

Family Friendly Policies

Section b – Maternity leave policy and procedure

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1.0 Introduction

The term “family friendly” is used to describe working practices that acknowledge and aim to support the needs of staff in achieving a home and work life balance. NHS Lewisham CCG strives to make working for staff with, or starting a family, as easy as possible. To this end we have a number of policies for family situations:

- Adoption leave – section a
- Maternity leave – section b
- Parental leave – section c
- Shared parental leave – section d
- Paternity leave – section e

The policies have been reviewed in consideration of the:

- Employment Rights Act 1996, as amended by the Employment Relations Act 1999
- Employment Act 2002;
- Maternity and Parental Leave Regulations 1999 and the Maternity and Parental Leave (Amendment) Regulations 2002;
- Children and Adoption Act 2006;
- Work and Families Act 2006;
- Equality Act 2010;
- Additional Paternity Leave Regulations 2010;
- Children and Families Act 2014;
- Paternity and Adoption Leave (Amendment) Regulations 2014
- Agenda for Change Handbook - Sections 15 and 35

The Maternity Leave policy is intended to promote an employees’ awareness of their rights and entitlements during, and following pregnancy and conforms to current legislation.

2.0 Scope

The maternity leave policy and procedure applies to employees of NHS Lewisham CCG who are expecting a child, regardless of their length of service and entitlement to statutory adoption benefits.

3.0 Definitions

MATB1	Maternity certificate (<i>available from the midwife</i>)
MA1	Maternity allowance claim form (<i>available from Jobcentre Plus</i>)
EWC	Expected week of childbirth
SMP:	Statutory Maternity Pay
OML:	Ordinary Maternity Leave
OMP	(NHS) Occupational Maternity Pay
AML	Additional Maternity Leave

4.0 Principles

4.1 Entitlement to Maternity Leave

All employees will be entitled to 52 weeks Maternity Leave.

4.2 Entitlement to Occupational Maternity Pay (OMP) under the NHS Scheme

- An employee working full or part-time is entitled to Maternity pay under the NHS scheme provided that she:
- has 12 months continuous service with one or more NHS employer and continues to be employed by the CCG until at least the beginning of the 11th week before the expected week of childbirth (EWC);
- notifies the CCG at least 15 weeks before her expected date of childbirth (EDC) that she intends to take maternity leave (or as soon as is reasonably practicable thereafter), of the date she wishes to start her maternity leave and intends to return to work for a minimum period of three months with the CCG or another NHS employer;
- submits a statement (MAT B1) signed by a registered medical practitioner or a practising midwife at least 28 days before commencement of maternity leave, indicating the expected date of childbirth.

4.2.1 Entitlements under the Scheme

An employee who **qualifies for full benefits and intends to return to work with the CCG or another NHS Employer** will be entitled to 52 weeks maternity leave, paid as follows:-

- 8 weeks at full pay including any Statutory Maternity Pay (SMP), Maternity Allowance (MA) or equivalent benefits receivable;
- 18 weeks at half pay reduced only where half pay plus any SMP, Maternity Allowance (MA) or equivalent benefits payable exceeds full pay;
- 13 weeks at SMP, if payable;
- 13 weeks unpaid leave

4.2.2 An employee who **qualifies for full benefits and does not intend to return to work** for the same or another employing NHS Organisation will be entitled to 52 weeks maternity leave, paid as follows:

- 6 weeks SMP, paid as 90% of full pay (average weekly earnings);
- 33 weeks paid at the lesser of standard rate SMP or 90% of average weekly earnings, if payable;
- 13 weeks unpaid leave.

4.3 26 weeks service but less than one years' service

An employee who does not qualify for full benefits under the NHS Scheme but who has at least 26 weeks service by the 15th week before the EWC and meets the earnings rule whether or not she intends to return to work will be entitled to 52 weeks maternity leave, paid as follows:

- 6 weeks at 90% of full pay;
- 33 weeks at the lesser of standard rate SMP or 90% of average weekly earnings;
- 13 weeks unpaid leave

4.4 Less than 26 weeks service

An employee who does not qualify for SMP, whether or not she intends to return to work, will be entitled to 52 weeks maternity leave. No payments will be made during the maternity leave period although Maternity Allowance or other benefits may be payable directly from Jobcentre Plus.

By prior agreement with the employer, occupational maternity pay may be paid in a different way, e.g. a combination of full pay and half pay or a fixed amount spread equally over the maternity leave period.

- 4.4.1 In exceptional circumstances, for example in the case of a multiple birth or sick pre-term babies, the unpaid element of leave may be extended beyond 13 weeks. Requests for this should be submitted in writing to the employee's line manager who may seek advice from the HR Department.

4.5 Maternity Leave

Maternity leave may commence at any time between eleven weeks before the EWC and the expected week of childbirth, provided the required notice is given. Early childbirth and maternity related sickness absence will affect this as follows:

- 4.5.1 Early Childbirth - Where childbirth occurs before the 11th week before the EWC and the employee has worked during the actual week of childbirth, maternity leave will start on the first day of the employee's absence.
- 4.5.2 Where childbirth occurs before the 11th week before the EWC and the employee has been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start the day after the day of birth.
- 4.5.3 Where an employee's baby is born before the 11th week before the EWC, and the baby is in hospital, she may split her maternity leave entitlement, taking a minimum period of two weeks' leave immediately following the birth and the rest of her leave following the baby's discharge from hospital.
- 4.5.4 Where an employee has a miscarriage before the 25th week of pregnancy then normal sick leave provisions will apply.
- 4.5.5 In the event of a still birth after the 24th week of pregnancy the employee will be entitled to the same amount of maternity leave and pay as if her baby was born alive. The CCG recognises that this will be a difficult and traumatic time and will support the employee as appropriate.

4.6 Sickness Absence

- 4.6.1 Where an employee is off work ill, or becomes ill, with a pregnancy related illness during the last four weeks before the EWC, maternity leave will normally commence at the beginning of the fourth week before the expected week of childbirth or the beginning of the next week after the employee last worked, whichever is the later. Absence prior to the last four weeks before the EWC, supported by a medical certificate or self-certificate will be treated as sick leave in accordance with normal leave provisions. Normal sick leave provisions will be suspended once maternity leave has commenced.
- 4.6.2 Odd days of pregnancy related illness during the period may be disregarded if the employee wishes to continue working until the maternity leave start date previously agreed.
- 4.6.3 Where an employee is absent due to illness which is not pregnancy related then normal sick leave provisions will apply until the date previously agreed that maternity leave would commence.

4.7 Ante-natal and Post-natal Care

- 4.7.1 Pregnant employees have the right to reasonable paid time off for ante-natal care including relaxation and parent craft classes.

- 4.7.2 Employees who return to work shortly after giving birth will be given paid time off for post-natal care e.g. attendance at health clinics.

4.8 Calculation of Pay

Maternity pay is calculated on average earnings paid for two months prior to the qualifying week which is the 15th week before the EWC. Employees with average weekly earnings below the lower earnings limit who do not qualify for SMP may be entitled to MA or other benefits.

4.8.1 Implementation of a Pay Award or Annual Increment

Absence on maternity leave, whether paid or unpaid, counts as service towards the normal annual increment.

- 4.8.2 Where a pay award and/or annual increment are implemented from a date prior to the paid maternity leave period, the maternity pay will be calculated as though the pay award had effect throughout the entire SMP calculation period. If a pay award is agreed retrospectively, the maternity pay will be recalculated on the same basis

- 4.8.3 Where a pay award and/or annual increment is implemented from a date during the paid maternity leave period, the maternity pay due from the operative date of the pay award or annual increment should be increased accordingly. Again, if such a pay award were agreed retrospectively, the maternity pay should be recalculated on the same basis.

4.9 Employees on a Fixed-Term or Training Contract

An employee who is entitled to full benefits under the NHS Scheme, i.e. who satisfies the conditions under section 4.1 and whose contract is due to end after the 11th week before the EWC, will have her contract extended to enable her to receive 52 weeks maternity leave which includes paid occupational and statutory maternity pay and the remaining 13 weeks of unpaid leave.

Under these circumstances, there will be no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred. Employees who do not satisfy the conditions under section 4.1 and whose contract ends after the 15th week prior to the EWC but before the 11th week prior to the EWC, will not be entitled to maternity leave but SMP may be payable. In this case, the contract will not be extended but the CCG will be responsible for paying any SMP due. Under these circumstances, the employee must inform the CCG if she starts work for another employer following the birth of the baby and must still provide evidence of pregnancy via the MAT B1 form.

5.0 Contractual Rights

- 5.1 An employee retains all her contractual rights, except remuneration, during the maternity leave period.

- 5.2 Annual leave will continue to accrue during maternity leave, whether paid or unpaid.

- 5.2.1 Where the amount of accrued leave would exceed the normal carry over provisions, the manager and employee should agree arrangements for the leave to be taken either prior to or immediately following the maternity leave period.

- 5.2.2 In exceptional circumstances, where leave cannot be carried over for operational reasons, payment in lieu of annual leave may be considered.

- 5.2.3 All maternity leave, including unpaid maternity leave, will count as service for the purpose of satisfying the service qualification for accruing additional annual leave entitlements.

- 5.2.4 Bank Holiday leave is not accrued whilst on paid or unpaid maternity leave.

- 5.3 Paternity Leave - The partner of the new mother may be entitled to paternity leave and pay (please refer to the Paternity Leave Policy and Procedure)

5.4 Pension Contributions

Contributions will be deducted from salary as normal during paid maternity leave and continue to be payable during unpaid leave. On return to work, arrears of contributions will be recovered and deducted from salary over an agreed period of time.

5.5 Pay Progression Framework

The expectation is that an employee on maternity leave will progress through a pay progression gateway on the due date if concerns have not been raised about the employee's capability prior to maternity leave commencing.

6.0 Procedure

6.1 Claiming Maternity Leave and Pay

Maternity leave can start on any day of the week. Any annual leave to be taken before the commencement of maternity leave should be taken into account.

6.1.1 On receipt of form MAT B1 from a registered medical practitioner or a practising midwife, the original should be sent to Human Resources, with a copy to your manager, at least 28 days before the commencement of leave. Payroll can then determine whether the employee qualifies for SMP. If the employee does not qualify for SMP, they will be sent form SMP1 together with the Maternity Certificate MAT B1. These forms will be needed to claim Maternity Allowance from Jobcentre Plus.

6.1.2 The employee will receive written confirmation within 28 days of:

- their maternity entitlements, both paid and unpaid
- her expected return date based on 52 weeks paid and unpaid leave unless an earlier return date has been given
- details of any accrued annual leave that is to be taken at the end of the maternity leave period
- the need for her to give at least 28 days' notice if she wishes to return to work before the expected return date.

6.1.3 If the employee subsequently decides that she wishes to change the start date of her maternity leave she must notify her manager at least 28 days beforehand or where this is not possible as soon as is reasonably practicable.

6.2 Return to Work

6.2.1 If the employee wishes to take her full entitlement to maternity leave she need not give any further notification of her return to work. The employee has the right to return to her original role or suitable alternative on no less favourable terms and conditions.

6.2.1 If the employee wishes to return to work before the end of her full entitlement to leave, she must give at least 28 days' notice of her date of return.

6.2.2 An employee has the right to apply to return to work on a part-time or flexible working basis. Applications should be made to the employee's manager. (refer to the flexible working policy).

6.3 Contact during Maternity Leave

6.3.1 Reasonable contact between an appropriate colleague and the employee on maternity leave is encouraged to facilitate communication. Either party may initiate this contact.

6.3.2 Under the Maternity and Parental Leave etc, Regulations 1999, the employee and their managers can agree to up to 10 'Keeping in Touch' (KIT) days during a period of maternity leave, without bringing the maternity leave to an end. The employee may attend work, undertake training or keep in touch with work developments through other means. KIT days can be agreed either before the maternity leave, or at any point during the leave period.

6.4.3 KIT days will be paid at the employee's flat rate of pay, in arrears. They must be recorded and authorised (appendix a) and once all the days have been used or at the end of maternity leave, the form should be signed by the member of staff, authorised by their manager and then forwarded to the Payroll Department.

6.4 Sickness following the end of Maternity Leave

Where an employee is unable to return to work following the date she was due to return as a result of illness, normal sick leave provisions will apply.

6.5 Failure to Return to Work

An employee who has notified the CCG of her intention to return to work for a minimum of three months for the CCG or another NHS employer, and fails to do so within 15 months of the beginning of her maternity leave will be liable to refund the whole of her maternity pay, less any Statutory Maternity Pay received.

7.0 Health and Safety

Where an employee is pregnant, has recently given birth or is breastfeeding, then a risk assessment of her working conditions will be carried out. If it is found, or if a medical practitioner considers, that an employee or her child would be at risk were she to continue with her normal duties, she will be provided with suitable alternative work for which she will receive her normal rate of pay. Where it is not reasonably practicable to offer suitable alternative work, the employee will be suspended on full pay. These provisions also apply to an employee who is breastfeeding if it is found that her normal duties would prevent her from successfully breastfeeding.

8.0 Compulsory Period of Maternity Leave

The legal minimum period of maternity leave which an employee is required to take is two weeks. This will commence on the day that the baby is born.

9.0 Equality Statement

We are committed to a policy of equality in all our employment practices in accordance with the Equality Act 2010 and Human Rights Act 1998 which consolidates existing equality legislation relating to the protected characteristics and strive to eliminate unfair discrimination, harassment, bullying and victimisation. NHS Lewisham CCG will not unlawfully, unfairly or unreasonably discriminate or treat individuals less favourably on the grounds of age, disability, gender reassignment, marriage & civil partnerships, pregnancy & maternity, race, religion or belief, sex and sexual orientation.

Appendix a – Keeping in Touch (KIT) days record form

Employee Name:		Contact no.	
Department:		Payroll Number:	
Contracted hours per week:		Worked over:	days
Date started maternity leave:		Date ending maternity leave:	

You are allowed a maximum of 10 KIT days where you may come into work without affecting your maternity pay and leave. If you do exceed 10 KIT days your pay and leave will end automatically.

	Date worked	Employee Signature	Date	Manager Signature	Date
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

Manager:		Signature:		Date:	
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Appendix b - Equality & Equity Impact Assessment

This is a checklist to ensure relevant equality and equity aspects of proposals have been addressed either in the main body of the document or in a separate equality & equity impact assessment (EEIA)/ equality analysis. It is not a substitute for an EEIA which is required unless it can be shown that a proposal has no capacity to influence equality. The checklist is to enable the policy lead and the relevant committee to see whether an EEIA is required and to give assurance that the proposals will be legal, fair and equitable.

The word proposal is a generic term for any policy, procedure or strategy that requires assessment.

	Challenge questions	Yes/No	What positive or negative impact do you assess there may be?
1.	Does the proposal affect one group more or less favourably than another on the basis of:		
	<ul style="list-style-type: none"> • Race 		
	<ul style="list-style-type: none"> • Pregnancy and Maternity 		
	<ul style="list-style-type: none"> • Sex 		
	<ul style="list-style-type: none"> • Gender and Gender Re-Assignment 		
	<ul style="list-style-type: none"> • Marriage or Civil Partnership 		
	<ul style="list-style-type: none"> • Religion or belief 		
	<ul style="list-style-type: none"> • Sexual orientation (including lesbian, gay bisexual and transgender people) 		
	<ul style="list-style-type: none"> • Age 		
	<ul style="list-style-type: none"> • Disability (including learning disabilities, physical disability, sensory impairment and mental health problems) 		
2.	Will the proposal have an impact on lifestyle? (e.g. diet and nutrition, exercise, physical activity, substance use, risk taking behaviour, education and learning)		
3.	Will the proposal have an impact on social environment? (e.g. social status, employment (whether paid or not), social/family support, stress, income)		
4.	Will the proposal have an impact on physical environment? (e.g. living conditions, working conditions, pollution or climate change, accidental injury, public safety, transmission of infectious disease)		

5.	<p>Will the proposal affect access to or experience of services? (e.g. Health Care, Transport, Social Services, Housing Services, Education)</p>		
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By using evidence and insight to assess and grade our equality performance, NHS Lewisham CCG can generate much of the information we will require to demonstrate compliance with the PSED. The checklist is to enable the policy lead and the relevant committee to see if a particular policy or project will provide the relevant evidence to assist NHS Lewisham CCG meet the set out EDS goals to achieve better outcomes for patients and staff. Please assess your policy, project or service against the following: