

Workforce Directorate Policy

W19 – Leave Policy

Chapter 4: Fertility, Pregnancy & Maternity Leave Procedure

Amendment to this policy: April 2024.

The Maternity Leave, Adoption Leave, and Shared Parental Leave (Amendment) Regulations 2024 introduce changes to the existing regulations. The amendments extend to England, Wales, and Scotland. The changes came into force from 6 April 2024.

This Amendment Regulations make provision to extend an existing statutory protection from redundancy that currently applies to those employees who are on maternity, adoption or shared parental leave (“relevant leave”).

The extension will mean this protection also applies to pregnant women and new parents who have recently returned from any period of maternity or adoption leave, or from a period of 6 or more weeks of shared parental leave.

These amendments enhance the rights and protections for employees during family-related leave, ensuring fair treatment and stability in the workplace.

For further detail please see Appendix D.

Introduction

The Trust recognises that new parents need time off work prior to and following the birth of a child. The Trust applies the arrangements set out within NHS Terms and Conditions of Service Handbook to support staff during pregnancy, maternity leave and on return to work.

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Version 2.1

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Reviewed: Dec 2024 (minor amendments) Next Review Dec 2027 Reviewed By DM/ND/CG

This document was last updated to reflect the changes in the NHS Terms and Conditions of Service 'Handbook' (amendment no 40)

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Version 2.1

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1. What is Maternity Leave?

The period of absence from work immediately before and after the birth of a child.

2. What is Maternity Pay?

The entitlement to pay whilst absent on maternity leave.

3. When do I need to notify my manager that I am pregnant?

An employee is required to notify their Manager that they are pregnant as soon as possible in order for a risk assessment to be carried out and to identify any potential risk and supportive measures required.

4. How should I notify my manager?

All employees should notify their manager in writing, using the form in The Trust Guidance Notes, of their intention to take Maternity Leave no later than the 15th week before their expected week of childbirth, unless this is not reasonably practicable. You must also produce a statement form

MAT B1 certificate not less than 21 days before the commencement of Maternity Leave; this must indicate the expected date of childbirth.

Your Manager must respond to the request to take maternity leave within 28 days of receiving the employees completed application form.

5. Can I take time off work to attend antenatal care appointments?

Yes, section 15.96 of the handbook states '*Pregnant employees have the right to paid time off for antenatal care. Antenatal care includes relaxation and parent-craft classes as well as appointments for antenatal care.*

6. Do I need to provide proof of Ante-Natal Appointments?

Apart from the first appointment, you should provide proof of appointments and give reasonable notice prior to attending the appointments.

Eligibility – also applicable to Adoption Leave and Shared Parental Leave/Pay

7. How much maternity leave/adoption leave am I entitled to?

Section 15.1 of the 'handbook' sets out that '*All employees will have the right to take 52 weeks of maternity leave*'.

8. Am I eligible for NHS Maternity/Adoption Pay?

Yes if you meet the requirements set out in section 15.14 of the handbook which states '*An employee working full-time or part-time will be entitled to paid and unpaid maternity leave under the NHS contractual maternity pay scheme if:*

- i. they have 12 months' continuous service (see paragraphs 15.106 to 15.109) with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth;*
- ii. they notify their employer in writing before the end of the 15th week before the expected date of childbirth (or if this is not possible, as soon as is reasonably practicable thereafter):*
 - a. of their intention to take maternity leave; (continued overleaf)*
 - b. of the date they wish to start their maternity leave – they can choose when to start their maternity leave – this can usually be any date from the beginning of the 11th week before the baby is born (but see paragraph 15.24);*
 - c. that they intend to return to work with the same or another NHS employer for a minimum period of three months after their maternity leave has ended;*
 - d. and provides a MATB1 form from their midwife or GP giving the expected date of childbirth.*

Confirming maternity leave and pay - also applicable to Adoption Leave and Shared Parental Leave/Pay

9. What confirmation will my manager give me regarding my maternity/adoption leave and pay?

Section 15.19 of the handbook states that '*following discussion with the employee, the employer should confirm in writing:*

- i. the employee's paid and unpaid leave entitlements under this agreement (or statutory entitlements if the employee does not qualify under this agreement);*
- ii. unless an earlier return date has been given by the employee, their expected return date, based on their 52 weeks paid and unpaid leave entitlement under this agreement; and*

- iii. *the length of any period of accrued annual leave which it has been agreed may be taken following the end of the formal maternity leave period (see paragraphs 15.93 and 15.94);*
- iv. *the need for the employee to give at least 28 days of notice if they wish to return to work before the expected return date.*

Changing the maternity leave start date

10. Can I change the date I want my maternity leave to start?

Yes, section 15.18 of the handbook states '*if the employee subsequently wants to change the date from which they wish their leave to start, they should notify their employer at least 28 days beforehand (or, if this is not possible, as soon as is reasonably practicable beforehand).*'

11. What do I need to do if I go into early labour prior to commencing my maternity leave?

You must notify your Manager as soon as is reasonably practicable.

Keeping in Touch and Working during Maternity Leave – also applicable to Adoption Leave and Pay

12. Are there arrangements to enable my manager and I to keep in touch during my maternity leave?

Section 15.65 of the handbook states '*before going on leave, the employer and the employee should also discuss and agree any voluntary arrangements for keeping in touch during the employee's maternity leave, including:*

- i. *any voluntary arrangements that may help them*
- ii. *keep in touch with developments at work and, nearer the time of their return, to help facilitate their return to work;*
- iii. *keeping the employer in touch with any developments that may affect their intended date of return.*

13. Can I come into work during my maternity leave?

Yes, the handbook provides provision for Keeping in Touch Days (KIT Days) during your maternity leave. Sections 15.66 to 15.76 state:-

- *To facilitate the process of keeping in touch, it is important that the employer and employee have early discussion to plan and make arrangements for "keeping in touch days" (KIT days) before the employee's maternity leave takes place. (section 15.66)*
- *To enable employees to take up the opportunity to work KIT days, employers should consider the scope for reimbursement of reasonable childcare costs or the provision of childcare facilities. (section 15.67)*
- *KIT days are intended to facilitate a smooth return to work for employees returning from maternity leave. (section 15.68)*
- *An employee may work for up to a maximum of ten KIT days without bringing their maternity leave to an end. Any days of work will not extend the maternity leave period. (section 15.69)*
- *An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of their baby. (section 15.71)*
- *The work can be consecutive or not and can include training or other activities which enable the employee to keep in touch with the workplace. (section 15.72)*
- *Any such work must be by agreement and neither the employer nor the employee can insist upon it. (section 15.73)*

- *The employee will be paid at their basic daily rate for the hours worked, less appropriate maternity leave payment for KIT days worked. If a KIT day is worked in the full pay period, the employer will make arrangements to ensure that the employee receives a day of paid leave in lieu once the employee has returned to work. If a KIT day is worked on a day of leave in the half pay period, the employer will make arrangements to ensure the employee receives a half day of paid leave in lieu once the employee had returned to work. (section 15.74)*
- *Working for part of any day will count as one KIT day. (section 15.75)*
- *Any employee who is breastfeeding must be risk assessed, and facilities provided in accordance with paragraph 15.33-15.34. (section 15.20) To ensure compliance with Workplace (Health, Safety and Welfare) Regulations 1992 employers must provide suitable rest facilities for workers who are pregnant or breastfeeding. Facilities should be suitably located and where necessary should provide appropriate facilities for the new or expectant mother to lie down. (section 15.76)*

14. Can I work via the Trust Temporary Staffing Department (bank) during the unpaid period of my maternity leave?

No, if you undertake bank shifts during any period of your maternity leave, your maternity will cease immediately. KIT days can be worked during paid or unpaid maternity leave and are paid in accordance with the previous question.

15. How long is a Keep in Touch day?

The keeping in touch day should, where possible, reflect the individuals “normal” working day as mutually agreed between the individual and their manager.

16. How can I keep up to date with the Trust during maternity leave

You could attend ward/department meetings, be sent relevant documents, such as newsletters or undertake any other actions as agreed in advance with your manager that would ensure that you are kept up to date on developments at work and facilitate a return to work following leave.

17. When must I contact my manager during maternity leave?

You must inform you manager of any developments that may affect you intended date of return. You must notify your manager of any change of address and contact details.

Paid Maternity Leave – also applicable to Adoption Leave and Shared Parental Leave

Amount of Pay

18. How much will I be paid during my maternity/adoption leave?

If you meet the requirements of section 15.14, 15.15 or 15.17 of the handbook, section 15.20 states ‘*Where an employee intends to return to work the amount of contractual maternity pay receivable is as follows:*

- i. for the first eight weeks of absence the employee will receive full pay, less any Statutory Maternity Pay or maternity allowance (including any dependents’ allowances) receivable (where this is paid by Department of Work and Pensions);*
- ii. for the next 18 weeks the employee will receive half of full pay, plus any Statutory Maternity Pay or maternity allowance (including any dependents’ allowances) receivable, providing the total receivable does not exceed full pay;*

- iii. *for the next 13 weeks, the employee will receive any Statutory Maternity Pay or maternity allowance that they are entitled to under the statutory scheme.*
- iv. *For the final 13 weeks, the employee will receive no pay*

19. Can I change how this is paid?

Yes, section 15.21 of the handbook states: *by prior agreement with the employer, occupational maternity pay may be paid in a different way, for example a combination of full pay and half pay, or a fixed amount spread equally over the maternity leave period. Where occupational maternity pay has been paid in a different way and the employee subsequently chooses to access shared parental leave and pay, the employer may need to recalculate payments to ensure that there has not been any over or underpayment of entitlements.*

Calculation of maternity/adoption/shared parental pay

20. How is my maternity pay calculated?

The Trust will follow the calculations set out in the handbook at section 15.22. *Full pay will be calculated using the Average Weekly Earnings (AWE) rules used for calculating Statutory Maternity Pay entitlements, subject to the following qualifications:*

- i. *in the event of a pay award or annual increment being implemented before the paid maternity leave period begins, the maternity pay should be calculated as though the pay award or new pay point had effect throughout the entire Statutory Maternity Pay calculation period. If such a pay award was agreed retrospectively, the maternity pay should be re-calculated on the same basis;*
- ii. *in the event of a pay award or move to higher pay point being implemented during the paid maternity leave period, the maternity pay due from the date of the pay award or new pay point should be increased accordingly. If such a pay award was agreed retrospectively the maternity pay should be re-calculated on the same basis;*
in the case of an employee on unpaid sick absence or on sick absence attracting half pay during the whole or part of the period used for calculating average weekly earnings, in accordance with the earnings rules for Statutory Maternity Pay purposes, average weekly earnings for the period of sick absence shall be calculated on the basis of notional full sick pay.

21. How are my Average Weekly Earnings (AWE) calculated?

Your AWE is based on **all** earnings actually paid to you within the reference period, including any impact from over or underpaid wages in that period. For further information please contact pay services.

22. What if my earnings are lower than usual during the reference period?

Unfortunately, the calculations rules are strict and not determined by the Trust and therefore if your total earnings during the reference period are lower than previous months we are unable to change this. Unless your earnings are less than your basic pay, in these circumstances your AWE will be based on your basic pay.

Unpaid contractual leave – also applicable to Adoption Leave and Shared Parental Leave/Pay

23. What happens at the end of the paid period of my leave?

In accordance with section 15.23 of the handbook *Employees are also entitled to take a further 13 weeks as unpaid leave to bring the total of leave to 52 weeks. However, this may be extended by local agreement in exceptional circumstances, for example, where employees have sick pre-term babies or multiple births.*

Commencement and duration of leave

24. When can I start my maternity leave?

In accordance with section 15.24 *An employee may begin their maternity leave at any time between 11 weeks before the expected week of childbirth and the expected week of childbirth, provided they give the required notice.*

Sickness prior to childbirth

25. What happens if I am sick prior to the birth of my child?

In accordance with the handbook section 15.25: *If an employee is off work ill, or becomes ill, with a pregnancy-related illness during the last four weeks before the expected week of childbirth, maternity leave will normally commence at the beginning of the 4th 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 expected week of childbirth, supported by a medical statement of incapacity for work, or a self-certificate, shall be treated as sickness absence in accordance with normal leave provisions.*

26. What if my sickness is just odd days of pregnancy-related sickness?

The handbook section 15.26 states: *Odd days of pregnancy-related illness during this period may be disregarded if the employee wishes to continue working till the maternity leave start date previously notified to the employer.*

Pre-term birth

27. What happens if my baby is born early?

The handbook states in sections 15.27 to 15.30

- *Where an employee's baby is born alive prematurely, the employee will be entitled to the same amount of maternity leave and pay as if their baby was born at full term. (section 15.27)*
- *Where an employee's baby is born before the 11th week before the expected week of childbirth and the employee has worked during the actual week of childbirth, maternity leave will start on the first day of the employee's absence. (section 15.28)*
- *Where an employee's baby is born before the 11th week before the expected week of childbirth and the employee has been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start the day after the day of birth. (section 15.29)*
- *Where an employee's baby is born before the 11th week before the expected week of childbirth and the baby is in hospital, the employee may spilt their maternity leave entitlement, taking a minimum period of two weeks' leave immediately after childbirth and the rest of their leave following their baby's discharge from hospital. (section 15.30)*

To provide extra support to mothers whose baby is born before 37 weeks, the Trust will provide additional leave on full pay at the end of the maternity leave period. The amount of additional leave will be equal to the number of days the baby was born prior to their due date (e.g. if a baby is born 30 days before their due date, the Trust will provide an additional 30 calendar days of leave at full pay. This will be pro-rated accordingly and will be taken immediately after maternity leave has finished). Managers should record this as authorised paid special leave.

Premature babies may have ongoing medical needs requiring regular appointments and check-ups. When returning to work, employees and managers should work together to agree a suitable work pattern and allow time off for appointments in accordance with the Special Leave Procedure.

Stillbirth

28. What happens if my baby is stillborn?

The handbook states in section 15.31 *Where an employee's baby is stillborn after the 24th week of pregnancy, the employee will be entitled to the same amount of maternity leave and pay as if their baby was born alive.*

- 28.1 Parental bereavement leave can also be taken following maternity leave at any point up to 12 months following a stillbirth. Parental bereavement leave provides two weeks paid leave in accordance with the Special Leave policy Chapter 8.
- 28.2 Requests from employees to temporarily amend their working pattern and/or tasks to support them when returning to work following a stillbirth should be treated sensitively and supportively. Referral to occupational health may be an additional avenue of support.
- 28.3 There are various agencies who offer support for stillbirth and pregnancy loss (see Appendix C) for both employees and managers and these can be accessed as appropriate.

Miscarriage

29. What happens if I have a Miscarriage?

The handbook states in section 15.32: *Where an employee has a miscarriage before the 25th week of pregnancy, normal sickness absence provisions will apply as necessary.*

- 29.1 However, the Trust is committed to supporting all employees who suffer the loss of a pregnancy and will therefore offer additional support. This applies whether the loss happens directly to the employee, their partner or their baby's surrogate and regardless of the nature of their loss, or their length of service.
- 29.2 Pregnancy loss includes but is not limited to miscarriage, stillbirth, abortion, ectopic pregnancy, molar pregnancy and neonatal loss.
- 29.3 When supporting an employee through pregnancy loss, managers can access advice and guidance from reputable online sources such as the [Miscarriage Alliance](#) internally via the People Advisory Team. Contact details for support during and after pregnancy loss are contained within Appendix C of this policy.

- 29.4 All employees who have become pregnant and then sadly experienced a pregnancy loss, which occurs before the 16th week before EWC (24 weeks pregnant), including surrogates, are entitled to up to 2 weeks' leave on full pay to support them through the traumatic time of both the physical and the emotional loss.
- 29.5 Partners of those who experience pregnancy loss (including via a surrogate) are also entitled up to 2 weeks' leave on full pay.
- 29.6 If an individual or couple were to unfortunately experience more than one pregnancy loss this entitlement would apply to each.
- 29.7 Employees are entitled to paid time off to attend appointments (or to accompany their partners) relating to pregnancy loss, which do not fall within an agreed period of leave, including but not limited to medical examinations, scans and tests, and mental health-related appointments.
- 29.8 Requests from employees to temporarily amend their working pattern to support them through the difficult time of grieving and recovery following pregnancy loss should be treated sensitively and supportively.
- 29.9 Additional support for both employees and managers can be accessed via the organisations listed in Appendix C as appropriate.

Health and Safety of employee's pre and post birth

30. What Health and safety risk assessments will be completed pre and post birth?

The handbook sets out:-

- *Where an employee is pregnant, has recently given birth or is breastfeeding, the employer must carry out a risk assessment of their working conditions. If it is found, or a medical practitioner considers, that an employee or their child would be at risk were they to continue with their normal duties, the employer should provide suitable alternative work for which the employee will receive their normal rate of pay. Where it is not reasonably practicable to offer suitable alternative work, the employee should be suspended on full pay. (section 15.33)*
- *These provisions also apply to an employee who is breastfeeding if it is found that their normal duties would prevent them from successfully breastfeeding their child. (section 15.34)*

31. Where can I find guidance on Risk assessments?

Risk assessments are available on the Intranet and your manager should complete the appropriate risk assessments with you. Arrangements must then be made to ensure that neither you nor your unborn baby are put at risk, for example by lifting or carrying heavy loads or exposure to toxic substances.

If a change in working pattern is required or requested, this needs to be supported by medical guidance (i.e. letter from GP/Midwife). Following the risk assessment, your manager will refer you to Occupational Health (OH) providing them with a copy of the medical guidance you have submitted so we can seek further advice. For instance, we may wish to determine if there are any increased risks to yourself or your baby should you continue to work nights or remain on the on call rota. If Team Prevent / the GP recommend that your current working pattern changes and this results in a drop in earnings, your pay will be protected so you do not suffer a loss in earnings

due to your pregnancy. Your manager will need to contact Pay Services to confirm these arrangements.

Refer to the Health and Safety Pages of the intranet for guidance on completing a risk assessment and the most up to date version of the Trust Risk Assessment Form for New and Expectant Mothers available in the Management of Health and Safety: Risk Assessment Forms (HS11). https://intranet.sath.nhs.uk/health/H_and_S_guidance.asp

32. Should a risk assessment be completed on my return to work?

Yes, if any potential health and safety risks are identified you should work with your manager to establish whether any facilities or special working arrangements are required to enable the employee to breast-feed their baby, or to express and store milk. Employees who intend to continue breast-feeding or expressing milk on return to work should let their manager know in writing prior to returning to work to allow arrangements to be put in place.

Return to work

33. What notice am I required to give my manager before I return to work?

In accordance with the handbook section 15.77: *An employee who intends to return to work at the end of their full maternity leave will not be required to give any further notification to the employer, although if they wish to return early, they must give at least 28 days' notice.*

34. What are my contractual rights on return to work? – also applicable to Adoption Leave and Shared Parental Leave

The handbook states in section 15.78. *An employee has the right to return to their job under their original contract and on no less favourable terms and conditions.*

35. What happens if I start work for another employer after my baby is born? – also applicable to Adoption Leave and Shared Parental Leave

If you start work for another employer after your baby is born, who did not employ you during the 15th week before the expected week of childbirth, Maternity Pay will cease on the Saturday before you start work with the new employer. If you start work with another employer who did employ you during the 15th week, the Trust is still liable to pay Statutory Maternity Pay.

Returning on flexible working arrangements – also applicable to Adoption Leave and Shared Parental Leave

36. Can I return to work on flexible working arrangements?

The handbook section 15.79 states: *If, at the end of maternity leave, the employee wishes to return to work on different hours, the NHS employer has a duty to facilitate this, wherever possible. The employee will return to work on different hours, in the same job. If this is not possible, the employer must provide written, objectively justifiable reasons for this and the employee should return to the same pay band and work of a similar nature and status, to that which they held prior to their maternity absence.*

Please refer to the requirements of the Trust Flexible Working Provisions.

37. What if I want to return on flexible working arrangements for a set period of time only?

The handbook section 15.80 states: *If it is agreed that the employee will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period, this will not affect the employee's right to return to their job under their original contract, at the end of the agreed period.*

38. Can I take an employment break at the end of my maternity leave?

Yes, however if, following Maternity Leave, you take an employment break you must return to work at the end of your employment break for a period of at least 3 months in order to retain your entitlement to NHS rates of Maternity Pay. If you have been in receipt of NHS rates of Maternity Pay and fails to do so, you may be required to repay earnings over SMP.

39. Can I work on the bank whilst I am taking an employment break

Yes, however, you will still be required to return to substantive employment at the end of your employment break for a period of at least 3 months in order to retain your entitlement to NHS rates of Maternity Pay. If you have been in receipt of NHS rates of Maternity Pay and fail to return to a substantive post, you will be liable to refund the whole of their maternity pay, less any Statutory Maternity Pay, received.

40. Can I request a period of parental leave at the end of my maternity leave?

Yes, you can request a period of Parental Leave of up to four weeks to continue immediately after a period of maternity leave. You must make a request in accordance with the Parental Leave Policy and give 21 days' notice of their request to extend their leave by using Parental Leave before their expected date of return to work.

Where Parental Leave is used to extend Maternity Leave, and you have taken Contractual NHS Maternity Pay at the end of the Parental Leave Period you must return to work for a period of 3 months.

Sickness during or following the end of maternity leave – also applicable to Adoption Leave and Shared Parental Leave

41. What if I am sick during my maternity leave?

If you are sick at any time during your Maternity Leave, your absence shall be treated as Maternity Leave and not sick leave.

42. What happens if I can't return to work because of sickness at the end of maternity leave?

The handbook states in section 15.81: *In the event of illness following the date the employee was due to return to work, normal sickness absence provisions will apply as necessary.*

Failure to return to work – also applicable to Adoption Leave and Shared Parental Leave

43. What happens if I do not come back to work?

In accordance with the handbook section 15.82: *If an employee who has notified their employer of their intention to return to work for the same or a different NHS employer, in accordance with paragraph 15.14, 15.15 or 15.17 (ii) (c), fails to do so within 15 months of the beginning of their maternity leave, they will be liable to refund the whole of their maternity pay, less any Statutory Maternity Pay, received. In cases where the employer considers that to enforce this provision would cause undue hardship or distress, the employer will have the discretion to waive their rights to recovery.*

Fixed Term Contracts or training contracts – also applicable to Adoption Leave and Shared Parental Leave

44. What happens if I am employed on a fixed-term contracts or training contracts

The handbook in section 15.83 to 15.86 states:-

- *Employees subject to fixed-term or training contracts which expire after the 11th week before the expected week of childbirth, or the date of matching, or the 15th week before the baby's due date if applying via surrogacy agreement and who satisfy the conditions in paragraphs 15.14, 15.15 or 15.17, shall have their contracts extended so as to allow them to receive the 52 weeks, which includes paid contractual and statutory maternity pay, and the remaining 13 weeks of unpaid maternity leave. (section 15.83)*
- *Absence on maternity leave (paid and unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service. (section 15.84)*
- *If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred, the repayment provisions set out in paragraph 15.82 will not apply. (section 15.85)*
- *Employees on fixed-term contracts who do not meet the 12 months' continuous service condition set out in paragraph 15.105 or 15.108 may still be entitled to Statutory Maternity Pay. (section 15.86)*

Rotational training contracts

- *Where an employee is on a planned rotation of appointments with one or more NHS employers, as part of an agreed programme of training, they shall have the right to return to work in the same post or in the next planned post, irrespective of whether the contract would otherwise have ended if pregnancy and childbirth/adoption/shared parental leave had not occurred. In such circumstances the employee's contract will be extended to enable the practitioner to complete the agreed programme of training. (section 15.87)*
Where an employee does not have enough statutory continuity of service to access statutory maternity /adoption / shared parental pay as a result of being required as part of their training programme to work in a Crown Dependency, and they would have had sufficient statutory continuous service to access statutory maternity pay, statutory adoption pay, or statutory shared parental pay had they not been required to work in a Crown Dependency, the employee shall be paid, by their current employer, the value of statutory maternity /adoption / shared parental pay they would have otherwise received if their statutory continuity had not been broken by working in a Crown Dependency. (Section 15.89)

45. What if I only work through the Temporary Staffing Department?

If you are employed through the Temporary Staffing Department or employed directly by a department on a zero hours contract you will be entitled to Statutory Maternity Leave and Pay provisions provided that:

- i) you have worked for each of the 26 weeks (which may include two weeks annual leave) prior to the 15th week before the expected week of childbirth, and
- ii) you comply with the conditions set out in NHS Terms and Conditions of Service Handbook.

You will be entitled to NHS Maternity Leave and Pay where:

- i) you have worked a regular pattern of work (as a minimum once every month) for 12 months with the NHS by the beginning of the 11th week before the EWC.
- ii) you comply with the requirements in Question 8.

Contractual rights – also applicable to Adoption Leave and Shared Parental Leave

46. What happens to my contractual rights during maternity leave?

In accordance with the handbook section 15.90 *During maternity leave (both paid and unpaid) an employee retains all of their contractual rights, except remuneration.*

Increments – also applicable to Adoption Leave and Shared Parental Leave

47. Does my maternity leave count as service for the purposes of my incremental progression and entitlement to additional annual leave?

An employee on maternity / adoption / shared parental leave will progress through their pay step on the date the pay step is due unless a pay-step review meeting has taken place prior to the commencement of leave which confirmed that the required standards for pay progression would not be met. If a pay-step review cannot be conducted prior to the pay-step date the pay-step point should be automatically applied in the individual's absence. Refer to Annex 23 (England) for further information. (Section 15.91)

For staff on medical or dental contracts that are covered by this section the general principle will apply that there should be no detriment to pay progression or annual leave accrual as a result of taking maternity/adoption/shared parental leave. (Section 15.92)

Accrual of Annual leave – also applicable to Adoption Leave and Shared Parental Leave

48. What annual leave do I accrue during maternity leave?

The handbook sets out in section 15.93 and 15.94 that:-

- *Annual leave will continue to accrue during maternity leave, whether paid or unpaid, provided for by this agreement. (Section 15.93).*
- *Where the amount of accrued annual leave would exceed normal carry over provisions, it may be mutually beneficial to both the employer and employee for the employee to take annual leave before and/or after the formal (paid and unpaid) maternity leave period. The amount of annual leave to be taken in this way, or carried over, should be discussed and agreed between the employee and employer. Payment in lieu may be considered as an option where accrual of annual leave exceeds normal carry over provisions, providing this would not cause a breach in the Working Time Regulations 1998. (Section 15.94)*

49. Do I continue to accrue General Public Holidays during on Maternity Leave?

General Public Holiday entitlement will accrue based on the number of general public holidays that fall within the period of maternity leave (pro rata for part time staff).

50. Can I carry over outstanding leave to the following leave year?

See above – what annual leave do I accrue during maternity leave?

It is important that arrangements for taking annual leave are discussed well in advance of the commencement of Maternity Leave and recorded on the form in appendix b.

51. Does my maternity leave count as service for the purposes of calculating my annual leave entitlement?

Yes. Maternity Leave will count as service for entitlement to additional annual leave based on service.

Pensions – also applicable to Adoption Leave and Shared Parental Leave

52. What happens to my pension during maternity leave?

The handbook states in section 15.95 *Pension rights and contributions shall be dealt with in accordance with the provisions of the NHS Pension Scheme Regulations.*

53. How are pension payments arranged during and after my maternity leave?

Because both paid and unpaid Maternity Leave are counted as continuous service, contributions to the NHS Pension Scheme must be maintained for the full period.

Whilst you are receiving Maternity Pay, contributions will be deducted from your salary based on payments received. As no contributions can be made whilst you are on unpaid Maternity Leave, these must be reimbursed to the scheme on your return to work. Therefore, on your return additional contributions will be deducted from your salary until the shortfall has been paid. You are advised to contact the Pensions Officer for further information.

Post-natal care and breastfeeding mothers

54. When I come back to work can I take time off for Post-natal care appointments?

See chapter 8: Special Leave Policy.

55. What support is available to me if I return to work whilst breastfeeding?

The handbook in section 15.76 sets out that risk assessment must be carried out for any employee who is breastfeeding, and appropriate facilities must be provided.

Employees not returning to NHS Employment – also applicable to Adoption Leave and Shared Parental Leave

56. What happens if I decide not to return to work?

Your employment will cease at the end of your Maternity Leave period unless you commence employment elsewhere before that time, in which case your employment will cease on the day before you take up your new post. You must give notice of your resignation in accordance with your contract of employment. If you have been in receipt of NHS rates of Maternity Pay and fails to do so, you may be required to repay earnings over SMP.

57. What pay could I be entitled to if I do not wish to return to work with the NHS after my maternity leave?

The handbook section 15.99 states *An employee who satisfies the conditions in paragraph 15.14, 15.15 or 15.17, except that they do not intend to work with the same or another NHS employer for a minimum period of three months after their maternity leave is ended, will be entitled to pay equivalent to Statutory Maternity Pay, which is paid at 90 per cent of their average weekly earnings for the first six weeks of their maternity leave and to a flat rate sum for the following 33 weeks.*

58. What do I do if I am not sure if I will return to work?

You are advised to take only Statutory Maternity Pay. If you then return to work within the NHS for a minimum of 3 months following your Maternity Leave, the enhanced rates will be paid, less payments already made.

59. Can I still take my maternity leave if I do not wish to return to work in the NHS?

Yes, section 15.104 states: *All employees will have a right to take 52 weeks of maternity leave whether or not they return to NHS employment.*

Employees with less than 12 months' continuous service – also applicable to Adoption Leave and Shared Parental Leave

60. What pay could I be entitled to if I have less than 12 months' continuous service?

The handbook section 15.102 states: *If an employee does not satisfy the conditions in paragraph 15.14, 15.15 or 15.17 for occupational maternity pay, they may be entitled to Statutory Maternity Pay. Statutory Maternity Pay will be paid regardless of whether they satisfy the conditions in paragraph 15.14, 15.15 or 15.17.*

61. What can I do if I do not qualify for Statutory Maternity Pay?

The handbook section 15.103 states *If their earnings are too low for them to qualify for Statutory Maternity Pay, or they do not qualify for another reason, they should be advised to claim maternity allowance (if applicable) from their local Job Centre Plus or social security office.*

Continuous service – also applicable to Adoption Leave and Shared Parental Leave

62. What is continuous service?

The handbook section 15.106 states: *For the purposes of calculating whether the employee meets the qualification set out in paragraph 15.14, 15.15 or 15.17 to have had 12 months of continuous service with one or more NHS employers, the following provisions shall apply:*

- i. NHS employers include health authorities, NHS boards, NHS trusts and the Northern Ireland Health Service;*
- ii. a break in service of three months or less will be disregarded (though not count as service).*

63. Are any breaks in service disregarded when considering if I have 12 months continuous service?

The handbook section 15.106 states: *The following breaks in service will also be disregarded (though not count as service):*

- i. employment under the terms of an honorary contract;*
- ii. employment as a locum with a general practitioner for a period not exceeding 12 months;*
- iii. a period of up to 12 months spent abroad as part of a definite programme of postgraduate training on the advice of the postgraduate dean or college or faculty advisor in the speciality concerned;*
- iv. a period of voluntary service overseas with a recognised international relief organisation for a period of 12 months, which may exceptionally be extended for 12 months at the discretion of the employer which recruits the employee on their return;*
- v. absence on an employment break scheme in accordance with the provisions of Section 34 of this Handbook;*

- vi. *absence on maternity leave (paid or unpaid) as provided for under this agreement.*
- vii. *for doctors and dentists in training, time spent outside of NHS employment (employers not listed at Annex 1) in an Out of Programme (OOP) placement approved by the Postgraduate Dean;*
- viii. *for doctors and dentists in training, time spent employed in the health service of a UK*
- ix. *Crown Dependency as part of an approved training programme.*

64. Will my service as a trainee with a general medical practitioner count for reckonable service?

The handbook section 15.108 states *Employment as a trainee with a general medical practitioner in accordance with the provisions of the Trainee Practitioner Scheme, shall similarly be disregarded and count as service.*

65. Will the Trust recognise any other service as reckonable service?

The handbook states at section 15.109 *Employers have the discretion to count other previous NHS service or service with other employers.*

Information about statutory maternity/adoption and paternity leave and pay

66. What other benefits or allowances could I be entitled to?

Section 15.117 of the handbook states *there are occasions when employees are entitled to other statutory benefits/allowances and information about all statutory maternity/adoption, Shared Parental Leave and paternity rights can be found at www.gov.uk.*

67. What will happen to my parking permit payments during the course of my maternity leave?

During the course of your maternity leave you have the option to temporarily suspend your car parking permit payments. To do so, you will need to contact the Facilities Office Manager (RSH), advising them of the start date of your maternity leave / when the payments should cease. When you return, you can either apply online for a new permit, or again contact Facilities. Please remember that should you come on site at any point during your maternity leave (i.e. for any appointments or KIT days) you would need to pay for parking as a visitor to avoid any charges.

Fertility Treatment

68. What support will the Trust provide if I'm undergoing fertility treatment?

The Trust wishes to support colleagues undertaking fertility treatment. Female colleagues undergoing fertility treatment are entitled to take up to 1 week of paid special leave in a rolling 12-month period to support you through your treatment (pro rata for part-time staff) i.e. if you are contracted to work 22.5 hours per week you can take up to 22.5 hours of special leave for your fertility treatment. This entitlement can be taken in blocks of 1 hour to allow flexibility over the course of the year.

Appointments should be arranged outside of work hours where possible, but it is accepted that colleagues may have little control of the dates and times of their appointments.

Any additional leave needed should be discussed and agreed between the manager and the employee and may include annual leave, unpaid leave and TOIL to support you during this period.

The journey through fertility treatment is likely to be different for each employee and so managers and employees must work together to ensure employees can attend essential appointments as part of their treatment. Managers should be as flexible and supportive as possible.

Fertility treatment is much more than attending appointments and can have a significant impact on an employee's wellbeing. Managers should seek advice from Occupational Health about the support an employee may require as early as possible.

Managers and employees should have open and supportive conversations about the treatment and the impact it is likely to have on the employee's wellbeing. They should work together to agree working arrangements that supports the employee to be comfortable at work when undergoing treatment. This could include additional breaks, shorter shifts, alternative shift pattern or alternative duties. These arrangements should be reviewed regularly.

Following treatment managers must be sensitive to the outcome of fertility treatment and support the employee accordingly.

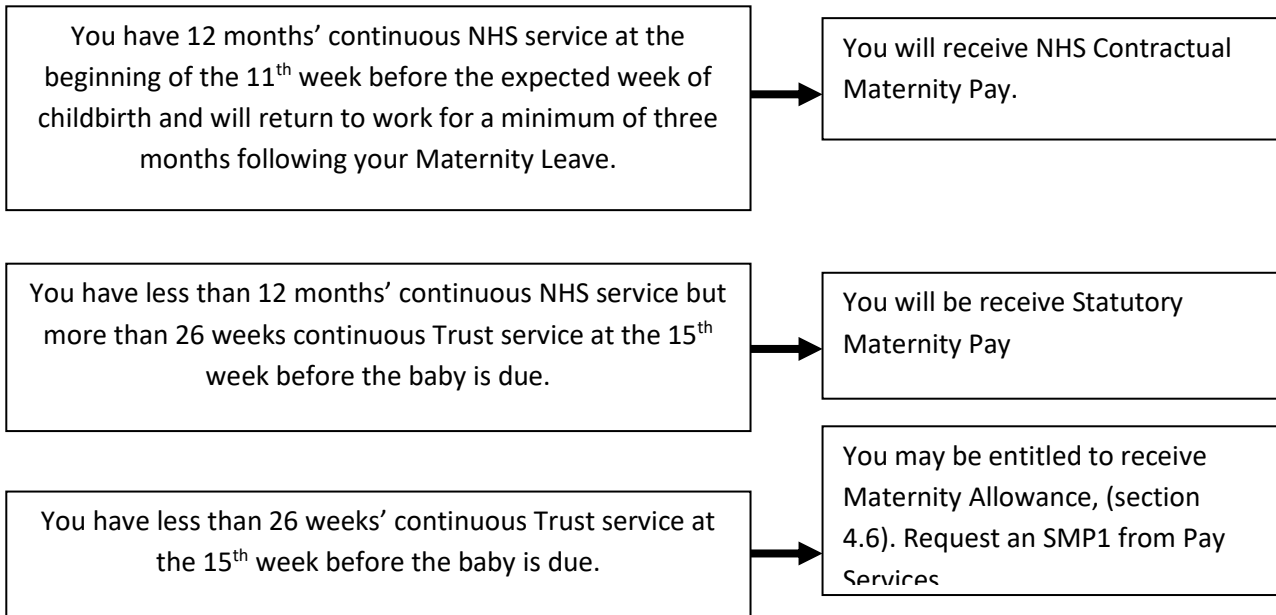
Where an employee requires time off as a result of side effects of the treatment they should follow sickness absence procedures.

Managers are advised to learn more about employee's treatment by reading information from the NHS website ([here](#)) or the Fertility Network UK website ([here](#)).

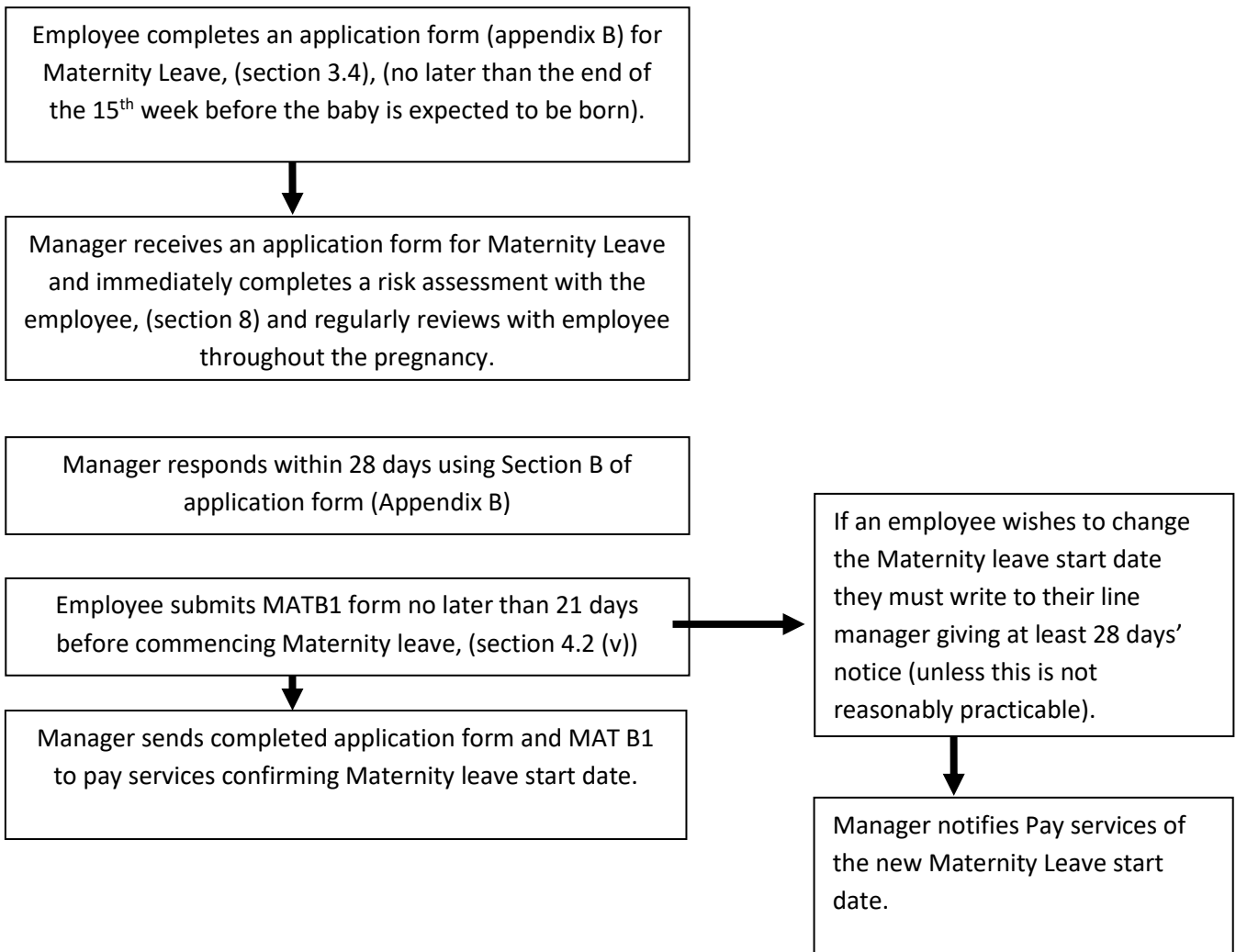
Partners may be required to attend specific appointments to support assisted conception, and managers should be sensitive to these requests for time off. Managers may agree a reasonable amount of paid leave to support this, not normally exceeding 1 day at a time. Any additional leave needed should be discussed and agreed between the manager and the employee and may include annual leave, unpaid leave and TOIL to support you during this period.

Appendix A: Overview of Maternity Leave, Pay & Procedure

Eligibility



Application Process



Appendix B: Application for Maternity Leave – W19

Section A - To be completed by the employee:			
Part 1 – Personal Details			
First Name:		Surname:	
Employee No:		Department:	
Start Date with Trust:		Start Date with NHS:	
Part 2 – Notification and Evidence			
I wish to request Maternity Leave and advise the following dates:			
Date of 11 th week prior to date of childbirth		Date of 15 th week prior to date of childbirth	
Date of commencement of Maternity Leave		Expected week of childbirth (Sunday prior to baby's birth)	
Have you had a break in service of more than 3 months in the year before the 11 th week before the expected week of childbirth? (Please circle)		YES	NO
If yes, what were the dates?	to:		
I have attached the MATB1 form and understand that should I wish to change the commencement date of leave I must write to my Manager giving at least 28 days' notice (or as soon as is reasonably practicable).			<input type="checkbox"/>
Part 3 – Maternity Leave			
I understand I can take up to 12 months maternity leave			<input type="checkbox"/>
Part 4 – Maternity Pay Request			
Please select ONE of the following options			
I wish to apply for NHS Contractual Maternity pay and have met the criteria in section 15.7 of the NHS terms and conditions of service handbook.			
<ul style="list-style-type: none"> I confirm I intend to return to work at Shrewsbury and Telford Hospital NHS Trust or a different NHS employer for a minimum period of 3 months following my Maternity Leave. I understand that should I fail to return to work I will be expected to repay the Trust the difference between SMP to which I was entitled and the NHS rates paid. 			
I wish to apply for Statutory Maternity Pay (SMP) as I have more than 12 months continuous service with the NHS, but I do not intend to return to work with the Trust or another NHS Trust.			
I wish to apply for Statutory Maternity Pay (SMP) as I have more than 26 weeks but less than 12 months continuous service			
I have less than 26 weeks service and wish to apply for Maternity Allowance, please send me an SMP1 form			
Part 5 – Declaration			
I have read and understand the Maternity Leave terms and conditions and wish to apply for leave and pay as indicated above. I have attached the required documentation and believe I meet the criteria as detailed in the policy.			
Signed:		Date:	

Section B - To be completed by the Manager:	
On receipt of the above application form I confirm:-	Date Completed
I have discussed the policy and its implications with the employee above.	
I have discussed and confirmed the dates as accurate according to the information with which I have been provided.	
I have confirmed the employee's paid and unpaid leave entitlements under NHS Terms and Conditions of Service (or statutory entitlements if the employee does not qualify)	
I have confirmed that unless an earlier return date has been given by the employee, their expected return date, based on their 52 weeks paid and unpaid leave entitlement is Date	
I have confirmed with the employee to give at least 28 days of notice if they wish to return to work before the expected return date.	

	No. of hours	Dates
Accrued Annual leave and General Public Holidays during period of leave		
Number of hours to be taken prior to commencement of leave		
Record of discussion prior to leave		

Name (Print):		Job Title:	
Signed:		Date:	
Is this a revised application? (i.e. has this application been submitted previously but the date has now changed)	Yes <input type="checkbox"/> No <input type="checkbox"/>	Date copy of this application and , MATB1 sent to Pay Services:	

Line Manager Action:

Please

- retain a copy of the signed documentation and evidence on the individual's personal file and
- send the Application for Maternity Leave and MATB1 to Pay Services .

Please note if the commencement of leave date changes a new Application for Maternity Support Leave must be completed and sent to Pay Services indicating that this is a revised application.

Appendix C: Further Guidance for Managers & Support for Employees affected by Pregnancy Loss/Stillbirth

Links which may help you

- Miscarriage Association: www.miscarriageassociation.org.uk Founded in 1982 by a group of people who had experienced miscarriage, the Miscarriage Association continues to offer support and information to anyone affected by the loss of a baby in pregnancy and works to raise awareness and promote good practice in medical care.
- National Bereavement Care Pathway: nbcpathway.org.uk
- Tommy's: www.tommys.org/baby-loss-support Tommy's is a charity that funds research into pregnancy problems but also provides information for parents-to-be.
- Saying Goodbye: www.sayinggoodbye.org
- Petals: petalscharity.org Petals is an organisation providing specialist counselling services after a pregnancy loss. Whilst they do not provide counselling services themselves, they provide more information on counselling services that are available.
- ARC (Antenatal Results and Choices): www.arc-uk.org Arc is a national charity offering parents support during antenatal screening and following a termination.
- Sands: sands.org.uk (Stillbirth and NeoNatal Death charity) is an organisation that can offer you support if your baby dies during pregnancy or after birth. They also run a helpline 10am - 3pm Monday to Friday and 6pm - 9pm on Tuesday, Wednesday and Thursday evenings: 0808 164 3332 offering confidential support for anyone who has been affected by the death of a baby. Sands also provides free training webinars for managers on supporting an individual through pregnancy loss or stillbirth: <http://training.sands.org.uk/courses-and-bookings/open-access/>
- Bliss: www.bliss.org.uk
- Cradle: cradlecharity.org
- NHS Terms and Conditions of Service Handbook (Sections 15 and 23): nhsemployers.org/publications/handbook
- Abortion Talk: www.abortiontalk.com Abortion Talk is a new charity offering the opportunity to talk about abortion in a non-judgemental and supportive environment.

Guidance for managers/colleagues on supporting an employee affected by pregnancy loss

It can sometimes be difficult for managers and colleagues to know how best to support an individual following pregnancy loss. However, it is very important that managers remain sensitive, calm, and reach out to offer support at an early stage and throughout the grieving process.

Consideration should be given to:

- Understanding that each individual grieves differently and how they may want to be supported may differ and change throughout their grieving process.
- Maintaining regular contact through whichever means agreed with the individual as acceptable.
- Signposting to the above agencies as appropriate.
- Undertaking training yourself to increase your awareness.
- Inclusion – inviting the individual to join team events/meetings/, training sessions whilst away from work.
- Referring to occupational health to consider any adjustments that may be required on return to work.
- Recognising that returning to work may be a difficult process for the employee and being sensitive to their needs at this time.

Additional Guidance for Managers

- Pregnancy or baby loss may happen at work, and of course you may not be aware that a member of your team is pregnant. Remember, that someone is not obliged to tell their manager of their pregnancy until 15 weeks before their estimated due date, or as soon as is reasonably practicable after then (approximately 6 months pregnant).
- If someone suspects that they are starting to lose their pregnancy or baby, they may have bleeding, severe abdominal pain, and may feel faint or collapse. They will most likely be very distressed, panicky, embarrassed and frightened.
- You can help by ensuring they have very quick access to privacy. You may also need to help them by calling their partner or friend to assist them in getting home or to hospital or to occupational health (if they are based on-site). In severe cases you may need to call an ambulance.
- If someone at work suddenly learns that their partner, relative or close friend is starting to lose their pregnancy or baby, they may need to leave work at short notice to provide practical and emotional support. Please facilitate this and be as compassionate as you can be.
- Once someone has gone home or to hospital, you will need to consider carefully how you will explain the sudden absence to other staff in order to respect their privacy, especially as they might not want others to know the details. You may choose to simply say “they are not at work”, and not engage in deeper conversation.
- Absence should be recorded on ESR as ‘Special Leave’ not ‘Sickness Absence’. For periods of absence longer than 10 days (or 5 days for partners), the employee will need to obtain a ‘Fitness for Work’ statement from their GP. Don’t forget leave needs to be pro-rata for part-time colleagues. This paid time off is not to be used for ‘sickness trigger’ purposes.
- Whilst they are off, ensure you keep in contact with them, but use your discretion and be sensitive to how much contact they want.
- When the employee and/or partner is ready to return to work, you should meet with them on a one to one basis to see how best you can support them going forward. This may include doing a Risk Assessment and/or referring them to Occupational Health support.
- Be sensitive on the anniversary of the pregnancy or baby loss, and you may wish to put a private note in your diary to remind you to ‘look out’ for them. It is probably best not to make a big deal of it, but you may wish to consider discreetly asking them if they are ok. You may also wish to pay attention to them on Mother’s Day or Father’s Day, as this could be a particularly difficult day for them.
- If someone has lost a baby or child, whether they are the parent or the primary carer, they are entitled to 2 weeks paid leave (regardless of the age of the child). Please see Sections 15 and 23 of the NHS Terms and Conditions of Service Handbook.

Appendix D: The Maternity Leave, Adoption Leave, and Shared Parental Leave (Amendment) Regulations 2024

1. Introduction

- The Maternity Leave, Adoption Leave, and Shared Parental Leave (Amendment) Regulations 2024 introduce changes to the existing regulations. The amendments extend to England, Wales, and Scotland.
- The changes are likely to come into force from 6 April 2024.
- This new Amendment Regulations make provision to extend an existing statutory protection from redundancy that currently applies to those employees who are on maternity, adoption or shared parental leave (“relevant leave”).
- The extension will mean this protection also applies to pregnant women and new parents who have recently returned from any period of maternity or adoption leave, or from a period of 6 or more weeks of shared parental leave.
- In summary, these amendments enhance the rights and protections for employees during family-related leave, ensuring fair treatment and stability in the workplace. The policy background and national research that led to these regulations and published in 2016, found that approximately one in nine mothers (11%) reported that they were either dismissed, made compulsorily redundant (when others in the workplace were not), or treated so poorly they had to leave their job.

2. Key points of the Amendment Regulations:

- Extension of existing redundancy protections while on maternity, adoption or shared parental leave which now cover pregnancy and a period after return to work.
- Workers taking this kind of leave should be offered any suitable alternative employment in a redundancy situation.
- The protection is for 18 months from either the expected week of childbirth or the placement for adoption.
- The same applies to Shared Parental Leave provided that the parent has taken a period of at least 6 consecutive weeks leave.
- These new protections will apply to pregnancies disclosed to the employer on or after 6 April 2024, and any maternity, adoption and shared parental leave ending on or after 6 April 2024.
- Currently, where a redundancy situation arises when an employee is on leave, the employer is required to offer the employee a suitable alternative vacancy where one is available.

3. Extending redundancy protection

- The Maternity, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024 extend the redundancy protection so that it also applies:
 - **During pregnancy:**
 - The redundancy protection during pregnancy will start when an employee tells their employer about the pregnancy. If the employee is entitled to statutory maternity leave, then the protected period of pregnancy ends on the day the statutory maternity leave starts, and the redundancy protection will continue during statutory maternity leave as currently.
 - If the pregnancy ends and the employee is not entitled to statutory maternity leave, the protected period ends two weeks after the end of the pregnancy. In these circumstances, the employer needs to be informed of the pregnancy before the protected period of pregnancy would have ended.
 - **To new parents for a period after a qualifying period of relevant leave has ended (“the additional protected period”):**
 - for those taking maternity leave the additional protected period ends 18 months from the expected week of childbirth unless the employee has informed the employer of the date of birth of the child. In that case the additional protected period ends 18 months after the date of birth of the child.
 - for those taking adoption leave the additional protected period ends 18 months after the placement of the child.
 - For those taking 6 or more consecutive weeks of shared parental leave but who have not taken maternity or adoption leave, the additional protected period ends 18 months after the date of birth of the child.
 - For those taking less than six consecutive weeks, the current position will continue to apply, which means that the redundancy protection will apply where the redundancy situation arises during any period the employee is on shared parental leave.
 - The additional protected period applies when the employee is not on qualifying “relevant leave” and runs for whatever remains of the 18 month period.