

## **Nene Clinical Commissioning Group**

# **Maternity, Paternity, Adoption and Parental Leave Policy**

## **Nene CCG : HR15**

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## ASSISTANCE WITH THE APPLICATION OF THIS POLICY AND UPDATES

This policy has been prepared so as to reflect the law as at 1 June 2013. The policy will require periodic review to reflect subsequent changes to the law. Changes to employment law have generally been made on 1 February, 1 April and 1 October in any given year.

For advice and assistance in relation to the application of this policy and to obtain updates please contact:

Your line manager in the first instance or Corporate Services, Nene Clinical Commissioning Group, Francis Crick House, Summerhouse Road, Moulton Park, Northampton, NN3 6BF

### VERSION CONTROL SHEET

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## **Maternity, Paternity, Adoption and Parental Leave Policy**

### **Policy**

This policy explains:

- your rights when you are pregnant, on maternity leave and on your return to work after your baby is born
- your rights to paternity leave when your partner gives birth or adopts a child (and you are not taking adoption leave)
- your rights if you are an adoptive parent, to take adoption leave from work
- your entitlement, as a mother or father, to take time off work to look after your child

We aim to ensure a consistent and fair approach to expectant and return to work parents, showing sensitivity and consideration of your individual circumstances and personal preferences. We will assist and support employees, taking into account safe working, continuation of duties during the expectant time, and satisfactory return to work where applicable.

The law relating to parental rights is complex. We have tried to simplify the rules, as far as possible but you should not hesitate to contact Corporate Services if you have any questions.

### **Due Regard**

This policy has been reviewed in relation to having due regard to the Public Sector Equality Duty (PSED) of the Equality Act 2010 to eliminate discrimination, harassment, victimisation; to advance equality of opportunity; and foster good relations.

### **Equality Statement**

Nene Clinical Commissioning Group (CCG) aims to design and implement policy documents that meet the diverse needs of our services, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account current UK legislative requirements, including the Equality Act 2010 and the Human Rights Act 1998, and promotes equal opportunities for all. This document has been designed to ensure that no-one receives less favourable treatment due to their reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity. Appropriate consideration has also been given to gender identity, socio-economic status, immigration status and the principles of the Human Rights Act.

In carrying out its functions, Nene CCG must have due regard to the Public Sector Equality Duty (PSED). This applies to all the activities for which Nene CCG is responsible, including policy development, review and implementation.

### **Who does the policy apply to?**

This policy applies to all our employees. Your eligibility for maternity, paternity, adoption or parental rights are detailed within the policy.

## Maternity

### 1. Telling us about your pregnancy

We encourage you to tell us about your pregnancy as soon as you feel comfortable doing so. This gives us a chance to deal with any health and safety issues and provide any other relevant support.

When you decide to tell us about your pregnancy, you should contact your line manager. A standard notification form is available from your Corporate Services if you would like to use it.

You must tell us about your pregnancy by the start of the 15th week before the week in which the baby is due. This is the latest date that you can tell us that you plan to take maternity leave.

### 2. Taking time off during pregnancy

If you are pregnant you can take reasonable time off work with pay for antenatal care. This includes appointments with your doctor or midwife, hospital appointments connected with your pregnancy or other appointments advised by your doctor, midwife or health visitor.

You should give your line manager as much notice as possible of the appointment.

Except for your first appointment, you may be asked for a certificate from your doctor, midwife or health visitor stating that you are pregnant; and an appointment card or some other document confirming your appointment.

You will be paid at your normal hourly rate for your time off for ante-natal care.

### 3. Maternity leave

#### 3.1. Ordinary and Additional Maternity Leave

You are entitled to 52 weeks maternity leave, regardless of your hours of work or length of employment with us. However, it is important that you give us the correct notice. This is explained in more detail below.

Maternity leave is made up of 26 weeks Ordinary Maternity Leave immediately followed by 26 weeks Additional Maternity Leave. We refer to these as OML and AML in this policy.

#### 3.2. Notification requirements

To ensure that you are entitled to take maternity leave you must comply with certain notification requirements explained in this section.

You must give us the following information by the start of the 15th week before the week in which your baby is due (or as soon as you can if it was not reasonably practical for you to tell us before then). You will need to tell us:

- that you are pregnant;
- when the baby is expected to be born;
- when you want your maternity leave to start; and
- your expected return date – please see page 7

You should make sure that you tell us in writing about the date on which you expect to start your maternity leave and let us have a copy of form MATB1 which will be given to you by a doctor or a midwife confirming your baby's expected birth date.

### **3.3. Starting maternity leave**

You cannot start your maternity leave earlier than 11 weeks before the week in which your baby is due, unless, of course, your baby is born prematurely before then.

If you are away from work on sick leave for a reason related to your pregnancy at any time after the start of the 4<sup>th</sup> week before the week in which your baby is due, this will automatically trigger the start of your maternity leave.

### **3.4. Changing the start date of your maternity leave**

If you want to change the start date of your maternity leave, you must tell us about the new start date either 28 days before the new date, or, if earlier, 28 days before your original start date (unless this is not reasonably practical, in which you should tell us as soon as you can).

### **3.5. Confirmation from us**

We will write to you within 28 days of receiving your notification, confirming the date on which we expect you to come back to work if you take your full entitlement to maternity leave.

## **4. Statutory Maternity Pay**

### **4.1. Rights to Statutory Maternity Pay (SMP)**

The qualifying conditions for SMP are different from the conditions for maternity leave. You will be entitled to SMP if:

- you have been continuously employed by us for 26 or more weeks by the end of the 15<sup>th</sup> week before the week in which your baby is due; and
- you stop working for a reason connected with your pregnancy; and

- you are still pregnant 11 weeks before the week in which your baby is due, or have had your baby by then; and
- your average earnings (based on an 8 week reference period prior to the 15<sup>th</sup> week before the week in which your baby is due) are not below the lower earnings limit set by the Government
- you have given at least 28 days' notice of the date you expect to start receiving SMP (which, in practice, will be the date you expect to start your maternity leave).

If you are not entitled to SMP, perhaps because you have not worked for us for 26 weeks or more, you may be entitled to maternity allowance. Your local Jobcentre Plus will be able to help you with this.

#### **4.2. Amount of SMP**

SMP is payable for 39 weeks in total. If you are eligible for SMP, you will receive it during all of your OML and for the first 13 weeks of your AML (assuming you have not come back to work by then).

SMP is paid at a higher and lower rate. For the first six weeks of maternity leave, SMP is paid at 90% of your average weekly earnings. The lower rate of SMP is payable for the remaining 33 weeks and is a fixed statutory amount set each year by the Government.

If you come back to work before the end of the 39 week period during which SMP is payable, your entitlement to SMP will stop on your return to work.

You will receive SMP through the normal payroll. The usual deductions for tax and national insurance apply.

SMP replaces your usual salary while you are on maternity leave.

### **5. Occupational Maternity Pay**

Where an employee intends to return to work they will be entitled to occupational maternity pay, receivable as follows:

- for the first 8 weeks of absence the employee will receive full pay, less any Statutory Maternity Pay or maternity allowance (including any dependents' allowances) receivable;
- for the next 18 weeks the employee will receive half of full pay, plus Statutory Maternity Pay or maternity allowance (including any dependents' allowances) receivable, providing the total receivable does not exceed full pay;
- 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.

#### **5.1. Agreeing to pay Occupational Maternity Pay differently**

By prior agreement with Pay Services, Occupational Maternity Pay can be paid in a different way, for example fixed amounts spread equally over the Maternity Leave period. Although, please note it is not normally possible to change the method of payment for SMP, therefore the first 6 weeks of Maternity Pay would be paid at the higher rate.

## 6. Terms and conditions during maternity leave

During both Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML) all your normal terms and conditions of employment remain unchanged, except for your right to remuneration which is explained above..

## 7. Pensions (Maternity)

The following will apply if you are a member of the NHS Pension Scheme.

### 7.1. Employee contributions

While you are on maternity leave and receiving SMP and/or any additional contractual maternity pay (e.g. occupational maternity pay) you will pay contributions as a percentage of the pay that you actually receive, i.e. if your percentage rate for member contributions is 5% gross, these will be calculated as 5% gross of the amount you actually receive.

### 7.2. Employer contributions

While you are on maternity leave and receiving SMP and/or any additional contractual maternity pay (e.g. occupational maternity pay) we pay contributions that are based on the pay that you would have received had you not been on maternity leave i.e. your basic salary (and any other regular payments but not including bonuses, expenses or overtime)<sup>1</sup>, at the percentage relevant to you.

### 7.3. Unpaid maternity leave - making up contributions

Any period of unpaid maternity leave will not be treated as pensionable service under the pension scheme. When you return to work you will be offered the opportunity to pay the contributions for such period of unpaid maternity leave so that it is treated as pensionable. The contributions will be based on the amount of pay you were receiving immediately before you went on to nil pay.

If you have any other pension queries you should discuss these with the Pensions Manager.

## 8. Keeping in Touch (KIT)

Before you start your maternity leave, we will discuss with you the options for keeping in touch while you are away from work.

The law allows you to do up to 10 days work for the CCG during your maternity leave, should you and the CCG wish this to happen. There is no obligation on you to do this and no obligation on us to provide you with any work. These days of work are known as 'keeping in touch days'.

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<sup>1</sup> If you are a practitioner, the pay that you would have received had you not been on maternity leave is your pensionable earnings.

## Payment issues

### SMP

If you undertake a KIT day your statutory maternity pay will not be at risk (this would have been the case in the past). Instead your SMP will be topped up to reflect the time you have spent doing work for us. So for example, if you work for us for three days in one week, we will calculate what three days' pay would normally be, deduct your SMP from this amount and make a payment to you of the balance on your normal pay day.

If you work for us for only a part of a day, we will calculate an hourly rate and use this to work out how much is due to you. Your SMP will always count as part of your remuneration in any week and will be deducted before any extra payment is made to you.

Time spent travelling to and from the office will not count as working time when we are calculating pay due to you.

### Reasons for working for us

There may a number of reasons why we will ask you whether you are willing to attend work. These might include:

- Training
- Team away days
- Updates on developments in the CCG
- Involvement in recruitment issues such as interviewing new staff
- Annual appraisals.

This is not an exhaustive list and the kinds of work we might ask you to do will vary according to your role. We stress that whether or not you do such work is very much a matter for discussion between us and there is no obligation on you to do so and no expectation on our part that you will.

### Location of work

A keeping in touch day will often involve coming into the office, but this will not always be the case and we may ask if you are willing to undertake some work from home.

We will contact you during your maternity leave if an opportunity arises for you to work a keeping in touch day and will give you as much notice as possible. If you are aware of an event or meeting that you would like to attend on a keeping in touch day, please contact your line manager to discuss it.

Please remember that you cannot work more than 10 keeping in touch days during your maternity leave period (which includes ordinary and additional maternity leave).

If you have any queries please let your line manager know.

## **9. Returning to work after maternity leave**

### **9.1. Returning on the Expected Return Date**

If you are returning work at the end of your maternity leave ("Expected Return Date") you don't need to notify us in writing, although it would be helpful if you would do so.

### **9.2. Returning before your Expected Return Date**

If you decide to come back to work before your Expected Return Date you must give us at least 8 weeks' notice. We can postpone your return date until 8 weeks after you gave notice, or your Expected Return Date, if earlier.

### **9.3. Returning after your Expected Return Date**

Your entitlement to maternity leave is to 52 weeks' leave. If you want to apply for further time off, you should either request parental leave or annual leave. We will consider your request in line with our policies and usual practice for parental and annual leave.

### **9.4. Sickness absence**

If you are unable to come back to work because of sickness or injury, your absence will be treated as sickness absence and our usual sick leave policy will apply.

### **9.5. Deciding not to return**

If you decide you do not wish to return to work at all, you must give us written notice as required by your contract of employment.

If you fail to return to work with the CCG or a different NHS employer within 15 months of the beginning of your maternity leave, you will be liable to refund the whole of your maternity pay, less any Statutory Maternity Pay, received. In cases where the CCG considers that to enforce this provision would cause undue hardship or distress, the CCG will have the discretion to waive its rights to recovery, however this should not be automatically expected.

## **10. Your rights on return to work**

### **10.1. Returning after OML**

If you return to work at the end of your OML you are entitled to return to the same job on the same terms and conditions of employment as if you had not been away (unless a redundancy situation has arisen in the meantime).

### **10.2. Returning after AML**

If you return during or at the end of AML you are entitled to come back to the same job on the same terms and conditions of employment as if you had not been away unless it is not reasonably practicable for you to return to the same job. In this case you will be

offered a similar job that is suitable and appropriate (unless a redundancy situation has arisen).

## **11. Health and safety**

As your employer, we have a general duty to take care of your health and safety. As part of that duty, we are required to carry out an assessment of the risks in the workplace to pregnant women, those who have given birth in the last six months or who are still breastfeeding.

If we identify any risks that might affect you, we will discuss these with you and any steps we believe are necessary to protect your health and safety.

## **12. Help and advice**

If you need any more information about your maternity rights, you should ask your HR representative who will be pleased to help.

## Paternity

### 13. How long is paternity leave

Ordinary Paternity Leave is for either one week or two consecutive weeks', but not individual days. If you choose to take one week, you cannot take a second week at a later date.

Additional Paternity Leave is one period of leave lasting between two and 26 weeks. The period of leave must be taken within a "window", that starts 20 weeks after, and ends 12 months after, the child's date of birth or placement for adoption.

### 14. Birth or adoption related paternity leave

There are two types of paternity leave – birth related, and adoption related, paternity leave. The rules relating to each are different and are described below.

### 15. Birth related paternity leave

#### 15.1. Are you eligible for paternity leave on the birth of a child?

You are eligible for paternity leave on the birth of a child if you meet the following conditions:

- you have worked for us as an employee continuously for at least 26 weeks by the 15<sup>th</sup> week before the baby is due and you are still employed by us when the baby is born;
- you are the baby's biological father, or the mother's husband or partner (including same sex partners);
- you have, or expect to have, responsibility for the child's upbringing;
- you comply with the notification requirements set out below.

#### 15.2. When can paternity leave start?

You can start your paternity leave:

- on the date of the child's birth (whether this is earlier or later than expected); or
- from a number of days or weeks after the date of the child's birth (whether this is earlier or later than expected), as chosen by you; or
- from some other date chosen by you that is after the expected date of birth.

Leave can start on any day of the week on or following the child's birth but must be completed:

- within 56 days of the actual date of birth 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 expected week of birth.

You can only take one period of paternity leave even if your partner has more than one child from the same pregnancy.

### **15.3. Notification requirements**

It is important that you comply with the following notification requirements. If you do not, you may lose your entitlement to take paternity leave. A standard notification form is available from your HR representative.

You must notify us:

- when the baby is expected to be born;
- when you want your paternity leave to start; and
- whether you want to take one or two weeks leave.

You should also confirm that you are taking leave for the purpose of caring for the child or supporting the child's mother and confirm you meet the eligibility conditions set out in 15.1 above.

You must provide the notification by the start of the 15th week before the week in which the baby is due (or as soon as you can if it was not reasonably practical for you to tell us then).

## **16. Adoption related paternity leave**

### **16.1. Are you eligible for paternity leave on the placement of a child for adoption?**

You are eligible for paternity leave on the placement of a child for adoption if you meet the following conditions:

- you have worked for us as an employee continuously for at least 26 weeks by the time your spouse or partner is notified of being matched with a child for adoption and you are still employed by us when the child is placed for adoption;
- you are married to, or the partner of, the child's adopter (including same sex partners);
- you are not taking adoption leave;
- you have, or expect to have, responsibility for the child's upbringing;
- you comply with the notification requirements set out below.

## 16.2. When can paternity leave start?

You can start your paternity leave:

- on the date of the child's placement with the adopter (whether this is earlier or later than expected); or
- from a number of days or weeks after the date of the child's placement for adoption (whether this is earlier or later than expected) as chosen by you; or
- from some other date chosen by you that is after the expected date of placement.

Leave can start on any day of the week on or following the child's placement for adoption but must be completed within 56 days of the actual date of placement of the child for adoption.

You can only take one period of paternity leave even if your partner has more than one child placed with them for adoption as part of the same adoption arrangement.

## 16.3. Notification requirements

It is important that you comply with the following notification requirements. If you do not, you may lose your entitlement to take paternity leave. A standard notification form is available from your HR representative.

You must notify us:

- of the date of placement for adoption;
- when you want your paternity leave to start; and
- whether you want to take one or two weeks leave.

You should also confirm that you are taking leave for the purpose of caring for the child or supporting the child's adopter and confirm you meet the eligibility conditions set out in 6.1 above.

You must provide the notification no later than seven days after the date of notification that the child is being placed for adoption ( or as soon as you can if it was not reasonably practical for you to tell us then).

## 17. Changing the start date of your paternity leave

You can change your mind about the date you want your leave to start providing you tell us at least 28 days in advance (unless this is not reasonably practicable).

## 18. Additional Paternity Leave

You will be entitled to additional paternity leave if, in addition to the eligibility conditions in Clause 15 or 16 (as applicable) above:

- You remain employed by the CCG until the week before the first week of your additional paternity leave;

- The child's mother or their co-adopter, as the case may be, has been entitled to statutory leave:
  - in birth cases, the child's mother has been entitled to maternity leave, statutory maternity pay or maternity allowance in respect of her pregnancy, or
  - in adoption cases, the child's adopter has been entitled to one or both of adoption leave or statutory adoption pay in respect of the child's adoption; and
- The child's mother or their co-adopter, as the case may be, has returned to work.

Additional paternity leave must be taken as multiples of complete weeks and as one period. The minimum amount of additional paternity leave that can be taken is two weeks and the maximum is 26 weeks.

Additional paternity leave must be taken in the period beginning 20 weeks after the child's date of birth, or adoption placement, and ending 12 months after that date of birth or adoption.

## 19. Statutory Paternity Pay

### 19.1. Rights to Statutory Paternity Pay ("SPP")

You will be entitled to SPP if you meet the qualifying conditions for paternity leave (above) and, in addition,

- your average earnings (based on an 8 week reference period prior to the 15<sup>th</sup> week before the baby is due) are not below the lower earnings limit set by the Government; and
- you comply with the notification requirements set out below.

### 19.2. Notification Requirements for Statutory Paternity Pay

As explained above, the notification requirements for paternity leave and paternity pay are slightly different. To receive SPP, you must confirm the information required to take paternity leave and, in addition, confirm the following:

#### **For paternity pay relating to the birth of a child:**

- whether you want to receive SPP for one or two weeks and when you want your pay to start; and
- that you are the baby's biological father or mother's partner and that you will have responsibility for the child's upbringing and that you will care for the child or support the child's mother while getting SPP.

#### **For paternity pay relating to the adoption of a child:**

- whether you want to receive SPP for one or two weeks and when you want your pay to start; and

- that you are married to ,or the partner of, the child's adopter and that you will have responsibility for the child's upbringing and that you will care for the child or support the child's adopter while getting SPP;
- that you are not receiving statutory adoption pay;

### 19.3. Timing

You must notify us at least 28 days in advance of when you want your SPP to begin. If you cannot give 28 days' notice you must give us as much notice as possible and tell us why there has been a delay.

It is important that you comply with these notification requirements. If you do not, you may lose your entitlement to paternity pay.

### 19.4. Amount of SPP

SPP is payable for the length of your paternity leave – either one week or two weeks.

SPP is paid at a fixed statutory rate set each year by the Government.

If you come back to work before the end of your paternity leave period during which SPP is payable, your entitlement to SPP will stop on your return to work.

You will receive SPP through the normal payroll. The usual deductions for tax and national insurance apply.

SPP replaces your usual salary while you are on paternity leave. All other contractual benefits remain unchanged.

## 20. Pensions (Paternity)

If you are a member of the NHS Pension Scheme the following will apply.

### 20.1. Employee contributions

If you are a pension scheme member, when you are on paternity leave and receiving SPP [and/or any additional statutory paternity pay or additional contractual paternity pay ] you will pay contributions as a percentage of the pay you actually receive. For example, if your percentage rate for member contributions is 5% gross, these will be calculated as 5% gross of the amount of pay you actually receive.

### 20.2. Employer contributions

While you are on paternity leave and receiving SPP and/or any additional statutory paternity pay or additional contractual paternity pay, we pay contributions that are based on the pay that you would have received had you not been on paternity leave i.e. your basic salary (and any other regular payments but not including bonuses, expenses or overtime)<sup>2</sup>, at the percentage relevant to you.

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<sup>2</sup> If you are a practitioner, the pay that you would have received had you not been on paternity leave is your pensionable earnings.

### **20.3. Making up contributions**

Any period of unpaid paternity leave will not be treated as pensionable service under the pension scheme. When you return to work you will be offered the opportunity to pay the contributions for such period of unpaid paternity leave so that it is treated as pensionable. The contributions will be based on the amount of pay you were receiving immediately before you went on to nil pay.

If you have any other pension queries you should discuss these with the Pensions Manager.

### **21. Return to work after paternity leave**

You are entitled to return to the same job following paternity leave.

### **22. Parental or adoption leave**

Depending on the circumstances, you may be eligible to take parental or adoption leave. You should refer to our parental and adoption leave policies for the rules about each of these types of leave.

### **23. Maternity support (paternity) leave**

All employees are entitled to two weeks' of ordinary maternity support (paternity) leave which can be taken around the time of the birth or the placement of the child for adoption.

In addition, employees may be able to take up to twenty six weeks' of additional maternity support (paternity) leave if their partner has returned to work, the leave can be taken between 20 weeks and one year after the child is born or placed for adoption.

Employees who are entitled to additional maternity support (Paternity) leave/pay will be entitled to take up to 10 keeping in touch (KIT) days during the course of the additional maternity support (paternity) leave period.

### **24. Occupational pay during support (paternity) leave**

There will be an entitlement to two weeks' occupational ordinary maternity support (paternity) pay. Full pay will be calculated on the basis of the average weekly earnings rules used for calculating occupational maternity pay entitlements. The employee will receive full pay less any statutory paternity pay receivable. Only one period of occupational maternity support (paternity) pay is ordinarily available when there is a multiple birth.

Eligibility for the two weeks' of occupational maternity support (paternity) pay will be 12 months' continuous service with one or more NHS employer at the beginning of the week in which the baby is due.

Employees who are not eligible for the two weeks of occupational maternity support (paternity) pay may still be entitled to statutory paternity pay subject to meeting the qualifying conditions found in Clause 19 of this policy.

## 25. Help and advice

If you need any more information about your paternity rights, you should ask your HR representative who will be pleased to help.

### Adoption

The adoption provisions of this policy apply to all our employees who meet the eligibility conditions below. It doesn't matter how many hours per week you work.

Although similar provisions apply to adoptions from overseas, the detailed operation of the scheme is slightly different. If you are adopting from overseas you should contact your HR representative for advice on your rights to adoption leave and pay.

## 26. Adoption leave

### 26.1. Ordinary and Additional Adoption Leave

If a child is due to be placed with you for adoption, and you meet the eligibility conditions explained below, you are entitled to 52 weeks adoption leave, regardless of your hours of work. However, it is important that you give us the correct notice. This is explained in more detail below.

Adoption leave is made up of 26 weeks Ordinary Adoption Leave immediately followed by 26 weeks Additional Adoption Leave. We refer to these as OAL and AAL in this policy.

### 26.2. Are you entitled to adoption leave?

You are eligible for adoption leave if you meet the following conditions:

- you are newly matched with a child for adoption by an approved adoption agency; or
- you are a member of a couple jointly matched with a child for adoption by an approved adoption agency (and your partner is not taking adoption leave);
- you have notified the agency that you are accepting the placement and agreed a date for it to start;
- you have worked for us as an employee continuously for at least 26 weeks by the week in which you are notified that you are being matched with a child for adoption; and
- you comply with the notification requirements set out below.

You are not eligible for adoption leave or pay if you already know the child, for example, as a step-parent or foster carer.

### **26.3. Notification requirements**

The notification requirements for adoption leave and adoption pay are slightly different. Set out below are the requirements for adoption leave.

It is important that you comply with the following notification requirements. If you do not, you may lose your entitlement to take adoption leave.

You must notify us:

- when the child is expected to be placed with you; and
- when you want your adoption leave to start.

You must do this within seven days of being told by your adoption agency that you have been matched with a child for adoption, or if this is not reasonably practicable, as soon as you can.

We will need to see a “matching certificate” from the adoption agency. The matching certificate should include the following information:

- the name and address of the agency;
- the name and date of birth of the child;
- the date on which you were notified that you had been matched with the child; and
- the date on which the agency expects to place the child with you or, if the placement has already occurred, the date the placement occurred.

### **26.4. Starting adoption leave**

Your adoption leave can start from:

- the date the child is placed with you; or
- a date of your choice, up to 14 days before the date you expect the child to be placed with you.

### **26.5. Changing the start date of your adoption leave**

If you need to change the date on which you want to start your adoption leave you must give us 28 days’ notice.

But remember that you cannot start your adoption leave later than the day after the placement or more than 14 days before the expected placement date.

### **26.6. Confirmation from us**

We will write to you within 28 days of receiving your notification, confirming the date on which we expect you to come back to work if you take your full entitlement to adoption leave.

## 27. Statutory Adoption Pay

### 27.1. Rights to Statutory Adoption Pay (“SAP”)

You will be entitled to SAP if you meet the qualifying conditions for adoption leave (above) and, in addition:

- your average earnings (based on an 8 week reference period prior to you being notified of the adoption).are not below the lower earnings limit set by the Government; and
- you comply with the notification requirements set out below.

### 27.2. Notification requirements for adoption pay

As explained above, the notification requirements for adoption leave and adoption pay are slightly different. To receive adoption pay, you must confirm the information required to take adoption leave and, in addition, confirm:

- your name and address; and
- the fact that you intend to take statutory adoption pay and not statutory paternity pay.

You must notify us at least 28 days in advance of when you want your SAP to begin.

It is important that you comply with these notification requirements. If you do not, you may lose your entitlement to adoption pay.

### 27.3. Amount of SAP

SAP is payable for 39 weeks in total. If you are eligible for SAP, you will receive it during all of your OAL and for the first 13 weeks of your AAL (assuming you have not come back to work by then).

SAP is paid at a fixed statutory rate set each year by the Government.

If you come back to work before the end of the 39 week period during which SAP is payable, your entitlement to SAP will stop on your return to work.

You will receive SAP through the normal payroll. The usual deductions for tax and national insurance apply.

SAP replaces your usual salary while you are on adoption leave.

## 28. Occupational Adoption Pay “OAP”

There will be entitlement to paid occupational adoption leave for employees wishing to adopt a child who is newly placed for adoption.

OAP will be available for people wishing to adopt a child for has primary carer responsibilities for that child.

Eligibility for OAP will be 12 months’ continuous NHS service ending with the week in which they are notified of being matched with the child for adoption. This will cover circumstances where employees are newly matched with the child by an adoption agency.

## 29. Disruption to adoption leave

If, during OAL or AAL

- the adoption agency informs you that the child will not be matched with you; or
- the child’s placement with you ends,

your adoption leave will end eight weeks after either of these events. Your right to SAP will also end at the same time.

## 30. Terms and conditions during adoption leave

During both Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML) all your normal terms and conditions of employment remain unchanged, except for your right to remuneration which is explained above

## 31. Pensions (Adoption)

The following will apply if you are a member of the NHS Pension Scheme.

### 31.1. Employee contributions

While you are on adoption leave and receiving SAP and/or any additional contractual adoption pay, you will pay contributions as a percentage of the pay that you actually receive, i.e. if your percentage rate for member contributions is 5% gross, these will be calculated as 5% gross of the amount you actually receive.

### 31.2. Employer contributions

While you are on adoption leave and receiving SAP and/or any additional contractual adoption pay, we pay contributions that are based on the pay that you would have received had you not been on adoption leave, i.e. your basic salary (and any other regular payments but not including bonuses, expenses or overtime)<sup>3</sup>, at the percentage relevant to you.

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<sup>3</sup> If you are a practitioner, the pay that you would have received had you not been on adoption leave is your pensionable earnings.

### 31.3. Making up contributions

Any period of unpaid adoption leave will not be treated as pensionable service under the pension scheme. When you return to work you will be offered the opportunity to pay the contributions for such period of unpaid adoption leave so that it is treated as pensionable. The contributions will be based on the amount of pay you were receiving immediately before you went on to nil pay.

If you have any other pension queries you should discuss these with McKesson Pensions.

## 32. Keeping In Touch

Before you start your adoption leave, we will discuss with you the options for keeping in touch while you are away from work.

The law allows you to do up to 10 days work for the CCG during your adoption leave, should you and the CCG wish this to happen. There is no obligation on you to do this and no obligation on us to provide you with any work. These days of work are known as 'keeping in touch days'.

### Payment issues

#### SAP

If you do do any work for us your statutory adoption pay will not be at risk (this would have been the case in the past). Instead your SAP will be topped up to reflect the time you have spent doing work for us. So for example, if you work for us for a three days in one week, we will calculate what three days' pay would normally be, deduct your SAP from this amount and make a payment to you of the balance on your normal pay day.

If you work for us for only a part of a day, we will calculate an hourly rate and use this to work out how much is due to you. Your SAP will always count as part of your remuneration in any week and will be deducted before any extra payment is made to you.

Time spent travelling to and from the office will not count as working time when we are calculating pay due to you.

### Reasons for working for us

There may a number of reasons why we will ask you whether you are willing to attend work. These might include:

- Training
- Team away days
- Updates on developments in the CCG
- Involvement in recruitment issues such as interviewing new staff
- Annual appraisals.

This is not an exhaustive list and the kinds of work we might ask you to do will vary according to your role. We stress that whether or not you do such work is very much a matter for discussion between us and there is no obligation on you to do so and no expectation on our part that you will.

## Location of work

A keeping in touch day will often involve coming into the office, but this will not always be the case and we may ask if you are willing to undertake some work from home.

We will contact you during your adoption leave if an opportunity arises for you to work a keeping in touch day and will give you as much notice as possible. If you are aware of an event or meeting that you would like to attend on a keeping in touch day, please contact [state name] to discuss it.

Please remember that you cannot work more than 10 keeping in touch days during your adoption leave period (which includes ordinary and additional adoption leave).

If you have any queries please let me know.

## 33. Returning to work after adoption leave

### 33.1. Returning on the Expected Return Date

If you are returning to work at the end of your adoption leave ("Expected Return Date") you don't need to notify us in writing, although it would be helpful if you would do so.

### 33.2. Returning before your Expected Return Date

If you decide to come back to work before your Expected Return Date you must give us at least 8 weeks' notice. We can postpone your return date until 8 weeks after you gave notice, or your Expected Return Date, if earlier.

### 33.3. Returning after your Expected Return Date

Your entitlement to **adoption** leave is to 52 weeks' leave. If you want to apply for further time off, you should either request parental leave or annual leave. We will consider your request in line with our policies and usual practice for parental and annual leave.

### 33.4. Sickness absence

If you are unable to come back to work because of sickness or injury, your absence will be treated as sickness absence and our usual sick leave policy will apply.

### 33.5. Deciding not to return

If you decide you do not wish to return to work at all, you must give us written notice as required by your contract of employment.

## 34. Your rights on return to work

### 34.1. Returning after OAL

If you return to work by the end of your OAL you are entitled to return to the same job on the same terms and conditions of employment as if you had not been away (unless a redundancy situation has arisen in the meantime).

### **34.2. Returning after AAL**

If you return to work during or at the end of your AAL you are entitled to come back to the same job on the same terms and conditions of employment as if you had not been away unless it is not reasonably practicable for you to return to the same job. In this case you will be offered a similar job that is suitable and appropriate (unless a redundancy situation has arisen).

### **35. Miscellaneous**

If there is an established relationship with the child, such as fostering, prior to the adoption, or when a step-parent is adopting a partner's children, there is scope for arrangements on the amount of leave and pay in addition to time off for official meetings.

If we employ both parents, the period of leave and pay may be shared. One parent should be identified as the primary carer and be entitled to the majority of the leave. The partner of the primary carer is entitled to occupational maternity support leave and pay.

Reasonable time off, to attend official meetings in the adoption process, will also be given.

### **36. Help and advice**

If you need any more information about your adoption rights, you should ask your HR representative who will be pleased to help.

## Parental Leave

### 37. Who can take parental leave?

To be eligible for parental leave, you must be able to answer “yes” to the following questions.

- Have you worked for us continuously for at least a year before the start of your parental leave?
- Was your child born or adopted on or after 15 December 1994?
- Do you have, or expect to have “parental responsibility” for the child?
- Is your child aged under 14 or, in the case of a disabled child or a child placed with you for adoption, aged under 18?

Your HR representative can help you if you are unsure about whether you have “parental responsibility” for a child.

### 38. How much leave is available in total?

- If you qualify for parental leave, you can take up to 18 weeks’ leave for each eligible child. So, if you have twins, you are allowed 18 weeks for each twin. In the case of a disabled child, it is 18 weeks per child.
- If you work part-time, your period of leave is reduced in proportion to the number of hours you work.
- Remember that the right to parental leave is a right to a total of 18 weeks per child. This is your maximum entitlement per child and is not the entitlement per child from each of your employers if you change jobs. For example, if you have taken 10 weeks’ parental leave with your previous employer for one of your children, and you then become eligible for parental leave while working with us, you are entitled to a maximum of 8 further weeks’ leave for that same child.

### 39. What rights apply during a period of parental leave?

- Parental leave is unpaid.
- For all other purposes, your contract of employment remains in place.

### 40. How much leave can be taken at a time?

- You must take your parental leave in blocks of 1 week, or, if your child is disabled, in single days if you wish.
- You can’t take more than 4 weeks parental leave per child in any 12 month period.

## 41. When can parental leave be taken?

- You can apply to take parental leave as soon as your child is born or adopted, as long as, by then, you have worked continuously for us for a year. If your child is born or adopted before then, you will have to wait until you have completed your first year of employment with us before taking parental leave.
- You can only take parental leave up until your child's 14<sup>th</sup> birthday, unless your child is adopted or disabled.
- In the case of adoption, you can take parental leave up to the 14th anniversary of the child being placed with you for adoption, or the child's 18<sup>th</sup> birthday, whichever is first.
- Special rules apply if your child is disabled. In those circumstances you may take parental leave at any time up until your child's 18<sup>th</sup> birthday.
- If we decide to postpone your parental leave (as we may do in some cases), you will not lose your right to take parental leave, even if you have to take it after the cut-off dates we mention in this section.

## 42. Can parental leave be postponed by the CCG?

We will always allow you to take parental leave when you ask for it to coincide with the birth of your child, or, in the case of an adopted child, when that child is first placed with you for adoption.

In other cases, we will do our best to allow you to take parental leave when you ask for it. However, we may need to postpone your leave if:

- you have not given us 21 days' notice of when you would like your leave to start and end; or
- our business would be particularly disrupted because of the dates you have requested.

If we do need to postpone your leave, we will discuss your request with you. We will then write to you within 7 days of receiving your request, explaining why we are postponing your leave and telling you when you may take parental leave. Even if we change the start date for your parental leave, the length of your period of leave will be the same as in your original request.

We will not postpone your parental leave for more than six months.

## 43. Applying for parental leave

### 43.1. Request for Parental Leave form

If you want to apply for parental leave you should make the request in writing to your line manager.

### 43.2. Timing

You must give us at least 21 days' notice of when you would like your leave to start and end.

We recognise that, in some circumstances you may not be able to give us a precise date. For example, if you are a father who wishes to take parental leave immediately after your child is born, or, in the case of an adopted child, immediately after the child is placed with you for adoption, where you don't yet know the date of the placement. In those circumstances, you should give us at least 21 days' notice of when you expect the birth or adoption is likely to be, or if that isn't possible, as much notice as you can.

### 43.3. Supporting Evidence

The first time you apply for parental leave with us, you must include evidence of the following:

- your responsibility for the child;
- the child's date of birth, or, if you have adopted the child, the date of adoption;
- if your child is disabled and older than 5, confirmation that he or she receives a disability living allowance.

You must also tell us whether you have previously taken parental leave for the same child and, if so, how much parental leave you took while working for any previous employers.

## 44. What rights apply on return to work after parental leave?

### 44.1. Parental leave only

After parental leave of 4 weeks or less, you have the right to come back to the same job as before.

### 44.2. Parental leave after maternity or adoption leave

If you are taking parental leave after maternity or adoption leave, your rights depend on the length of your maternity or adoption leave.

- If you take 4 weeks or less parental leave immediately after Ordinary Maternity Leave or Ordinary Adoption Leave you can return to the same job you had before your maternity leave.
- If you take 4 weeks or less parental leave immediately after Additional Maternity Leave or Additional Adoption Leave and it is not reasonably practicable for you to return to the same job, you can return to another suitable job that is appropriate for you.

#### **45. Pensions (Parental)**

If you are a member of the NHS Pension Scheme, any period of unpaid parental leave will not be treated as pensionable service under the pension scheme. When you return to work you will be offered the opportunity to pay the contributions for such period of unpaid parental leave so that it is treated as pensionable.

#### **46. Help and advice**

If you need any more information about your parental leave rights, you should ask your HR Representative who will be pleased to help.