

Maternity, Paternity, Adoption and Shared Leave Policy

UNIQUE REFERENCE NUMBER:

RC/XX/038/V2

DOCUMENT STATUS:

Approved by Remuneration Committee February 2017

DATE ISSUED:

February 2017

DATE TO BE REVIEWED:

February 2017

AMENDMENT HISTORY

VERSION	DATE	AMENDMENT HISTORY
D1	Sept 13	Addition of branding and formatting changes in line with Policy for Development of Policies.
V1	Oct 13	Approved by Rem Com.
RC/XX/038/V1	Dec 14	Unique reference number added prior to publication
RC/XX/038/V2	Jan 17	Update of statutory changes in shared parental leave and entitlements under Agenda for Change terms and conditions

REVIEWERS

This document has been reviewed by:

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APPROVALS

This document has been approved by:

NAME	DATE	VERSION
Remuneration Committee	9 October 2013	V1
Remuneration Committee	1 February 2017	V2

N.B: the version of this policy posted on the intranet must be a PDF copy of the approved version.

DOCUMENT STATUS

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RELATED DOCUMENTS

These documents will provide additional information:

REFERENCE NUMBER	DOCUMENT TITLE	VERSION

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1.0 POLICY OVERVIEW

1.1 Purpose

The purpose of this policy is to provide support and guidance for employees and managers on the processes involved in applying for Maternity Leave, Paternity Leave or Adoption Leave in line with NHS Agenda for Change and statutory legislation. This policy will facilitate employees' understanding of their statutory rights and obligations with regards to maternity, paternity and adoption, this enabling them to plan effectively before and after the birth or adoption of a child.

1.2 Who is this Policy Applies to

This policy applies to everybody who is employed by the CCG including employees on Fixed Term Contracts. This policy does not apply however to agency or bank workers.

1.3 Key Principles

- We seek to support expectant and new mothers and ensure that they receive and understand their rights and entitlements with regards to maternity leave and pay, whilst facilitating staff in their return to work following a period of maternity leave.
- We recognise the demands placed on both parents and similarly seek to support new fathers, whether biological or adoptive, nominated carers or partners of the mother, including same-sex relationships, who have newly born babies, balance the demands of both work and personal responsibilities. The Paternity Leave scheme detailed in this policy will allow staff time off work, to help the family adapt to the change in circumstances.
- This policy recognises recent changes in legislation that allows the partner of the mother to take shared or an extended period of leave if they meet certain eligibility requirements.
- Employees that adopt a child retain the same rights as biological parents under certain conditions, as detailed in this policy. We are committed to ensuring that parents who adopt suffer no detriment nor are treated any less favourably than biological parents.
- Employees notifying their employer of their intention to take Maternity Leave need to submit the MATB1 form, issued by a doctor or midwife, to their line manager by the "notification week" – that is by the end of the 15th week before the Estimated Week of Childbirth ("EWC") or as soon as reasonably practicable. Failure to submit this in a timely manner will affect the employee's ability to claim Occupational and Statutory Maternity Pay (OMP and SMP).
- When applying for Maternity Leave, the employee is required to state both the start and end date of the leave.
- Employees notifying their employer of their intention to take Adoption Leave need to submit this in writing to their line manager within 7 calendar days of being notified by an approved Adoption Agency that they have been matched with a child. They are required to inform the line manager of the Expected Date of Adoption. To receive Statutory Adoption Pay (SAP), at least 28 days' notice needs to be given.
- Employees notifying their employer of their intention to take Paternity Leave need to submit the MATB1 form issued by a doctor or midwife, to their line manager by the "notification week" – that is by the end of the 15th week before the Estimated Week of Childbirth ("EWC") or as soon as reasonably practicable. In the case of adoptions,

employees need to submit the Matching Certificate issued by an approved Adoption Agency within 7 calendar days of being notified of the match with a child for adoption.

1.4 Legal Considerations

The Maternity, Paternity, Adoption and Shared Leave Policy reflects Agenda for Change Terms and Conditions, and therefore nothing within these guidelines alters or contradicts Agenda for Change, the Employment Relations Act 1999, the Equality Act 2010, or any subsequent legislation.

2.0 THE POLICY

2.1 Maternity Leave Eligibility and Entitlements

All pregnant employees, regardless of service, have the statutory right to take up to 52 weeks Maternity Leave. This consists of 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave. The eligibility to receive pay during Maternity Leave depends on length of service – for details on maternity pay eligibility criteria and entitlements please see the section below.

Under statutory requirements, the employee must notify her manager in writing of her intention to take Maternity Leave by the end of the “notification week” that is 15 weeks before the Expected Week of Childbirth (EWC). An application for Maternity Leave should be made by the employee in writing to their line manager and submitted to Payroll. The MATB1 form should be submitted at the same time.

Maternity Leave can commence at any time from the start of the 11th week before the Expected Week of Childbirth (EWC) and up to as late as the day the baby is born. If an employee wishes to change the start date of her Maternity Leave, the request must be given in writing to her manager at least 28 days prior to the new start date.

If the employee’s baby is born earlier than their agreed Maternity Leave start date, their Maternity Leave will commence from the day after the child’s birth.

There is a period of compulsory Maternity Leave of two weeks immediately following the birth of a child. Employees are not legally permitted to work at all during this period. This period of compulsory leave constitutes part of Ordinary Maternity Leave; it is not additional to it.

Employees taking Ordinary Maternity Leave only are entitled to return to the same job as existed before the Maternity Leave began and on the same terms and conditions as if they had not been away from the organisation.

Employees taking Additional Maternity Leave are entitled to return to the same job as existed before the Maternity Leave began and on the same terms and conditions as far as is reasonably practicable. Where this is not possible, employees should return to a post that is suitable, appropriate and with equivalent status and on no less favourable terms and conditions. Managers should contact HR before taking this course of action.

Only one period of leave is available to employees irrespective of whether more than one child is born as the result of the same pregnancy.

2.2 Maternity pay

Eligibility to be paid whilst on Maternity Leave is dependent on a combination of length of NHS service, length of organisation service and whether the employee intends to return to work following the period of Maternity Leave. The different combinations of these factors will determine different Maternity Pay entitlements. These entitlements can be summarised by the following options:

Less than 26 weeks service in the organisation and less than 12 months service in the NHS

Employees with less than 26 weeks service within the organisation and NHS at the 15th week before the EWC (Qualifying Week) and less than 12 months service with the NHS by the 11th week before the EWC (the earliest date Maternity Leave may commence) will not be eligible for Occupational Maternity Pay (OMP) and they will not be eligible to claim Statutory Maternity Pay (SMP) either. However, they may be able to claim Maternity Allowance from the Benefits Agency for a period of 39 weeks. Whilst the organisation will not be paying employees under this option, employees are still eligible to take up to 52 weeks leave unpaid.

Less than 12 months NHS service but more than 26 weeks organisation service

Employees with less than 12 months NHS service by the 11th week before the EWC but more than 26 weeks service in the organisation by the 15th week before the EWC (Qualifying Week) will not be eligible for Occupational Maternity Pay (OMP). However they will be eligible for Statutory Maternity Pay (SMP) for a period of 39 weeks. Eligibility for this scheme is not affected by the employee's intention to return to work or not.

Statutory Maternity Pay (SMP) provisions are as follows:

6 weeks: 90% average weekly earnings
33 weeks: 90% average weekly earnings OR standard rate SMP (whichever is the lower amount)

All employees are eligible to take the full 52 weeks Maternity Leave; therefore employees under this option may take a further 13 weeks unpaid.

More than 12 months NHS service and more than 26 weeks organisation service

Employees with more than 12 months NHS service at the 11th week before EWC and more than 26 weeks service with the organisation at the 15th week before the EWC (Qualifying Week) will be eligible for Occupational Maternity Pay (OMP) on the condition that they return to work for three months following their period of Maternity Leave.

Employees under this option will also be eligible for Statutory Maternity Pay (SMP). The combined Occupational and Statutory Maternity Pay provisions are as follows:

8 weeks: Full pay (less any SMP payable)
18 weeks: Half pay + SMP (provided the total does not exceed full pay)
13 weeks: SMP only
13 weeks: Unpaid

Employees under this option that do not intend to return to work for three months following the period of Maternity Leave are still eligible to claim Statutory Maternity Pay (SMP) for a period of 39 weeks where the first 6 weeks are payable at 90% average weekly earnings

and the following 33 weeks are payable at 90% average weekly earnings or SMP (whichever is the lower amount).

2.3 Adoption leave eligibility and entitlements

All employees, regardless of service, have the statutory right to take up to 52 weeks Adoption Leave if they have been continuously employed by the organisation for at least 26 weeks by the week in which they are informed that they have been matched with a child (the “Matching Week”). If a couple is jointly adopting a child, only one may take Adoption Leave. However, the other partner may still be eligible to receive Paternity Leave and Pay.

Some eligibility criteria will depend on whether the adoption is UK based or overseas.

For UK adoptions: the employee has to be matched with a child by an approved UK adoption agency and have notified the agency of their agreement to the placement and to the proposed date of the placement.

For overseas adoptions: the employee receives written notification issued by or on behalf of the relevant domestic authority stating that the authority either is prepared to issue a certificate to the overseas authority dealing with the adoption of the child, or has issued a certificate and sent it to that authority. In either case, the certificate confirms that the adopter has been approved by them as being a suitable adoptive parent to adopt a child from overseas.

Under statutory requirements, the employee must notify their manager in writing of their intention to take Adoption Leave by the end of the Matching Week. An application for Adoption Leave should be made by the employee and their line manager and submitted to Payroll. Evidence of the match should be submitted at the same time.

Adoption Leave consists of 26 weeks Ordinary Adoption Leave and 26 weeks Additional Adoption Leave. The point at which Adoption Leave can commence will depend on whether the adoption is UK based or overseas.

For UK adoptions: the employee can start Adoption Leave from 14 days prior to the child’s placement up to and including the date of the child’s placement.

For overseas adoptions: the employee can start Adoption Leave from the date the child enters the UK up to 28 days after the child enters the UK.

Adoption Leave can start on any day of the week. Only one period of leave is available to employees irrespective of whether more than one child is adopted as the result of the same adoption process. If an employee wishes to change the start date of their Adoption Leave, the request must be given in writing to their manager at least 28 days prior to the new start date. If the employee’s adopted child is placed earlier than their agreed Adoption Leave start date, their Adoption Leave will commence from the day after the child’s placement

2.4 Adoption pay

Eligibility to be paid whilst on Adoption Leave is dependent on a combination of length of NHS service, length of organisation service and whether the employee intends to return to work following the period of Adoption Leave. The different combinations of these factors will determine different pay entitlements but reflect the entitlements of new mothers to Occupational Maternity Pay as stated above. These entitlements can be summarised by the following four options:

Less than 26 weeks service in the organisation and NHS

Employees with less than 26 weeks service within the organisation and less than 12 months service with the NHS by the Matching Week will not be eligible for Occupational Adoption Pay and they will not be eligible to claim Statutory Adoption Pay (SAP) either. Whilst the organisation will not be paying employees under this option, employees are still eligible to take up to 52 weeks leave unpaid.

Less than 12 months NHS service but more than 26 weeks organisation service

Employees with less than 12 months NHS service but more than 26 weeks service in the organisation by the Matching Week will not be eligible for Occupational Adoption Pay. However they will be eligible for Statutory Adoption Pay (SAP) for a period of 39 weeks. Eligibility for this scheme is not affected by the employee's intention to return to work or not.

Statutory Adoption Pay (SAP) provisions are as follows:

6 weeks:	90% average weekly earnings
33 weeks:	90% average weekly earnings OR SAP (whichever is the lower amount)

All employees are eligible to take the full 52 weeks Adoption Leave; therefore employees under this option may take a further 13 weeks unpaid.

More than 12 months NHS service and more than 26 weeks organisation service

Employees with more than 12 months NHS service and more than 26 weeks service with the organisation by the Matching Week will be eligible for Occupational Adoption Pay on the condition that they return to work for three months following their period of Adoption Leave.

Employees under this option will also be eligible for Statutory Adoption Pay (SAP). The combined Occupational and Statutory Adoption Pay provisions are as follows:

8 weeks:	Full pay (less any SAP payable)
18 weeks:	Half pay + SAP (provided the total does not exceed full pay)
13 weeks:	SAP only
13 weeks:	Unpaid

Employees under this option that do not intend to return to work for three months following the period of Adoption Leave are still eligible to claim Statutory Adoption Pay (SAP) for a period of 39 weeks where the first 6 weeks are payable at 90% average weekly earnings and the following 33 weeks are payable at 90% average weekly earnings or SAP (whichever is the lower amount).

2.5 Calculation of Maternity Pay and Adoption Pay

For both Statutory and Occupational Maternity Pay and Statutory and Occupational Adoption Pay, an 8 week qualifying period prior to the 15th week before EWC (Qualifying Week) or the 8 weeks prior to Matching Week is used to determine the rate of pay the employee will receive whilst on Maternity or Adoption Leave. However the figure may alter in the following circumstances:

In the event of a pay award or annual increment being implemented before the paid Maternity or Adoption Leave period begins, the pay should be calculated as though the pay award or annual increment had effect throughout the entire statutory pay calculation period. If such a pay award was agreed retrospectively, the pay should be re-calculated on the same basis;

In the event of a pay award or annual increment being implemented during the paid Maternity or Adoption Leave period, the pay due from the date of the pay award or annual increment should be increased accordingly. If such a pay award was agreed retrospectively the pay should be re-calculated on the same basis;

In the case of an employee on unpaid sickness absence or on sickness absence attracting half pay during all or part of the period used for calculating average weekly earnings, in accordance with the earnings rules for SMP and SAP purposes, average weekly earnings for the period of sickness absence shall be calculated on the basis of notional full sick pay.

2.6 Ordinary paternity leave and pay

All employees regardless of length of service are entitled to take up to two weeks Ordinary Paternity Leave (OPL) which must be taken as a single block of one or two weeks not divided into separate days. To be eligible for OPL the employee must have or expects to have responsibility for the child's upbringing. They may be the biological or adoptive father of the child, the nominated carer or the mother's husband or partner, including those in same sex relationships or civil partnerships.

For employees who are adopting a child, employees will only be eligible for Ordinary Paternity Leave and Ordinary Statutory Paternity Pay (OSPP) if they are NOT claiming Statutory Adoption Pay (SAP). Where a couple is jointly adopting a child, only one may claim Statutory Adoption Pay (SAP) and the other may claim Statutory Paternity Pay; this is not determined by the gender of the employee but by the choice made by the couple.

Employees will be eligible for Ordinary Statutory Paternity Pay (OSPP) if they have at least 26 weeks continuous service within the organisation by either the 15th week before the EWC (Notification Week) or by the week in which the adopter is advised that they have been matched with a child for adoption. They must still be employed by the organisation at the time of the child's birth or placement. Ordinary Statutory Paternity Pay (OSPP) equates to 90 per cent of the employee's average weekly earnings, or the standard weekly rate; whichever is the lower. The standard weekly rate is equivalent to Statutory Maternity Pay (SMP) and Statutory Adoption Pay (SAP). For those employees not eligible for OSPP, the leave will be unpaid, or they may choose to take paid Annual Leave as an alternative.

Ordinary Paternity Leave (OPL) can start on any day of the week on or following the child's birth (not prior to it) or in the case of adoption the date of the child's placement. However OPL must be completed within 56 days of the actual date of birth or placement of the child; or if the child is born early, within the period from the actual date of birth up to 56 days after the first day of the EWC.

Only one period of OPL is available to employees irrespective of whether more than one child is born or adopted as the result of the same pregnancy or matching process.

The employee must notify their manager in writing of their intention to take Ordinary Paternity Leave by the 15th week before the EWC (Notification Week) in the case of natural births.

In the case of adoptions, the employee must notify the appropriate line manager in writing, no more than 7 days after the adopter is notified (or as soon as reasonably practicable) that they have been matched with a child. The notice must include:

- The date the adopter was notified that they have been matched with a child
- Length of paternity leave they intend to take, either one or two weeks

- When the individual wishes to commence Ordinary Paternity Leave

A copy of the Matching Certificate from an approved UK Adoption Agency or written notification from the appropriate authorities showing the date the child is expected to enter the UK for overseas adoptions.

Employees must give at least 28 days' notice of any change to the start date of their Ordinary Paternity Leave, or if they wish to postpone or cancel it. The CCG will respond to any such requests in writing within 28 days.

2.7 Additional paternity leave and pay

Additional Paternity Leave (APL) allows eligible employees to take between two and 26 weeks leave to care for the new child. In order to qualify for this leave and pay, the child's mother or co-adopter must have returned to work following a period of Maternity or Adoption Leave.

To be eligible for APL the employee must have or expects to have responsibility for the child's upbringing. They may be the biological or adoptive father of the child, the nominated carer or the mother's husband or partner, including those in same sex relationships or civil partnerships. In addition, the employee must have 26 weeks continuous service with the organisation by the 15th week before the EWC (Qualifying Week) **and** to claim Additional Statutory Paternity Pay (ASPP) the child's mother must also be entitled to Statutory Maternity Pay, Statutory Adoption Pay or Maternity Allowance.

Additional Statutory Paternity Pay (ASPP) is payable under the following conditions:

- The employee is eligible for Additional Paternity Leave as detailed above.
- The employee is taking time off during the 39 week period covered by their partner's Statutory Maternity Pay, Statutory Adoption Pay or Maternity Allowance.
- The employee's partner has returned to work with a minimum of two weeks Statutory Maternity Pay (SMP) or Statutory Adoption Pay (SAP) entitlement remaining.

The employee is only entitled to be paid during the mother or co-adopter's Statutory Maternity Pay or Statutory Adoption Pay period. Additional Statutory Paternity Pay (ASPP) equates to 90 per cent of the employee's average weekly earnings, or the standard weekly rate; whichever is the lower. The standard weekly rate is equivalent to Statutory Maternity Pay (SMP) and Statutory Adoption Pay (SAP).

The employee must notify their manager in writing of their intention to take Additional Paternity Leave and claim Additional Statutory Paternity Pay at least 8 weeks prior to the start of the leave. The notice must include:

Expected date of the baby's birth or the date they were notified of being matched with a child for adoption by an approved UK Adoption Agency or the date they received notification of their suitability to adopt a child from overseas by the relevant authority **OR** Actual date of the baby's birth or actual date of placement for adoption

- The start date for their Additional Paternity Leave and ASPP
- The end date for their ASPP, where applicable
- The date the employee expects their Additional Paternity Leave to end

Employees must give at least 6 weeks' notice of any change to the dates of their Additional Paternity Leave, or if they wish to postpone or cancel it. If an employee fails to give the

required amount of notice, the organisation is not obliged to accommodate the changes but will endeavour to where possible. The organisation will respond to any such requests in writing within 28 days.

Employees are obliged to inform their line manager as soon as reasonably practicable in the event that their eligibility for Additional Paternity Leave changes; for example if their partner has not returned to work as planned.

2.8 Additional paternity if the mother or co-adopter dies

If the child's mother or co-adopter dies before the child's first birthday or within the first year of placement, special provisions will apply. If the employee has not taken their full Additional Paternity Leave entitlement already then they will be eligible for extended Additional Paternity Leave which can be taken from the date of the mother's/ co-adopter's death until the child's first birthday or anniversary of the child's placement. Additional Statutory Paternity Pay is payable throughout the mother's/ co-adopter's Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance period.

If the employee has already taken Additional Paternity Leave at the time of the mother's/ co-adopter's death they are not eligible to apply for more. If the employee is on Additional Paternity Leave when the mother/ co-adopter dies, they will be eligible to extend the leave until the child's first birthday or anniversary of the child's placement.

If the employee notifies their line manager of their intention to take Additional Paternity Leave within 8 weeks of the death of the mother/ co-adopter, this leave can commence immediately. If 8 weeks have passed since the death of the mother/ co-adopter then 6 weeks' notice of the intention to take Additional Paternity Leave is required.

2.9 Shared Parental Leave

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 using the following link: www.gov.uk

Information about health and safety for new and expectant mothers at work can be found using the following link: <http://www.hse.gov.uk/mothers/>

2.10 Keep in Touch (KIT) days

Before going on leave the manager and employee should discuss and agree any voluntary arrangements for keeping in touch during the employee's Maternity, Adoption or Additional Paternity Leave which the employee may find helpful to keep in touch with developments at work and to help facilitate their return to work. An employee may work for up to a maximum of 10 KIT days without bringing the Maternity, Adoption or Additional Paternity Leave to an end. Any days of work will not extend the leave period.

For new mothers, an employee may not work during the two weeks of compulsory Maternity Leave immediately after the birth of her baby.

Keep in Touch days may be consecutive or not and can include training or other activities which enable the employee to keep in touch with the workplace. Any such work must be by agreement and neither the employer nor the employee can insist upon it. The employee will be paid at their basic daily rate for the hours worked less appropriate Maternity, Adoption or

Paternity Leave payment for KIT days worked. Working for part of any day will count as one KIT day.

2.11 Returning to work

An employee who intends to return to work at the end of their full Maternity or Adoption Leave entitlement of 52 weeks will not be required to give any further notification to their line manager of their return to work. With regards to Paternity Leave, employees are required to inform the organisation of their proposed return to work date when they notify their line manager of their intention to take Additional Paternity Leave.

If an employee on Maternity, Adoption or Additional Paternity Leave wishes to change their original return to work date, they must notify their line manager in writing 8 weeks in advance of this new date or sooner if this is reasonably practicable. If the employee does not give the required amount of notice the organisation will try to accommodate requests but is under no obligation to do so. If the employee attempts to return to work earlier than the end of their agreed leave period without giving the required 8 weeks' notice in writing, their return may be delayed by the organisation until the end of the required 8 weeks period. Any such postponement will be unpaid, but may still qualify for SMP or Maternity Allowance. The organisation will not postpone the return to work beyond the end of the 52 week maximum period.

Employees taking less than 26 weeks Maternity, Adoption or Paternity Leave are entitled to return to the same job as existed before the leave began and on the same terms and conditions as if they had not been away from the organisation.

Employees taking more than 26 weeks Maternity, Adoption or Paternity Leave are entitled to return to the same job as existed before the leave began and on the same terms and conditions as far as is reasonably practicable. Where this is not possible, employees should return to a post that is suitable, appropriate and with equivalent status and on no less favourable terms

An employee that is claiming Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance only will not be required to pay back any monies in the event that they do not return to work after the period of Maternity or Adoption Leave.

An employee that is receiving Occupational Maternity Pay or Occupational Adoption Pay will be required to pay back all monies minus the SMP/SAP element (where applicable) in the event that they do not return to work for the organisation or another NHS organisation after the period of Maternity or Adoption Leave for a minimum of three months. The organisation will seek to reclaim the full amount of Occupational Pay minus the Statutory Pay provisions.

3.0 OTHER CONSIDERATIONS

3.1 Antenatal Care

All pregnant employees, regardless of their length of service or status, have an entitlement to reasonable paid time off work for antenatal care as recommended by a medical practitioner, midwife or health visitor but must provide evidence of appointments on request. Where possible, appointments should be made so as to minimise the time off required. Comparable provisions will be made for staff working nights.

3.2 Premature birth, miscarriage or still birth

When an employee's baby is born prematurely the employee will be entitled to the same amount of Maternity and Paternity leave and pay as if their baby was born at full term.

When an employee has a miscarriage or stillbirth before the 24th week of pregnancy, she will not be eligible for Maternity Leave or Maternity Pay but will be eligible for paid sickness absence as per the organisation's Sickness Absence Policy. The employee's partner will not be eligible for Paternity Leave but would also be eligible for paid sickness absence as per the organisation's Sickness Absence Policy

When an employee has a miscarriage or stillbirth after the 24th week of her pregnancy, she will be eligible for the same Maternity Leave and Maternity Pay as she would be had the child been born alive and the employees partner would be entitled to the same Paternity Leave and Paternity Pay had the child been born alive.

3.3 Employees on Fixed Term Contracts

If an employee on a fixed term contract notifies the organisation of her pregnancy status by the 15th week before the EWC (Notification Week) but the contract is due to expire after the 11th week before EWC then the employee may still be eligible for Occupational Maternity Pay (OMP) from the organisation if she satisfies the length of service criteria. In the case of adoption, if the employee notifies the CCG within 7 days of being notified of a match with a child and has 12 months NHS service by the proposed date of placement, the employee will still be eligible for Occupational Adoption Pay.

Therefore if an employee on a fixed term contract has at least 26 weeks continuous service in the CCG by the 15th week before the EWC or the Matching Week, she will be eligible for Statutory Maternity Pay (SMP) or Statutory Adoption Pay (SAP). If the employee has at least 12 months continuous service in the NHS by the 11th week before the EWC or date of placement for an adopted child, the employee will be eligible for Occupational Maternity Pay (OMP). Under these circumstances the terms of the contract will need to be extended to accommodate the period of Maternity or Adoption Leave.

Under permanent employment contracts, employees that fail to return to work after a period of Maternity or Adoption Leave are obliged to pay back any Occupational Maternity Pay (OMP) or Occupational Adoption Pay. Under fixed term contracts, because the employee has no right of return due to the fact the contract would have ended had the employee not become pregnant or adopted a child, the usual obligation to repay this money does not apply.

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 will 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 had pregnancy, childbirth or adoption of a child not occurred. In such circumstances the employee's contract will be extended to enable the employee to complete the agreed programme of training.

3.4 NHS pension scheme

An employee that is a member of the Pension Scheme will be covered by the provisions of the Pension Scheme and their pension rights will continue to increase whilst they are on Maternity, Adoption or Paternity Leave.

During periods of paid Maternity, Adoption or Paternity Leave, pension contributions will be collected as usual on full pay. When the employee is receiving half pay and/or SMP/SAP/SPP, they will pay contributions on these payments.

During periods of unpaid Maternity, Adoption or Paternity Leave, pension contributions cannot be paid but will be recovered on the employee's return to work. This can either be in a lump sum or spread over a period of time equivalent to the length of the employee's unpaid leave. For example, if there were 3 months unpaid leave the amount would be deducted over the next 3 months. These payments are calculated at the rate the employee was paying at the end of the period of paid leave (for example half pay plus SMP or SMP only).

3.5 Sickness Absence during maternity leave

Sickness absence occurring before the 4th week before the EWC will be treated as sick leave in the normal way. Sickness absence occurring after the 4th week before the EWC, which is pregnancy related, will automatically trigger maternity leave to commence. SMP payments will commence on the first Sunday following that week in which work actually stops due to illness attributable to pregnancy. Sickness absence occurring after the 4th week before the EWC, which is not pregnancy related will be treated as sick leave in the normal way. Sickness absence occurring following the date the employee was due to return to work, normal sick leave provisions will apply as necessary.

3.6 Annual Leave entitlement

Annual Leave will continue to accrue during Maternity, Adoption or Paternity Leave, regardless of whether it is paid or unpaid leave. Where Maternity, Adoption or Paternity Leave falls across two holiday years (normally April to March) employees can take Annual Leave before and/or after the period of Maternity, Adoption or Paternity Leave. However, normal carry over provisions will apply i.e. carrying forward a maximum of 5 days into the next leave year. The amount of leave to be taken in this way, or carried over, must be discussed and agreed in advance between the line manager and the employee. Payment in lieu may be considered as an option where accrual of annual leave exceeds normal carry over provisions. Bank Holidays will not accrue during Maternity, Adoption or Paternity Leave.

3.7 Incremental dates

Maternity, Adoption and Paternity Leave, whether paid or unpaid, shall count as service for annual increments and for the purposes of any service qualification period for additional Annual Leave. Therefore progressing through an increment in the usual way unless concerns about the ability to achieve an increment had already been discussed prior to commencing leave.

3.8 Redundancy or dismissal during maternity, paternity or adoption leave

If the employee's post is made redundant before the Qualifying Week (for Maternity or Paternity Leave) or the Matching Week (for Adoption Leave) the employee will not be eligible to receive Statutory Maternity Pay (SMP), Statutory Paternity Pay (SPP) or Statutory Adoption Pay (SAP). If the employee's post is made redundant *during* Qualifying Week or at any time during a period of Maternity, Paternity or Adoption Leave and the employee meets the eligibility criteria for statutory pay, then they are entitled to receive statutory payment for the full 39 week period.

If an employee's post is made redundant whilst they are on Maternity, Adoption or Additional Paternity Leave (paid or unpaid) they are entitled to be offered a suitable alternative vacancy, where there is one available. Under these circumstances, the terms and conditions of their employment should be no less favourable than if they had continued under their original employment contract.

An 'at risk' employee on Maternity, Adoption or Additional Paternity Leave should be offered suitable alternative vacancies before other employees and where they meet the essential criteria, should not attend interviews or selection procedures. If a suitable alternative vacancy is offered and the employee unreasonably refuses it, they will forfeit their right to redundancy payment as per the Organisational Change Policy.

If an employee is made redundant whilst they are on Maternity, Adoption or Additional Paternity Leave, they should receive redundancy payment in the normal way and they are entitled to the same period of notice as if they were not on leave. The time an employee spends on Maternity, Adoption or Paternity Leave, whether paid or unpaid, counts as continuous service for the purpose of calculating redundancy pay. Contractual notice will be as per the individual Contract of Employment and/or relevant terms and conditions of service.

If an employee is dismissed whilst on Maternity, Adoption or Paternity Leave (including if dismissed by reason of redundancy) the employee must be provided with a written statement of the reasons for their dismissal. Advice should be sought from the Human Resources department in compiling this written statement.

It is unlawful to select an employee for redundancy or dismissal for any reason connected to pregnancy, childbirth, or for exercising the right to take Maternity, Adoption or Paternity Leave. Under the Equality Act 2010, the employee may have a claim for unfair dismissal and/or sex discrimination regardless of length of service.

3.9 Breastfeeding Policy

The CCG recognises the benefits of breastfeeding for mother and baby and is committed to supporting new mothers to continue breastfeeding their babies, should they choose to, on their return to work after Maternity Leave.

New mothers returning from Maternity Leave have the right to request:

- to breastfeed their babies in person
- private facilities for expressing and storage of breast milk
- suitable facilities to rest

Employees intending to continue breastfeeding on their return to work from Maternity Leave should inform their manager in writing at least 28 days before their return to work. The manager should then carry out a risk assessment. The line manager is responsible for arranging the following facilities prior to the employee's return from Maternity Leave:

- An appropriate rest room; it should be private, warm, clean and comfortable with a suitable chair. The room should contain an electric point, to allow for the use of an electric pump or steam steriliser and should have facilities for hand washing.
- Where requested, a clean area should be made available for the storage, preparation, and sterilising of equipment.
- If no dedicated staff fridge can be made available, nursing mothers who have expressed breast milk have the right to place it in any domestic organisation owned

fridge. The container should be clearly labelled. Please note that medical fridges must not be used for storing breast milk.

Managers will be flexible with regard to working patterns when a breastfeeding mother returns to work. This may mean temporarily changing working conditions or hours of work. Breastfeeding staff will not be required to attend training courses or meetings which involve working patterns that may be detrimental to breastfeeding.

Time should also be allowed for expressing milk. Breaks should be provided which allow a mother time to express her breast milk (expressing milk can take up to 40 minutes every 3-4 hours). There is an expectation that no more than 2 breaks per 7.5 hour shift will be taken. Where practicable, e.g. where the baby is cared for nearby, the employee will be allowed time off, as defined above, to breastfeed in person during working hours.

3.10 Risk Assessments

The organisation has a legal duty to protect new and expectant mothers at work. On being notified that an employee is pregnant, managers should complete a Risk Assessment that is continually reviewed throughout the employee's pregnancy, upon return to work at the end of their Maternity Leave and throughout any period in which the employee is breastfeeding. The Risk Assessment should be kept on the employee's personal file.

3.11 Equality Statement

In applying this policy, the organisation will have a 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, sexual orientation, in addition to offending background, trade union membership or any other personal characteristic.