

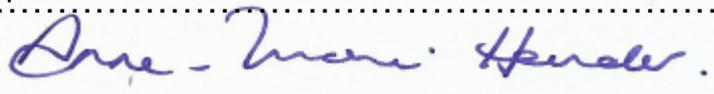


Stafford & Surrounds Clinical Commissioning Group

MATERNITY POLICY

Agreed at Governing Body

Date: 01 April 2015

Signature: 

Designation: Chair Stafford & Surrounds CCG

Review Date: 31 March 2016

MATERNITY POLICY

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1.0 **PURPOSE**

- 1.1 This policy is designed to provide a framework across the Organisation for a consistent and timely approach to the new and expectant mother.
- 1.2 This policy is intended to promote an employee's awareness of their rights and entitlements during, and following pregnancy and conforms to NHS Terms and Conditions of Service, the Employment Act 2002, and current legislation.

2.0 **PRINCIPLES**

- 2.1 Training and support will be provided to all line managers in the implementation and application of this policy

Entitlement to Maternity Leave

- 2.2 All employees will be entitled to 52 weeks Maternity leave.

Entitlement to Occupational Maternity Pay under the NHS Scheme

- 2.3 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 employers and continues to be employed by the Organisation until at least the beginning of the 11th week before the expected week of childbirth (EWC); and
 - notifies the Organisation, on form M1 (see attached) 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 same or another NHS employer; and
 - 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.

Entitlements under the Scheme

- 2.4 An employee who **qualifies for full benefits and intends to return to work with the same or another employing authority** 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.

- 2.5** An employee who **qualifies for full benefits and does not intend to return to work for the same or another employing authority** 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 at the lesser of standard rate SMP or 90% of average weekly earnings;
 - 13 weeks unpaid leave.
- 2.6** 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.
- 2.7** 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.
- 2.8** 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.
- 2.9** 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.

Timing of Leave

- 2.10** 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:

Early Childbirth

- 2.11** 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.
- 2.12** 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.

- 2.13** 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.
- 2.14** Where an employee has a miscarriage before the 25th week of pregnancy then normal sick leave provisions will apply.
- 2.15** 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.
- 2.16** The Organisation recognises that this will be a difficult and traumatic time and would encourage the use of the occupational health service.

Sickness Absence during Pregnancy and Leave

- 2.17** 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.
- 2.18** 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.
- 2.19** 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.

Other Provisions

Ante-natal and Post-natal Care

- 2.20** Pregnant employees have the right to reasonable paid time off for ante-natal care including relaxation and parent craft classes.
- 2.21** 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.
- 2.22** As of the 1st October 2014, an expectant father or the partner of a pregnant woman will be entitled to take time off work to accompany the woman to antenatal appointments. The Government's stated aim is to achieve greater involvement of both of the child's parents from the earliest stages of pregnancy.

Employees will be entitled to unpaid leave to attend up to 2 appointments with the maximum time capped at 6.5 hours each.

The CCG is not entitled to ask for evidence of an appointment, such as a hospital appointment card, as this is the property of the expectant mother attending the appointment. However, the CCG is entitled to ask that a written "declaration" stating

the date and time of the appointment and the nature of the relationship between the individual and the expectant mother or child. The employee can also be asked to confirm that the appointment has been made on the recommendation of a medical professional (such as a doctor, midwife or nurse).

There is no qualifying period for employees, however, an employee who has a “qualifying relationship” with the pregnant woman or her expectant child will be entitled to time off. An employee 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. Special rules apply to individuals involved in surrogacy arrangements.

Agency workers have the same rights as employees to time off, as long as they satisfy certain criteria. Essentially, the agency worker must have worked for 12 weeks for the same hirer with no breaks between or during assignments. It is important to note that the new legislation creates a right to ‘accompany’ the pregnant woman, not a right to actually attend the appointment. The pregnant woman may always decline to be accompanied.

An employee who is unreasonably denied time off can complain to an Employment Tribunal within a three month period. If the Tribunal upholds the complaint it must make a declaration and award twice the hourly rate of pay for each of the hours the employee would have taken off if the right had been respected.

Employees are also protected from any other detriment for seeking to exercise their right to time off. For example, it would be unlawful to deny an employee a promotion or training opportunity simply because he or she had sought to take time off.

Calculation of Pay

- 2.23** 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.

Implementation of a Pay Award or Annual Increment

- 2.24** Absence on Maternity Leave, whether paid or unpaid, counts as service towards the normal annual increment.
- 2.25** 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
- 2.26** 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.

Employees on a Fixed-Term or Training Contract

- 2.27** An employee who is entitled to full benefits under the NHS Scheme, i.e. who satisfies the conditions under section 2.1 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 2.1 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 Organisation will be responsible for paying any SMP due. Under these circumstances, the employee must inform the Organisation 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.

Contractual Rights

- 2.28** An employee retains all her contractual rights, except remuneration, during the Maternity Leave period.

Annual Leave

- 2.29** Annual leave will continue to accrue during maternity leave, whether paid or unpaid.
- 2.30** 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.
- 2.31** In exceptional circumstances, where leave cannot be carried over for operational reasons, payment in lieu of annual leave may be considered.
- 2.32** 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.
- 2.33** Bank Holiday leave is not accrued whilst on paid or unpaid maternity leave.

Paternity Leave

- 2.34** The partner of the new mother may be entitled to paternity leave and pay (please refer to the Special Leave Policy and Procedure)
- 2.35** From 1st December 2014, For parents of children born or matched for adoption on or after the 5th April 2015 they will be able to choose how they share the care of their child during the first year after birth. Mothers will still take at least the initial two weeks following the birth, following that they can choose to end the maternity leave and the parents can opt to share the remaining leave as flexible parental leave.

Parents, wanting to apply for shared leave need to give 8 weeks' notice of intention, and fill out a form available from HR or their line manager. To be eligible to apply for

shared leave the expectant pregnant woman needs to have a minimum proportion of shared paid leave. If an employee wishes to apply for shared leave they should inform their line manager, who will then seek HR guidance

Pension

- 2.36** 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.

Pay Progression Framework

- 2.37** 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.

3.0 EQUALITY

- 3.1** In applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

4.0 MONITORING & REVIEW

- 4.1** The policy and procedure will be reviewed periodically by Human Resources in conjunction with operational managers and Trade Union representatives. Where review is necessary due to legislative change, this will happen immediately.

PART 2

1.0 PROCEDURE

How to claim maternity leave and pay

- 1.1** Form M1 should be completed no later than the end of the 15th week before the EWC and signed by the employee and their Line Manager or equivalent. The original form should be sent to Shared Business Services with a copy placed on the personnel file.
- 1.2** 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.
- 1.3** On receipt of form MAT B1 from a registered medical practitioner or a practising midwife, the original should be sent to Corporate Finance, with a copy to Human Resources, 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.

- 1.4 The employee will receive written confirmation within 28 days of receipt of Form M1 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. Form M2 to be included with the letter.

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

Return to Work

- 1.6 If the employee wishes to take her full entitlement to Maternity Leave she need not give any further notification of her return to work. An employee has the right to return to her job under her original contract and on no less favourable terms and conditions.

- 1.7 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. Form M2 will be included with the letter for use in these circumstances.

- 1.8 An employee has the right to apply to return to work on a part-time or flexible working basis. Applications should be made to their Line Manager and will be given fair and objective consideration.

1.9 Shared Parental Leave

For parents of children born or matched for adoption on or after the 5th April 2015 they will be able to choose how they share the care of their child during the first year after birth. Mothers will still take at least the initial two week following the birth, following that they can choose to end the maternity leave and the parents can opt to share the remaining leave as flexible parental leave.

Parents, wanting to apply for shared leave need to give 8 weeks' notice of intention, and fill out a form available from HR or their line manager. To be eligible to apply for shared leave the expectant pregnant woman needs to have a minimum proportion of shared paid leave. If an employee wishes to apply for shared leave they should inform their line manager, who will then seek HR guidance.

Sickness following the end of maternity leave

- 2.0 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.

Failure to return to work

- 2.10** An employee who has notified the Organisation of her intention to return to work for a minimum of three months for the same 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.
- 2.11** In cases where the Organisation considers that to enforce this provision would cause undue hardship or distress, the organisation has the discretion to waive the right of recovery,

3.0 HEALTH AND SAFETY

- 3.1** 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.
- 3.2** These provisions also apply to an employee who is breastfeeding if it is found that her normal duties would prevent her from successfully breastfeeding.

4.0 COMPULSORY PERIOD OF MATERNITY LEAVE

- 4.1** The legal minimum period of maternity leave which an employee is required to take is 2 weeks. This will commence on the day that the baby is born.

5.0 CHILDCARE VOUCHER SCHEME

- 5.1** Information on the childcare voucher scheme and provisions available locally can be obtained from the HR Team.

6.0 KEEPING IN TOUCH

- 6.1** Before going on maternity leave employees should discuss and agree with their Line Manager any voluntary arrangements for keeping in touch during their leave. It should be noted that staff absent on maternity leave should receive details of vacancies and other pertinent business information; this is normally done via the post to the employee's home address.
- 6.2** Keeping in Touch (KIT) days allow employees to do a limited amount of work under their contract during the Maternity Pay Period without loss of SMP for the week. They are intended to facilitate a smooth return to work for women returning from maternity leave and can include training or other activities which enable the employee to keep in touch with the workplace.
- 6.3** An employee may work a maximum of 10 KIT days without bringing her maternity leave to an end. Any days of work will not extend the maternity period.
- 6.4** An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of her baby.
- 6.5** Working for part of any day will count as a whole KIT day.

- 6.6** The employee will be paid at their basic daily rate for the hours worked less appropriate maternity leave payment for KIT days worked
- 6.7** Any work must be by agreement and neither the employer nor the employee can insist upon it.
- 6.8** Employees who are breastfeeding will be risk assessed and facilities will be provided to support this, wherever possible, in accordance with Section 6.2
- 6.9** In certain circumstances, the Organisation may consider the reimbursement of reasonable childcare costs in order to enable the employee to take up the opportunity to work KIT days.
- 7.0** **PROVISION FOR NURSING MOTHERS**
- 7.1** If you are a nursing mother returning to work, please inform your Line Manager as soon as possible so they are able to make the necessary arrangements.
- 7.2** An employee who is breastfeeding will be given suitable access to a private room to express and store milk in a refrigerator.
- 7.3** Requests for flexible working arrangements to support breastfeeding mothers at work will be considered in line with the Flexible Working Policy of the CCG.

APPENDIX 1- FORM M1

APPLICATION FOR MATERNITY LEAVE AND PAY

Please complete this form and forward it to you manager 15 weeks before the expected date of childbirth (or if this not possible as soon as reasonably practicable).

Please attach your MAT B1 Certificate of Confinement

Name	
Employee Number	
Job Title	
Name of CCG	
Department	
FOR COMPLETION BY THE MANAGER	
Name	
Job Title	
Signature	
Date	

FOR PAYROLL USE	
Notification week	
Maternity period commences	
Maternity pay period ceases	
Earliest date of return to duty	
Must return under EPA	

FORM M1 –continued

OPTION A – RETURNING TO WORK FOLLOWING CONFINEMENT

If you have more than 12 months service; complete this section

I wish to claim NHS contractual maternity leave and pay

I will begin my maternity leave on _____(Date)

My anticipated date of return is _____(Date)

If I wish to change the date that I will begin my maternity leave, I undertake to give my manager 28 days' notice of such.

If I wish to return earlier, I undertake to give my manager 8 weeks' notice of such.

I confirm that it is my intention to return to work with an NHS Employer within 52 weeks of the commencement of my maternity leave and will remain in that employment for at least 3 months. I understand that in the event of failure to return to duty as stated above, the CCG will reclaim all maternity payments received other than Statutory Maternity Payments due.

If you have less than 12 months service complete this section

I wish to claim statutory maternity leave and pay.

I will begin my maternity leave on _____(Date)

My anticipated date of return is _____(Date)

If I wish to change the date that I will begin my maternity leave, I undertake to give my manager 28 days' notice of such.

If I wish to return earlier, I undertake to give my manager 8 weeks' notice of such.

Signature

Date

FORM M1 –continued

OPTION B – RESIGNING AND CLAIMING STATUTORY MATERNITY PAY

I wish to terminate my employment with the CCG due to pregnancy and claim any Statutory Maternity Pay which may be due to me. I do not intend to return to work and my last working day will be: _____ (Date)

Signature

Date

OPTION C – DEFERRING THE DECISION TO RETURN

I am unsure about returning to work within 52 weeks of the commencement of my maternity leave and wish to apply for Statutory Maternity Leave and Pay on this basis. I understand that if I decide to return to work, I will receive the outstanding NHS contractual maternity pay that may be due to me following my completion of 3 months service. I will begin my maternity leave on _____(Date)

If I wish to change the date that I will begin my maternity leave, I undertake to give my manager 28 days' notice of such.

Signature

Date

FORM M1 –continued

Option D – OPTION TO RETURN TO WORK AND FOR YOUR PARTNER TO TAKE ADDITIONAL STATUTORY PATERNITY LEAVE AND ADDITIONAL STATUTORY PATERNITY PAY

I intend to return to work following my Maternity Leave, taking no less than 20 weeks of Maternity Leave and for my spouse/partner to take the remaining period of Statutory Leave (this can be for a minimum of 2 weeks and for a maximum of 26 weeks but must be taken before the child is 52 weeks old).

I will begin my maternity leave on _____ (Date)

My anticipated date of return is _____ (Date)

If I wish to change the date that I will begin my maternity leave, I undertake to give my manager 28 days’ notice of such. I confirm that it is my intention to return to work with an NHS Employer within 52 weeks of the commencement of my maternity leave and will remain in that employment for at least 3 months. I understand that in the event of failure to return to duty as stated above, the CCG will reclaim all maternity payments received other than Statutory Maternity Payments due. If I wish to return earlier or later than the date stated above, I undertake to give my manager 8 weeks’ notice of such.

Signature

Date

PAYMENT ARRANGEMENTS

I wish to receive my maternity pay in standard format

I wish to receive my maternity pay in equal instalments over the whole maternity leave period

APPENDIX 2 - FORM M 2

Formal Notification of Amended Return Date from Maternity Leave

It is suggested that you complete this form and forward it to your manager at least 8 weeks before you wish to resume work following your maternity leave, only if your date of return is different to that indicated on form M1.

I intend to resume work on _____ (date) and hereby give 8 weeks advance notification of such.

Name	
Employee Number	
Job Title	
Name of CCG	
Department	
Signature	
Date	

Managers should forward a copy of this form to the Payroll Department.

Appendix 3 - Equality analysis initial assessment

Title of the change proposal or policy:

Maternity

Brief description of the proposal:

To ensure that the policy meets the needs of a small employer, is legally compliant and takes account of best practice and Agenda For Change terms and conditions.

Name(s) and role(s) of staff completing this assessment:

Simon Morris, HR Business Partner, Staffordshire and Lancashire CSU

Date of assessment: 29th May 2013

Please answer the following questions in relation to the proposed change:

Will it affect employees, customers, and/or the public? Please state which.

Yes, it will affect all female CCG employees

Is it a major change affecting how a service or policy is delivered or accessed?

No

Will it have an effect on how other organisations operate in terms of equality?

No

If you conclude that there will not be a detrimental impact on any equality group, caused by the proposed change, please state how you have reached that conclusion:

From an assessment of this policy and consideration of employees with protected characteristics under the Equality Act 2010 there is no anticipated detrimental impact on any equality group. The policy makes all reasonable provision to ensure equity of access for all staff. There are no statements or conditions within this policy or requirements of this policy that disadvantage any particular group of people with a protected characteristic.