

# Workforce Directorate Policy

## W19 – Leave Policy

### Chapter 7: Parental 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 C.

#### Introduction

The Trust supports the use of Parental Leave to enable employees to take unpaid time off work to look after their child or make arrangements for their child's welfare. Parents and those with formal parental responsibility can use it to spend more time with their children and strike a better balance between their work and family commitments. The Trust applies the arrangements set out within the NHS Terms and Conditions of Service Handbook to support in managing this period of the employment relationship.

This is a separate provision from maternity, maternity support (paternity) leave, adoption leave or Shared Parental Leave. Parental Leave should not be confused with Shared Parental Leave.

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## 1. What is parental leave?

Parental leave is provided to allow you to care for a child. Examples of how Parental Leave may be used include:

- Spending more time with a child
- Accompanying a child during a stay in hospital
- Caring for them when they're off school sick
- Checking/inspecting new schools
- Going to school open days or events with them
- Settling a child into new childcare arrangements
- Enabling a family to spend more time together, for example, taking the child to stay with grandparents or visiting grandparents with them
- Looking after them during school holidays

## Eligibility

### 2. Am I eligible for Parental Leave?

The handbook section 33.25 sets out that *parental leave should be applicable to any employee in the NHS who has nominated caring responsibility for a child under the age 18*. Employees wishing to take parental leave must have 12 months continuous NHS service as at the first day of the date leave is requested to commence.

Parental Responsibility means you must be named on one of the following:

- their birth certificate
- their adoption certificate
- a parental order, for surrogacy
- a legal guardianship

If you're a step-parent, you can also have parental responsibility if it's agreed by both biological parents.

If you're separated from the other parent or do not live with your child, you still have the right to parental leave if you keep parental responsibility for your child.

If you're a foster parent, you must have secured parental responsibility through the courts.

## Amount of Parental leave

### 3. How much parental leave is available?

Parental leave applies to each child not to an individual job. You are entitled to up to 18 weeks in total for each child up until their 18<sup>th</sup> birthday.

For example if you have used 10 weeks' parental leave with a previous employer you would be entitled to a remaining 8 weeks up until the child's 18<sup>th</sup> birthday.

Parental Leave is unpaid. In some circumstances it may be appropriate to take other forms of paid leave. Please refer to the Trust Special Leave Procedure.

The Trust may request confirmation from a previous employer of any periods of parental leave taken or ask the employee to sign a declaration about the amount of parental leave already taken. Dishonest claims for parental leave will be dealt with under the Trust's Disciplinary Policy (W7).

### 4. How much leave can I take in one leave year?

You can take up to four weeks per child in any one year.

### 5. What is the minimum leave I can take in one go?

Leave must be taken in blocks no less than one week. Even if less than a full week is taken, one full week will deducted from your total entitlement.

## **6. What is the minimum leave I can take in one go if my child is disabled?**

As recommended by the government and ACAS if your child has a disability and you receive disability living allowance or personal independence payment for your child you can take parental leave more flexibly. For example you can take 1 or 2 days' leave rather than blocks of a week at a time.

## **7. How long is a week?**

A week is equal to your normal contracted weekly hours.

## **8. Can I add Parental leave to the end of my maternity leave, adoption leave, Shared Parental Leave or other type of leave?**

Yes, section 33.26 of the handbook sets out that parental leave can be added to periods of maternity leave, adoption leave and Shared Parental Leave. Further information is available in the Maternity, Adoption, and Shared Parental Leave FAQ's. It could also be added to other types of leave.

## **9. Can I add Parental leave to my maternity support leave?**

Yes, you can use parental leave to make your maternity support leave longer if either:

- you're the biological father
- your partner is having a baby, adopting a child or having a child through surrogacy

Once your baby is born or adoption placement starts, you can take parental leave either before or after your maternity support leave.

For example, you could take a week of parental leave after your baby is born and then take your 2 weeks' maternity support leave entitlement, so you would get 3 weeks off altogether to care for your child.

If you want to take parental leave this way, you should inform your manager at least 21 days before your baby is due or your adoption placement is due to start.

## **Notice Procedures**

### **10. How much notice is required if I wish to take Parental Leave?**

The handbook in section 33.27 *requires that notice periods should not be unnecessarily lengthy and should reflect the period of leave required.* An application form for Parental Leave (Appendix B) must be completed and authorised by the line manager before any leave is taken. You must give at least 21 days' notice of your request (where possible) to take Parental Leave, giving details of when the leave is to start and finish. Managers should use their discretion and consider individual circumstances when reviewing the amount of notice to be given.

If there is an emergency or unexpected event and you need time off to care for your child, you can request time off for dependants. Please see Chapter 8 Special Leave Procedure.

### **11. What evidence do I need to provide to support this?**

You may be asked to provide documentary evidence of your entitlement to parental leave (e.g. a copy of the child's birth certificate, adoption papers or award of disability living allowance).

## **Postponing or Cancelling Leave**

### **12. Can I postpone the start date of my leave?**

Yes, the handbook section 33.27 states that *employees may also postpone or cancel leave that has been booked with local agreement.* Where employees wish to alter or cancel their leave 2 weeks' notice (or as much notice as is reasonably possible) should be given.

## Trust Postponing or Delaying Parental Leave

### 13. Can the Trust postpone the start date of my leave?

Yes, however the handbook section 33.27 states that *employers should only postpone leave in exceptional circumstances and give written reasons*. In exceptional circumstances, your Leave can be postponed by a manager for up to six months after the date you originally asked for where it can be demonstrated that the service would be particularly disrupted. For example where a significant number of employees apply for Parental Leave at the same time, or where the employee's role is such that his or her absence at a particular time would unduly harm the service.

### 14. Are there circumstances where my manager cannot delay my leave?

Your leave can not be postponed or delayed

- if it is to be taken immediately after the child is born or placed with you for adoption or
- if it means you would no longer be eligible for parental leave. For example postponing it until after the child's 18<sup>th</sup> birthday or so that it ends after the child's 18<sup>th</sup> birthday

### 15. If my manager wishes to postpone my leave what will they do?

If postponement is being considered, your manager should discuss their concerns with you.

If the decision is taken by your manager to postpone the leave, this should be confirmed in writing within 7 days of your request to tell you why the leave is being postponed. Your manager will then discuss and agree with you other suitable dates within 6 months of the requested date. This new date should not be changed unless there are exceptional circumstances. The length of the new leave cannot be changed by your manager and must be equivalent to your original request unless mutually agreed.

### 16. What action can I take if I do not agree with my manager's decision to postpone my leave?

You can raise a grievance with your manager's manager in line with the Grievance Policy (W8).

## Contractual Rights

### 17. What happens to my contractual rights during Parental leave?

Section 33.28 of the handbook states *during parental leave the employee retains all of his/her contractual rights, except remuneration and should return to the same job after it. Pension rights and contributions shall be dealt with in accordance with NHS Superannuation Regulations. Periods of parental leave should be regarded as continuous service*.

### 18. What happens to my pension during my leave?

Pension rights and contributions are dealt with in accordance with NHS Pension Scheme Regulations. Both Employee and Employer contributions will be due on the normal 'unreduced' pay based on the month prior to the parental leave. Therefore you will be required to pay arrears of contributions relating to the period of unpaid absence in order to retain the pensionable service. These arrears will be collected immediately following the period of leave. Where it would cause financial difficulty for the staff member, the arrears may be collected over a longer period of time. The staff member should contact Pensions at the earliest opportunity to request alternative arrangements for collection of arrears.

### 19. Do I continue to accrue annual leave during parental leave?

Yes, you continue to accrue contractual entitlement to annual leave and general public holiday during Parental Leave.

### 20. What post will I return to work in?

You are entitled to return to the same post following a period of Parental Leave.

## **Keeping in Touch (KIT)**

### **21. Should my manager and I keep in touch during my leave?**

Yes, section 33.29 states *it is good practice for employers to maintain contact (within agreed protocols) with employees while they are on parental leave*. Keep in touch arrangements should be mutually agreed between yourself and your manager prior to your leave commencing.

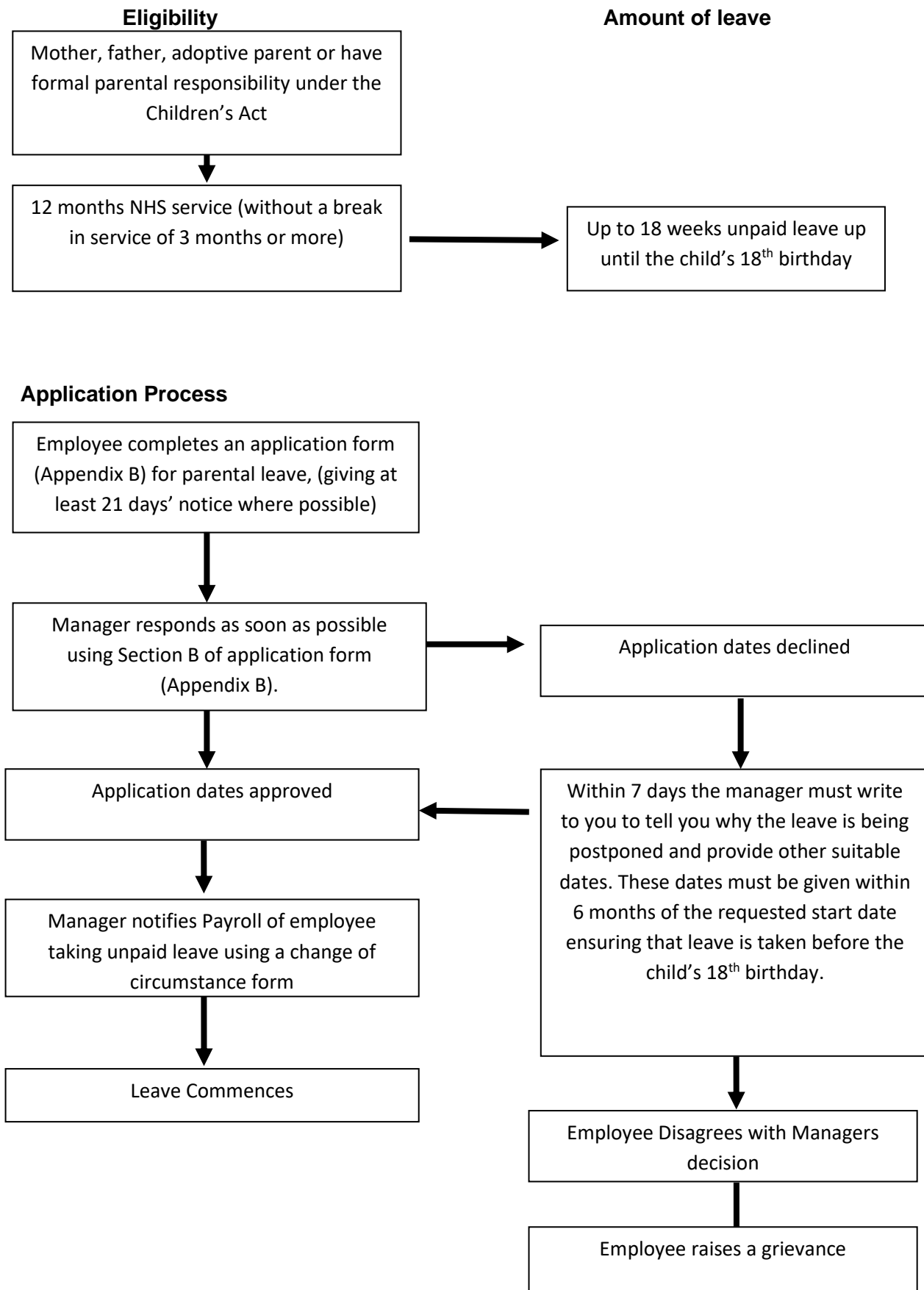
## **Working during Parental Leave**

### **22. Can I work for the Trust or another employer during my Parental Leave?**

No, you must not undertake any paid work with the Trust or any other employer during Parental Leave period. If you do so, leave will automatically cease and the leave will be treated as unauthorised absence. In these circumstances, action may be considered under the Trust's Disciplinary Policy.

## Appendix A

### Flowchart of Parental Leave Procedure



**Appendix B**

**Application for Parental Leave**

Please ensure that you have read and understood the Parental Leave Procedure before completing this form. Once completed please pass this form to your manager who will respond within 7 days.

<b>Section A - To be completed by the employee:</b>			
<b>Part 1 - Personal Details</b>			
<b>First Name:</b>		<b>Surname:</b>	
<b>Employee No:</b>		<b>Department:</b>	
<b>Start Date with Trust:</b>		<b>Start Date with NHS:</b>	
<b>Child Name:</b>		<b>Child Date of Birth:</b>	
<b>Part 2 – Notification and Evidence</b>			
<p>I wish to request Parental Leave as: (please tick)</p> <p>- I am the mother / father / adoptive parent <input type="checkbox"/></p> <p>- I have formal parental responsibility <input type="checkbox"/></p> <p>I have attached the following documentary evidence: (Circle evidence provided as applicable)</p> <p style="text-align: center;"> <input type="checkbox"/> Birth certificate                          <input type="checkbox"/> Adoption Papers                          <input type="checkbox"/> Award of disability allowances                 </p> <p>I understand that I am required to give my manager notice of my request for Parental Leave at least 21 days before I wish to take it where possible.</p>			
<b>Part 3 – Parental Leave dates requested</b>			
<p>I apply for Parental Leave of (please circle):</p> <p>1 week      2 weeks      3 weeks      4 weeks</p> <p>I have met the criteria in section 2 of the procedure and I would like to request the following dates:</p>			
WEEK 1 Date:		WEEK 2 Date:	
WEEK 3 Date:		WEEK 4 Date:	
<p>I understand that I can take Parental Leave in blocks of ONE week up to a maximum of FOUR weeks in any one year. Please circle Yes or No</p> <p>I am requesting parental leave flexibly as my child is disabled and I confirm I receive disability living allowance or personal independence payment for my child. Please circle Yes or No.</p>			



Insert dates requested:

**Part 4 – Parental Leave Request**

**Please state the reason for requesting parental leave.**

For example extending maternity leave or to care for child during school holidays

**Part 5 – Declaration**

I have read and understood the Parental Leave Procedure and wish to apply for leave as indicated above. I understand that the period of Parental Leave will be unpaid. I have attached the required documentation if applicable.

**Signed**

**Date:**

**Section B - To be completed by the Manager:**

I confirm I have discussed this application and the implications with the employee.

The agreed period of parental leave will commence on \_\_\_\_\_

(insert date) until \_\_\_\_\_ (insert date). The expected return to work date will be \_\_\_\_\_ (insert shift/ day, date, year).

Please confirm agreed method and frequency of contact during leave below: (Please ensure you have relevant and up to date contact details)

<b>Manager Name (Print):</b>		<b>Job Title:</b>	
<b>Signed:</b>		<b>Date:</b>	

<b>Employee Signature:</b>		<b>Date:</b>	
<b>Is this a revised application? (i.e. has this application been submitted previously but the date has now changed)</b>	<b>Yes</b> <input type="checkbox"/> <b>No</b> <input type="checkbox"/>	<b>Date copy of this form, evidence and ESR Change of Circumstance form sent to Pay Services:</b>	

**Line Manager Action:**

- retain a copy of the signed documentation, evidence and change of circumstance form on the individual's personal file and provide the individual with a copy of this form
- send the Application for Parental Leave to Pay Services with an ESR Change of Circumstance form.

Please note if the commencement of leave date changes a new Application for Parental Leave must be completed.

A revised application and an ESR Change of Circumstances form must be sent to Pay Services indicating that this is a revised application.

**IF AN APPLICATION IS POSTPONED PLEASE SEND A COPY OF THIS FORM TO THE HR ADVISORY TEAM AT [SATH.HRADVICE@NHS.NET](mailto:SATH.HRADVICE@NHS.NET)**

## Appendix C: 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.