions document. Further advice on adoption leave arrangements including adoption from overseas can be sought from the HR Department.

This document comprises both the policy and procedure and provides a complete guide for both expectant mothers and line managers.

This policy applies to all employees of the Trust. Those on fixed term contracts are afforded the same rights as permanent employees. Doctors and dentists and employees on Agenda for Change Terms and conditions should also refer to their terms and conditions handbook.

Whilst there are some aspects of this policy which may be relevant to bank workers, for absolute clarity on entitlement, appropriate advice and guidance should be sought from the the Bank Team.

2 Purpose

The purpose of this document is to describe the Trust's arrangements relating to maternity leave and maternity pay including adoption.

The Trust recognises the valuable contribution that working parents make to the organisation and therefore seeks to offer pay and benefits that exceed the statutory provisions to reward and retain employees.

In addition, the Trust also seeks to ensure that pregnant employees are provided every opportunity to return to work, in a manner that suits their change in circumstances by offering them the right to apply for flexible working. Therefore, this policy aims to ensure that:

- Both line managers and employees fully understand their legal obligations throughout the various stages of pregnancy and maternity leave.
- The health and safety of expectant mothers and their unborn babies are safeguarded and protected in the workplace.
- Employees have access to information and support from the Trust, in order that they can properly plan and prepare for their maternity leave and their return to work.
- Expectant mothers are treated fairly whilst at work and when they return from maternity leave, and are protected from suffering any detriment or discrimination for reasons related to their pregnancy.

3 Definitions

| TERM | DEFINITION |
|--|--|
| The Trust | Southend University Hospital NHS Foundation Trust |
| Flexible Working | A working pattern which may include reduced hours, condensed hours and/or particular shift patterns. The aim of flexible working is to enable staff to balance their work and home commitments, whilst still enabling the Trust to deliver an appropriate level of service to patients and service users. |
| Statutory Maternity Pay (SMP) | Statutory Maternity Pay is a State benefit for women on maternity leave, the conditions for which and the amount of which are determined by the Government, but it is paid by the employer. |
| Occupational Maternity Pay (OMP) | Occupational Maternity pay is provided by the Trust to give enhanced benefits to members of staff who meet the qualifying criteria and who intend to return to work following maternity leave. |
| Continuous service | For the purposes of this policy the Trust will recognise service with other NHS organisations provided it is continuous. |
| MATB1 | Certificate obtained from a G.P. or midwife at 21 weeks pregnancy or thereabouts. |
| Expected Week of Childbirth (EWC) | This is the week in which the baby is due. The qualifying period for SMP refers to EWC and is the 15th week before the expected week of childbirth. |
| OML and AML | Maternity leave of 52 weeks comprises of 26 weeks Ordinary Maternity Leave (OML) followed immediately by 26 weeks' Additional Maternity Leave (AML). |
| Shared Parental Leave (SPL) | A new legal entitlement for eligible parents of babies due, or children placed for adoption, on or after 5 April 2015. This replaces Additional Paternity leave. |

4 Duties

4.1 Duties within the Trust (Committees)

Negotiation and Consultation Committee (NCG)

To receive and approve this revised policy. Thereafter to monitor its effectiveness.

4.2 Duties of Individuals within the Trust

Chief Executive

As the Trust's accountable officer has overall responsibility for ensuring Southend University Hospital Foundation Trust has robust, complete and up to date procedures in place to govern and guide activities so that legal, and national requirements are met.

Executive Director

The Director of Human Resources will be responsible for ensuring that this policy is reviewed and updated to reflect changes in employment law and best practice.

Clinical Directorate Directors

Clinical Directorate Directors will ensure that the managers within their Clinical Directorates follow this policy.

Managers

Managers are responsible for:

- Applying the arrangements described in this policy
- Carrying out a pregnancy risk assessment with the employee in accordance with Section 5.7 and appendix 2 of this document
- Completing the maternity plan at appendix 1 of this document
- Submitting completed documents to ensure that payroll and other administrative arrangements can be completed at the appropriate time
- Maintaining contact with an employee on maternity leave in accordance with this policy.

Employees

Employees are responsible for:

- Notifying their line manager of their pregnancy in accordance with section 5.1 of this document
- Participating in the pregnancy risk assessment in accordance with Section 5.7 and appendix 2 of this document
- Participating in the completion of the maternity plan at appendix 1 of this document
- Complying with the requirements of this policy.

Human Resources

The HR department is responsible for advising managers and employees of their responsibilities and rights under this policy.

5 Main Procedural Document Points (Process)

5.1 Notification

a) Inform line manager

Upon becoming pregnant, employees should inform their line manager as soon as possible so that a risk assessment and any relevant modifications to their work and/or working environment can be implemented at the earliest opportunity.

b) Childcare vouchers

If an employee receives childcare vouchers, she should consider at an early stage whether she wishes to continue with the scheme as withdrawal from the scheme prior to the 15th week of pregnancy is necessary to avoid any reduction of maternity pay. This would need to be done as soon as possible in order to be effective by the 15th week. Please refer to section 5.20.

c) MATB1 form and written notification of pregnancy

Expectant mothers should receive a pregnancy certificate (MATB1) from their midwife or General Practitioner at 20 weeks pregnancy or thereabouts. The MATB1 form provides formal confirmation of the pregnancy and the expected week of childbirth.

By the end of the 15th week before the expected week of childbirth the employee must submit a MATB1 form and formally notify their manager in writing:

- That she is pregnant
- The date on which she intends to start her maternity leave
- The date of her expected week of childbirth

d) Agree the Maternity Plan

Following the formal written notification from the employee, the manager must meet with the employee to prepare the Maternity Plan which must be completed and a copy given to the employee within 28 days of the written notification from the employee. Section 5.5 explains the necessary considerations for completion of the maternity plan.

5.2 Maternity Leave Entitlement

All employees, regardless of their length of service with the Trust, are entitled to take 52 weeks maternity leave of which 26 weeks is Ordinary Maternity Leave followed immediately by 26 weeks' Additional Maternity Leave.

Line managers must assume that employees intend to take the full 52 weeks maternity leave to which they are entitled, unless the employee stipulates otherwise in their Maternity Plan.

All employees must take at least two weeks compulsory maternity leave immediately after giving birth.

5.2 Commencement of Leave

Employees may elect to commence maternity leave as early as the 11th week before their baby is due or they may choose to set a date that enables them to continue working up until the baby is due.

Maternity leave and pay will commence on the day that the employee has given notice for it to start.

If the baby is born prematurely, maternity leave will start on the day immediately after the mother has given birth. She must notify her manager in writing of the date of the birth as soon as reasonably practicable. Maternity leave will commence on the day following the day of the birth of the baby. The manager must respond to the employee and inform her of the revised end date of her additional maternity leave period within 28 days of receiving such notification.

5.3 Sickness

In the event that an employee is absent with a pregnancy-related illness at any time after the start of the four week period before the expected week of childbirth, maternity leave will automatically commence.

5.4 The Maternity Plan

Within 28 days of the manager receiving written notification from the employee, the manager must have:-

- Met with the employee to discuss her intentions regarding maternity leave in more detail (template invite letter appendix 3a)
- Completed a maternity plan (appendix 1)

Given a copy of the plan to the employee as this provides written confirmation of the end date of the maternity leave.

5.5 Maternity Leave period

It is assumed that the employee will take 52 weeks leave and there is no obligation on her to state an earlier return date. However, once leave has commenced, for an employee to return earlier than 52 weeks, she must give 8 weeks notice. Therefore, if the employee wishes to plan ahead and confirm a return date at this stage, then it must be stated on the plan.

If the employee wishes to take 52 weeks or prefers to make a decision after the baby is born, then the end date stated on the maternity plan will be 52 weeks from the start date.

The manager must always confirm any changes in writing to the employee.

a) Change of leave start date

If the employee subsequently wants to change the date that she wishes her leave to start, she should notify her manager as soon as is reasonably practicable but should give at least 28 days before she wishes to start her leave or at least 28 days before the original planned date, whichever is the earlier.

The manager must confirm new leave end date (template letter appendix 3b).

b) Change of return date before start of leave

Should an employee wish to return to work earlier than originally requested in the Maternity Plan, before they have actually started maternity leave, then they must give written notice of the change to their line manager, who will confirm to the employee in writing of the revised end date of the maternity leave within 28 days and notify payroll.

Manager must confirm new leave end date (template letter appendix 3c).

c) Shared Parental Leave (SPL) in relation to the planning stage

Shared Parental Leave is a new legal entitlement for eligible parents of babies due, or children placed for adoption, on or after 5 April 2015 and replaces Additional Paternity Leave.

Parents will be able to choose how they share care of their child in the first year after birth. Employed mothers will still be entitled to 52 weeks of maternity leave, however, working parents will be able to opt to share the leave.

A separate policy is being drafted but in the meantime, information is available on www.gov.uk or please contact Human Resources for further advice.

5.6 Change of return date after start of leave

If an employee wishes to change their return to work date once they have started maternity leave, they must ensure that they give at least eight weeks written notice to their line manager.

In the event that the correct notice is not given by an employee, the manager may defer their return date until the eight week notice period has been met, provided this does not exceed the entire 52 week maternity leave period.

The manager must confirm revised end date (template letter appendix 3d).

5.7 Risk Assessments and Occupational Health

Once a manager is made aware that an employee is pregnant, whether or not it is confirmed with a MATB1 form, they must carry out a pregnancy risk assessment as soon as possible, normally within seven days.

The risk assessment must be carried out on all processes and activities to determine whether or not there are any potential health and safety risks present in an employee's duties or working environment either to them or to their unborn baby. For any risks that are identified managers must do everything possible to remove the hazard, implement controls and prevent exposure. If it is not possible to reduce the risks to an acceptable level, an alternative temporary role should be considered.

Once the risk assessment template has been completed (appendix 2), a copy should be retained on the employee's personal file. This assessment should be kept under review as the pregnancy progresses taking into account aspects of pregnancy that may affect work. Anyone working beyond 36 weeks of pregnancy should be routinely reviewed.

In the event that the identified risks pose a significant danger to either the employee or their unborn baby, and alternative duties or roles are not available, advice should be sought from the HR Operations Team as pregnancy suspension may be necessary.

There is a requirement to take particular account of risks to anyone who has given birth in the previous six months or who is breastfeeding. Therefore, if these circumstances apply when an employee returns to work, the risk assessment must continue to be reviewed.

Further advice and support about risk assessments can be obtained from the Trust's Health & Safety Adviser. In addition, employees may request a review with the Occupational Health Department or line managers may refer employees to the Occupational Health Department, using the Management Referral form.

5.8 Time off for Ante-natal appointments

All pregnant employees are entitled to reasonable paid time off to attend ante-natal appointments which includes the time spent travelling to and from an appointment and waiting.

Ante natal appointments include any appointments made by the employee on the advice of their GP, midwife or health visitor and can include medical examinations, parent craft and relaxation classes.

There is no requirement for employees to make ante natal appointments in their own time or make up the time that they have lost.

Line managers should request written proof of any appointments, with the exception of the first one; forms of acceptable proof include a certificate, a written note from the employee's GP or midwife or an antenatal booklet, confirming that they are pregnant. Line managers may refuse time off only if an employee is unable to provide satisfactory proof.

Employees must ensure that they give their manager as much notice as possible of any appointment in order that appropriate cover arrangements can be made.

5.9 Maternity Pay

The Trust pays three different types of maternity pay, dependent upon length of service, employee earnings and which terms and conditions an employee has opted for (i.e. Trust Local Terms or Agenda for Change). Maternity pay will be calculated using the reference period used for the calculation of Statutory Maternity Pay. The Trust is aware of its obligations to include any pay increases appropriately within maternity pay calculations and will apply these as relevant.

5.10 Statutory Maternity Pay (SMP)

Statutory maternity pay is paid for a period of 39 weeks and does not have to be paid back to the Trust by an employee if she chooses to resign without returning to work. To qualify for SMP an employee must meet the following criteria:

- She must have worked continuously for the Trust for a minimum of 26 weeks by the beginning of the 15th week before the baby is due;
- She must earn at least the Lower Earnings Limit for National Insurance Contributions (NI)

Statutory Maternity Pay consists of:

- 6 weeks pay at 90 per cent of average earnings;
- 33 weeks pay at a rate determined by the Government or 90 per cent of average earnings per week if it is less than the Government rate.

Employees should contact their Payroll Officer if they require information on the current lower earnings limit, the calculation period of the rate or their average weekly earnings.

5.11 Occupational Maternity Pay (OMP)

An employee on local terms and conditions will qualify for occupational maternity pay, provided she meets the following criteria:

- She has been continuously employed by the Trust for one year (52 weeks) before the 11th week prior to the expected week of childbirth (the Trust will recognise service with other NHS organisations provided it is continuous);
- She must still be employed by the Trust on the date that she commences her maternity leave;
- She has notified the Trust that she intends to return to work for the Trust for a minimum period of 3 months after the end of her maternity leave. Any leave (e.g. parental leave, annual leave) taken at the end of maternity leave would not constitute a return to work.

If an employee fails to return to work at the Trust following maternity or adoption leave for a minimum period of 3 months, they will be required to refund to the Trust the whole of the maternity or adoption pay received, less any Statutory Maternity or Adoption Pay.

OMP for staff on Trust Local Terms & Conditions consists of:

- 8 weeks full pay (inclusive of SMP)
- 18 weeks half pay + SMP (not exceeding the equivalent of full pay)
- 13 weeks SMP

The employee can choose to receive the above payment averaged out across the whole period so that they receive the same value each month rather than as set out above.

OMP for staff on Agenda for Change

Employees on Agenda for Change Terms and conditions should refer to their terms and conditions handbook.

Choice to withhold OMP

An employee who is unsure whether she will return to work following maternity leave can elect to receive the 18 weeks occupational half pay in a lump sum after she has returned to work and completed 3 months. This would avoid the situation whereby an employee would be required to repay any monies received should she not return to work.

These options are set out on the maternity plan.

Maternity Allowance

In the event that an employee does not qualify for either statutory or occupational maternity pay, the payroll department will provide an SMP1 form upon receipt of their MATB1.

The employee must then contact their local JobCentre Plus, with both their MATB1 and the SMP1 forms to ascertain what benefits are available to them.

5.12 Bank Workers and Casual Workers

Bank and casual workers may qualify for appropriate maternity related benefits. Application is made using the Maternity Plan and payroll will determine whether the qualifying criteria have been met.

Work should not be undertaken if in receipt of SMP as pay will be affected.

'Keeping in touch' days do not apply. When ready to return to booking shifts, the Bank Team should be notified.

5.13 Staff on Fixed Term Contracts

Employees on fixed-term contracts need to qualify for statutory maternity leave and pay in the same way as permanent employees. If the employee's contract ends during or after the 15th week before the EWC and if the employee has worked during that week, then the employee may still be eligible for SMP.

Although statutory maternity leave will come to an end on the expiry of a fixed-term contract, the right to statutory maternity pay continues if the employee already qualifies for it.

Expiry of the contract during maternity leave

There is no legal requirement for employers to extend a fixed-term contract, or renew it, so that it covers the maternity leave period, but they will need to be able to show that there was a fair reason for not renewing the contract. Managers are reminded that the Trust process for managing fixed term contracts must be followed and must be dealt with prior to the employee commencing their maternity leave.

If the fixed-term contract expires and is not renewed during the period of statutory maternity leave, this will bring the maternity leave to an end but will not affect the obligation to pay SMP.

Annual leave will stop accruing at the end of a fixed term contract. The manager should ensure that annual leave accrued to the end of the contract is calculated. If the employee is unable to take their leave before commencing maternity leave, any outstanding leave must be paid to the employee.

5.14 Pregnancy loss before 24 weeks (Miscarriage)

In the event that an employee gives birth before the 24th week of pregnancy and the baby is not born alive, the pregnancy will be classified as a miscarriage.

Employees who suffer miscarriages are not entitled to maternity leave or pay but may be entitled, at their manager's discretion, to a period of paid compassionate leave, in accordance with their relevant Terms and Conditions.

If an employee is too unwell to attend work following a miscarriage then the normal sickness absence and pay rules will apply.

5.15 Pregnancy loss after 24 weeks (Death of a baby)

In the sad event that a baby dies, the employee will be entitled to their full maternity leave and pay where the baby is born alive but does not survive, or if there is a stillbirth which occurs after the 24th week of pregnancy.

Although this will be a distressing time for the family, in order to obtain maternity leave and pay the employee must ensure they notify their line manager in writing and provide a MATB1 form as soon as possible and pay will commence the day after the birth.

5.16 Terms and Conditions during maternity leave

During both ordinary and additional maternity leave, employees continue to be eligible for their normal benefits and are bound by all the terms and conditions of employment, that would have applied but for their absence, except with regard to remuneration.

5.17 Annual Leave & Bank Holidays

Annual leave entitlement and public holidays will accrue, in accordance with the contract of employment, whilst the employee is on maternity leave.

Consideration of annual leave should form part of planning for an employee's maternity leave.

Prior to commencement of maternity leave

Employees should take any outstanding annual leave due to them before the commencement of maternity leave as it must be taken in the year that it is earned. Therefore if the annual leave year is due to end during maternity leave, the employee should take their full year's entitlement, including public holidays, before starting her maternity leave.

However, employees may request to carry over a maximum of five days (or for part time staff the equivalent of one working week) of their annual leave from one leave year to the next. This is subject to their line manager's agreement on their maternity plan or they can apply to carry over any annual leave in writing during the appropriate leave year otherwise **it will be lost**.

Prior to return to work

Where the employee returns to work following maternity leave, every effort must be made to take any outstanding annual leave before the end of the current annual leave year. The normal maximum carry over of 5 days (pro-rata for part time employees) will usually apply.

However, where the timing of maternity leave prevents an employee from taking their annual leave entitlement (for example, maternity leave starts in April and ends in March), or a request for annual leave cannot be met, the employee will be able to carry over to the next annual leave year the outstanding amount of annual leave. This may also apply where sickness absence prevented an employee from using up their outstanding leave prior to commencement of their maternity leave.

Some annual leave may be converted to parent days (see 5.16 below)

Parent Days

Employees may elect to convert up to five days of their annual leave entitlement, which is accrued on maternity leave, to Parent Days.

The benefit of parent days is that they can be requested at short notice whereas annual leave requires longer notice. In order to apply for Parent Days, employees should discuss and agree this with their line manager at their Maternity Plan Meeting.

The main principles of Parent Days are outlined below:

- a) Parent Days are not an additional entitlement; they can only be taken from annual leave days that are accrued during ordinary maternity leave i.e. first 26 weeks.
- b) Annual leave will only be converted to Parent Days at the request of an employee and the agreement of their line manager. Once they have been converted they cannot be reversed.
- c) A maximum of 5 Parent Days may be reserved by the employee during any period of maternity leave.
- d) Reserved Parent Days must be used within the first 12 months of an employee returning to work.
- e) Parent Days that are not used within the given timescales will be lost, without exception.
- f) Parent Days can be requested in an emergency, but must be agreed by the line manager.
- g) Typically Parent Days may be used to cover routine childhood illnesses, such as colds, coughs, chickenpox etc.

5.18 Annual Increments

Normal arrangements apply in that the employee must receive an appraisal prior to commencing maternity leave.

5.19 Pension Contributions

Employees who are members of the NHS Pension Scheme will continue to make contributions on their pay.

During unpaid maternity leave employee contributions will accrue. When the employee has returned to work, the Payroll department will make contact to agree a suitable period over which the employee can pay the outstanding contributions.

The Trust will continue to make pension contributions for the same period as the employee's contribution whilst on maternity leave.

5.20 Trade Union Subscriptions

If an employee is a member of a Trade Union and her subscription is automatically deducted from her pay this will continue whilst she is on paid maternity leave. These deductions cease when an employee enters a period of unpaid maternity leave. If she subsequently returns to work following a period of unpaid leave the subscription deductions will recommence automatically.

However, the employee should check with their union to see if they are covered during the unpaid period.

5.21 Childcare Vouchers

The Trust will continue to pay for childcare vouchers whilst an employee is on maternity leave if they wish to remain in the scheme. However, employees should be aware that remaining in the scheme will cause a reduction in their maternity pay.

Maternity pay is calculated from the pay being received from the 15th week of pregnancy onwards. The scheme deducts the value of the vouchers from the salary and therefore, the reduced salary at this stage will mean reduced maternity pay later.

Should an employee wish to avoid this happening, they will need to withdraw from the scheme before the 15th week of pregnancy. This can be done by logging on to their online account and by completion of the termination/amendment form. There needs to be a break of six months before the employee is able to re-join the scheme.

Please note that the scheme operates one month in advance with the cut off date being the 24th of the month. For example, if the employee did not want to receive vouchers in their July salary, they would need to cancel their account before the 24th June.

For further information or support, the Family Support Co-ordinator can be contacted on 01702 507113 (or extension 7113)

5.22 Interim Cover Arrangements

Managers must ensure that any cover arrangements for staff on maternity leave are agreed through the Trust's vacancy approval process and have financial agreement.

5.23 KIT Days / Contact and communication whilst on maternity leave

The Trust reserves the right to maintain reasonable contact with the employee during maternity leave. This may be to discuss any arrangements to be made for the return to

work or training to be given to facilitate the return to work or to update the employee on developments at work during his/her absence.

Line managers and employees should agree the frequency and mode of contact for maternity leave during the Maternity Plan Meeting and the employee should confirm what information she wishes to receive. As employees continue to have a right to apply for any secondments or vacancies, they also need to state whether they wish to receive notification of any opportunities that occur whilst they are on leave.

Keeping in touch days (KIT)

Where local circumstances make it appropriate, a manager may offer an employee the opportunity to undertake KIT days up to the maximum of 10 days. Note that attendance at work, regardless of the hours actually worked that day, will equate to one KIT day. The entitlement is not given in hours.

Keeping in touch days enable employees to return to work at the Trust for up to 10 days, whilst they are on maternity leave.

There is no obligation for the Trust to offer KIT days or for employees to accept them.

The actual tasks and/or activities must be mutually agreed in advance. For example, the employee might attend work for a general update, undertake normal working activities associated with their role or attend training.

A KIT day cannot take place during the first two weeks after the birth.

Where a KIT day occurs in the paid maternity period, and the employee attends work for a full day (pro-rata for part-time employees), she will receive the equivalent of her normal pay. This may require a top up payment in addition to maternity pay. Where the employee attends for less than a full day (pro-rata for part time employees) maternity pay will be paid.

Where a KIT day occurs during the unpaid maternity period, the employee will receive a payment for the hours attended, based on the hourly rate of their normal salary.

To facilitate this and subject to availability, the Ladybird Nursery may be able to provide a space for the employee's baby on a KIT day, at a subsidised rate. The Nursery must receive such requests a minimum of 4 weeks in advance of the date of the KIT day. Alternatively, employees may wish to contact the Family Support Co-ordinator for support in finding appropriate childcare.

5.24 Returning to work

Employees receiving occupational maternity or adoption pay

Occupational maternity pay as outlined above in section 5.9 is paid subject to the employee returning to work for the Trust for a minimum period of 3 months after the

end of her maternity or adoption leave. Any leave (e.g. parental leave, annual leave) taken at the end of maternity or adoption leave would not constitute a return to work.

Failure to meet this condition means the employee will be required to repay to the Trust the whole of the maternity or adoption pay received, less any Statutory Maternity or Adoption Pay.

Role on return from work

An employee who returns to work after a period of Ordinary Maternity Leave is entitled to return to the job she occupied immediately before her maternity leave began. If an employee returns to work after a period of Additional Maternity Leave she also retains her right to return to work in her original job, unless it is not reasonably practicable for her employer to permit her to do so - in which case, she has the right to return to another job that is both suitable for her and appropriate for her to do in the circumstances.

Line managers must contact their HR Business Partner at the earliest opportunity in the event that it becomes likely that an employee may not be able to return to their old job following additional maternity leave.

Date of return and notice

A date of return to work will have been agreed on the maternity plan and the employee is expected to return on this date. If she wishes to return earlier than this date she must give her manager at least 8 weeks notice in writing of her date of early return.

Postponement of return

An employee does not have the right to postpone or extend the return to work date beyond her entitlement to maternity leave. However, where an employee is unable to return on the expected day due to sickness or injury, the Trust's normal arrangements for sickness absence will apply.

Late return without prior authorization will be treated as unauthorised absence. If the employee wants to return from leave before the expected date and does not give 8 weeks notice, the Trust has the right to postpone her return to ensure 8 weeks' notice is given, but any postponement will not extend beyond the end of the maternity leave.

5.25 Employee does not wish to Return to Work

If the employee decides not to return to work after maternity leave, she must give notice of her resignation as soon as possible and in accordance with the terms of her contract of employment. If the notice period would expire after maternity leave has ended, the Trust may require the employee to return to work for the remainder of the notice period.

5.26 Failure to return to Work

If an employee has failed to return to work and has not resigned their position, their absence will be considered as unauthorised and any Occupational Maternity Pay received will be considered as an overpayment and will be re-claimed accordingly.

If the employee is unable to attend work at the end of her maternity leave due to sickness or injury, the Trust's normal arrangements for sickness absence will apply including submission of appropriate medical certificates.

5.27 Flexible Working

All employees have the right to request flexible working, provided they have not made an application within the last 12 months.

Further information about flexible working, is contained in the Trust's Flexible Working Policy (PP-8) available on Staff Net.

5.28 Breastfeeding and facilities

New mothers remain protected under Health and Safety legislation after returning from maternity leave within 6 months of the birth and are breastfeeding. A risk assessment should immediately be carried out on return to work to identify and remove any risks to either the employee or their baby's health.

Parents who wish to breastfeed babies that attend the Ladybird Nursery may do so if they arrange this with the nursery management in advance. This is to ensure that an appropriate and comfortable space can be provided to support breastfeeding.

Parents will only be permitted to breastfeed their babies, during their normal break periods. However, managers are reminded that they should consider requests for flexible working arrangements to support breastfeeding women at work.

The Ladybird Nursery provides appropriate storage facility for expressed breast milk for babies who attend the nursery.

5.29 Career Breaks

Employees who become pregnant whilst on a career break are entitled to the same maternity leave and pay provisions as those not on a career break where they meet the eligibility criteria. Further advice can be sought on eligibility from the payroll department.

The commencement of maternity leave will trigger the end of a career break. Individuals who wish to resume a career break following maternity leave will need to re-apply, and the same consideration made as detailed in the policy.

5.30 Other leave associated with maternity

Full details of the following are available on STAFFnet and outlined in:-

- Paternity Leave and Pay Guidance
- Planned Leave Policy – Paternity Leave (appendix 3), Parental Leave (appendix 4), Adoption Leave (appendix 5).
- Local Terms and Conditions - outlines Parental Leave and Adoption Leave

Time off to accompany expectant mothers

The father or partner of an pregnant women has the statutory right to take unpaid time off work to accompany her to up to two of her ante-natal appointments.

Paternity Leave

An employee whose wife, civil partner or partner gives birth to a child, or who is the biological father of the child, is entitled to one or two weeks' Ordinary Paternity Leave, provided that he or she satisfies the eligibility criteria.

Shared Parental Leave (SPL)

Shared Parental Leave has replaced Additional Paternity Leave and Additional Statutory Paternity Pay. This will affect parents of children born or matched for adoption on or after 5 April 2015.

Parental Leave

Not to be confused with the new Shared Parental Leave which is a different entitlement.

Employees (both birth and adoptive parents) may take unpaid Parental Leave in certain circumstances subject to 6 months continuous service with the Trust.

An entitlement of up to 13 weeks' unpaid leave for each child up to the age of 5. Parental Leave may be taken at any time up until the child's 5th birthday or in the case of adoption for 5 years after the child is placed (or until the adopted child's eighteenth birthday if that comes sooner.) For children receiving a disability living allowance, the period for parental leave is extended to the child's 18th birthday.

Please see the Planned leave Policy and Terms and Conditions for full details.

Adoption Leave (from within the UK)

An employee who adopts a child through an approved adoption agency and has primary carer responsibility for the child is entitled to 52 weeks adoption leave. Where a child under the age of 18 years is adopted, adoption leave and pay will be in line with the Trust's maternity leave and pay arrangements as described in the

Maternity Policy PP-12. Eligibility for Occupational Adoption Pay will be subject to 12 months continuous NHS service ending with the week in which the employee is notified of being matched with the child by an adoption agency.

Where a couple are adopting jointly and both work for the Trust one parent must be identified as the primary carer. The primary carer may take adoption leave, although, parental and/or paternity leave may be available to the other.

Adoption from Overseas

Advice on arrangements relating to adoption from overseas should be sought from the HR Department.

Surrogacy

Every pregnant employee has the right to 52 weeks' [maternity leave](#) in accordance with this policy and to return to their job after this. What a birth mother does after the child is born has no impact on her right to maternity leave.

Employees using a surrogate are not entitled to maternity leave.

Adoption Leave may apply (subject to qualifying criteria) if the baby is adopted.

If the employee does not qualify for adoption leave, alternative options to consider are [parental leave](#) or annual leave.

In all cases, advice must be sought from the HR Department.

5.31 Trust Childcare support during pregnancy and on return to work

The Trust offers a range of benefits to parents through Family Support Services. All expectant parents are invited to attend a "Maternity Stork Club Meeting" and these are held on a regular basis. They offer a vast range of support for expectant parents which includes:

- Maternity Planning
- Benefits available
- Finding and paying for childcare (*It is advised that all expectant mothers who would like a place at the Trusts' Ladybird Nursery enrol on the waiting list early to avoid disappointment*)

Employees are strongly encouraged to take advantage of this opportunity as since these group meetings were set up, feedback has been extremely positive and mothers-to-be have found this a supportive network for both before and after the birth of their baby.

To book a place or to find out more information regarding family support available contact the Family Support Co ordinator 01702 507113.

6 Monitoring compliance

| Aspect of compliance or effectiveness being monitored | Monitoring Method | Individual department responsible for the monitoring | Frequency of the monitoring activity | Group/Committee/forum which will receive the findings/monitoring report | Committee/individual responsible for ensuring the actions are completed |
|---|--------------------------|--|--------------------------------------|---|---|
| Review of the effectiveness of this policy | Monitor trends & issues. | HR Operations Team | Bi-Annually | Negotiation & Consultation Group | |

7 Associated Documents

This policy is linked to the following policies and guidance notes:

- Southend University Hospital NHS Foundation Trust Terms and Conditions of Service
- Agenda for Change Terms and Conditions Handbook
- PP03 Equality in Employment
- PP08 Flexible Working Arrangements

8 Equality Impact Assessment

This policy has been the subject of an Equality Impact Assessment. The outcome of the assessment demonstrates that no-one as a consequence of this policy is placed at a disadvantage over others.

Appendix 1 MATERNITY PLAN

This plan must be completed by both the line manager and employee within 28 calendar days of receipt of written notification from the employee of their pregnancy.

A copy is sent to the Payroll Department at Britannia House with the original MATB1.

A copy is given to the employee.

The original plan is kept on the personal file along with a copy of the MATB1.

| | | | |
|--|--|--|------------------------|
| Employee Name: | | Job title: | |
| Department: | | Line Managers Name: | |
| Payroll Number: | Expected week of childbirth: | Local Terms or A4C (delete as appropriate) | |
| LEAVE ENTITLEMENT | | | |
| <p>All employees, regardless of length of service, are entitled to 52 weeks maternity leave and it is assumed that 52 weeks leave will be taken.</p> <p>To return earlier than 52 weeks, the employee must either give notice as follows or a return date can be stated on this plan.</p> <p>To change the return date whilst on maternity leave, 8 weeks notice is required. To change the return date before leave commences, 28 days notice is required.</p> <p>Any change of return date must be confirmed in writing by the manager (see appendix 3).</p> | | | |
| | MATERNITY LEAVE | | DATE |
| 1 | The employee intends to start maternity leave on: <i>(The start date cannot be earlier than 11 weeks before baby is due)</i> | | |
| 2 | The employees wishes to take 52 weeks maternity leave and will return to work on: The employee wishes to return to work earlier than 52 weeks and will return to work on: <i>(There is a 2 week compulsory leave period after the birth)</i> | | |
| <u>3</u> | The exact date on which the employee intends to return to work, after any annual leave is: | | |
| | MATERNITY PAY Where occupational maternity pay applies (see section 5.8) | | |
| <u>4</u> | The employee has stated that she intends to return to work following maternity leave and understands that occupational maternity pay must be repaid if she does not return to work for at least 3 months, excluding any type of leave. (NB: occupational maternity pay cannot be paid unless the employee agrees to this condition) | | <u>YES / NO</u> |

| | | |
|---|--|------------------------|
| <u>5</u> | Does the employee wish for occupational pay to be withheld until return to work? (Option for where an employee is unsure of whether she intends to return to work or not and will be paid following completion of 3 month return) | <u>YES / NO</u> |
| <u>6</u> | Does the employee wish to receive payment which is averaged out across the whole period? (This would provide equal amounts each month for 39 weeks) | <u>YES / NO</u> |
| ANNUAL LEAVE (See section 5.14) | | <u>DAYS</u> |
| <u>7</u> | How much annual leave will the employee have outstanding at the start of their maternity leave? | |
| <u>8</u> | How much annual leave will they accrue whilst on maternity leave based on the start and end dates above? | |
| <u>9</u> | How many days does the employee wish to convert to Parent Days? <i>(Please see section 5.15)</i> | |
| <u>10</u> | How will annual leave be used? <i>(Employees may carry up to a maximum of 5 days annual leave across from one year to the other)</i> | |

| RISK ASSESSMENT | | |
|--|---|-----------|
| Copies of risk assessments should be kept with this plan | | |
| <u>11</u> | Has a risk assessment been carried out for the employee? | YES / NO* |
| <u>12</u> | Date the risk assessment was carried out: Further review dates have been planned for: | |
| <u>13</u> | Is there a need for advice from HR, Occupational Health or the Risk Manager following the results of the risk assessment? Please give details below or attach on separate sheet. | YES / NO |
| TRAINING AND DEVELOPMENT | | |
| <u>14</u> | If an employee is undertaking training and development and this is affected by her maternity leave, please insert any comments here with regard to what impact this will have and how this will be managed. | |

| |
|---|
| MAINTAINING CONTACT WHILST ON LEAVE (See section 5.23) |
| How will contact be maintained with the employee whilst they are on maternity leave and what information will be sent? |
| Does the employee wish to be kept informed of any vacancies or opportunities within their service area? (Trust vacancies can be accessed via the Trust website). YES / NO If so how will information be sent? <i>(Employees have the right to apply for promotions and vacancies whilst on maternity leave as though they were still at work).</i> |
| Does the employee wish to use any keeping in touch days? If yes, please insert details. |
| Does the manager wish to arrange any keeping in touch days? (e.g. can employee attend any statutory/mandatory training prior to return?). If yes, please insert details. |
| CURRENT WORK |
| It may be useful to discuss how current work will be managed during the employee's absence and any handover that will be required. |
| TRUST CHILDCARE SUPPORT |
| Employees are encouraged to attend a "Maternity Stork Club Meeting" so that they can be made aware of the range of benefits offered to parents by the Trust (see section 5.31 above). This was discussed and the employee is aware of how to book a place. YES / NO |

Employee's Signature.....Date

Line Manager's SignatureDate.....

Appendix 2 - PREGNANCY RISK ASSESSMENT FORM

When notified that an employee is pregnant, this form should be completed as soon as possible (normally within seven days). A copy is kept on the employee's personal file.

This assessment should be reviewed as the pregnancy progresses taking into account aspects of pregnancy that may affect work. Anyone working beyond 36 weeks pregnancy should be routinely reviewed.

There is a requirement to take particular account of risks to anyone who has given birth in the previous six months or who is breastfeeding. Therefore, if these circumstances apply when an employee returns to work, the risk assessment must continue to be reviewed.

Employee Name: _____

Job Title: _____

Ward/Section/Department: _____

Date(s) of assessment(s) _____

Reviews should take into account aspects of pregnancy that may affect work as follows:-

| ASPECTS OF PREGNANCY | POSSIBLE FACTORS IN WORK |
|-------------------------------|--|
| "Morning" sickness, headaches | Early shift work, exposure to nauseating smells |
| Backache | Standing/Manual Handling/Posture |
| Varicose veins/ Haemorrhoids | Standing/Sitting/ Working in hot conditions |
| Frequent visits to the toilet | Difficulty in leaving job site/place of work |
| Increasing size | Use of protective clothing/work in confined spaces/manual handling |
| Tiredness | Long shifts/evening work |
| Balance | Problems of working on slippery, wet surfaces |
| Comfort | Problems of working in tightly-fitting work uniforms |

The following are known risks; are any of these conditions present in the employee's current post? If 'yes' state the precise nature of the risk for each.

Where uncertainty exists as to what may constitute a risk contact the Health & Safety Adviser or the Occupational Health Department

| Hazard | Risk to employee? Yes/No | Action What is being done to control this risk? | Action By whom? | Action By when? | Done (add date) |
|---------------------------|-----------------------------|--|--------------------|--------------------|--------------------|
| PHYSICAL | | | | | |
| Shocks / Vibration | | | | | |
| Manual handling / Lifting | | | | | |
| Movements & postures | | | | | |
| Excessive Noise | | | | | |

| | | | | | |
|---------------------------------------|--|--|--|--|--|
| Ionising and non-ionising Radiation | | | | | |
| Extremes of temperature | | | | | |
| Pressurised enclosures | | | | | |
| Other (please specify below) | | | | | |
| | | | | | |
| WORKING CONDITIONS | | | | | |
| Shift work/Night work | | | | | |
| Mental & Physical fatigue | | | | | |
| Long working hours | | | | | |
| Working alone | | | | | |
| Working at heights | | | | | |
| Travelling | | | | | |
| Exposure to violence | | | | | |
| Wearing Protective Clothing/equipment | | | | | |
| Nutrition | | | | | |
| Facilities (including rest rooms) | | | | | |
| Other (please specify below) | | | | | |
| | | | | | |
| BIOLOGICAL AGENTS | | | | | |
| Infectious diseases | | | | | |
| Other (please specify below) | | | | | |
| | | | | | |
| CHEMICAL AGENTS | | | | | |
| Toxic chemicals | | | | | |
| Heavy metals | | | | | |
| Antimitotic drugs | | | | | |

| | | | | | |
|--|--|--|--|--|--|
| Pesticides | | | | | |
| Carbon monoxide | | | | | |
| Other (please specify below) | | | | | |
| | | | | | |
| HARMFUL SUBSTANCES not listed above | | | | | |
| | | | | | |
| ANY OTHER CONDITIONS NOT LISTED ABOVE | | | | | |
| | | | | | |

Do the above actions eliminate all risks or reduce them to an acceptable level? YES / NO

If 'No' seek advice from the HR Operations Team in order that further actions can be considered which may include alternative employment.

Where the actions involve modifying working practices, seek Occupational Health confirmation that the revised duties are 'risk free'.

Date(s) to review actions and any changes:

Comments:

Section 2

DECLARATION BY MANAGER

I confirm that, in conjunction with (insert employee's name)....., an assessment of risks which may potentially arise during the course of her carrying out her duties has been undertaken. Where appropriate, action to eliminate risk or reduce it to an acceptable level has been agreed and actioned. Where risk cannot be eliminated or reduced to an acceptable level, the case has been referred to the appropriate HR Business Partner.

Signed:_____Name:_____

Position:_____Date:_____

DECLARATION BY EMPLOYEE

I confirm that I have participated in the assessment of risk facing me during my period of pregnancy and agree to the actions being taken to reduce risks. I also confirm that if circumstances change, whether personal or work environment, after this assessment I will notify my manager immediately.

Signed:_____Name:_____

Position:_____Date:_____

TEMPLATE LETTERS

Appendix 3a) –Invite to maternity plan meeting

PRIVATE & CONFIDENTIAL

Name
Address

Date

Dear Name

RE: MATERNITY PLAN MEETING

I write further to our recent discussion when you informed me that you were pregnant. I am writing to confirm that I have arranged a meeting to take place on (insert date xxxx), at (insert time xxx) at (insert location xxx):

The meeting will provide us with an opportunity to talk through your intentions regarding maternity leave in more detail and form a maternity plan.

Please ensure that you read the Trust's Maternity Policy, which, provides information regarding entitlement and options available for maternity leave and pay. The policy is available on staffnet and the maternity plan template is attached as appendix 1.

May I take this opportunity to wish you well with your pregnancy and I look forward to meeting with you soon.

Yours sincerely,

Name
Position

Appendix 3b) – Change of leave start date

PRIVATE & CONFIDENTIAL

Name
Address

Date

Dear Name

RE: CHANGE OF MATERNITY LEAVE START DATE

Further to your request to change your maternity leave start date from that originally agreed in your Maternity Plan I am writing to confirm that your maternity leave will start on (insert date) and your maternity leave will end on (insert date).

Please keep this letter with your copy of the Maternity Plan for future reference.

I have informed payroll so that the appropriate adjustments can be made.

Yours sincerely,

Name
Position

Appendix 3c) – Change of return to work date before leave commences

PRIVATE & CONFIDENTIAL

Name
Address

Date

Dear Name

RE: CHANGE OF RETURN TO WORK DATE BEFORE LEAVE COMMENCES

I write to confirm receipt of your letter which states that you wish to change your return to work date from that originally agreed in your Maternity Plan.

Your maternity leave commences on (insert date) and the revised date for your return to work is (insert revised return date). I have informed payroll so that the appropriate adjustments can be made.

Please keep this letter with your copy of the Maternity Plan for future reference.

Yours sincerely,

Name
Position

Appendix 3d) – Change of return to work date during maternity leave

PRIVATE & CONFIDENTIAL

Name
Address

Date

Dear Name

RE: CHANGE OF RETURN TO WORK DATE DURING MATERNITY LEAVE

I write to confirm receipt of your letter which states that you wish to change your return to work date from that originally agreed in your Maternity Plan. You should be aware that any revised date cannot exceed the 52 week entitlement to maternity leave.

- a) I can confirm that you have provided the required 8 weeks notice as per the Maternity Policy therefore your return to work date will now be **(insert new date)**. I will notify payroll so that the appropriate adjustments can be made.

OR

- b) The stipulated notice period to change your return to work date is eight weeks in accordance with the Maternity Policy. However, although you have not given the required notice, I am able to meet your request and therefore your return to work date will be **(insert new date)**. I will notify payroll so that the appropriate adjustments can be made.

OR

- c) The stipulated notice period to change your return to work date is eight weeks in accordance with the Maternity Policy. I am unable to meet your request due to you having failed to provide the required notice. However, I am able to make arrangements for you to return to work on **(insert new date)** and so I would be grateful if you could write to me to confirm whether or not this proposed date is acceptable.

Please keep this letter with your copy of the Maternity Plan for future reference.

Should you wish to discuss anything further please do not hesitate to contact me otherwise, I look forward to seeing you on your return.

Yours sincerely,

Name
Position