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Procedures for Pay and Leave - Maternity, Adoption, Paternity, Shared Parental Leave and In Vitro Fertilisation (IVF) Treatment

Aim and Introduction

This document sets out the required process to follow in providing and receiving information around entitlements, and any qualifying condition in order to access maternity, adoption and paternity (parental support) leave, and also to those staff planning/in receipt of In Vitro Fertilisation (IVF) treatment.

The document sets out the employee's responsibility to provide information to their manager at relevant times via the agreed procedure.

The document also sets out the manager's responsibility to handle all requests for the various types of leave in a timely and equitable way.

The purpose of this document is to ensure:

Staff are fully aware of their entitlements and responsibilities in relation to maternity, adoption and parental support leave, and also in respect of IVF treatment.

The provision of information on the relevant dates and timeframes for application.

Supporting Procedures and Written Control Documents

Other related documents are:

- Maternity, Adoption, Paternity, Shared Parental Leave and IVF Treatment Policy
- Breastfeeding Guidelines
- How to: Apply for Shared Parental Leave (SPL) and Shared Parental Pay (ShPP)

Scope	
<p>The contents of this document will apply to all employees of Public Health Wales for matters relating to their maternity, adoption and paternity (parental support) leave, and also to those staff planning In Vitro Fertilisation (IVF) treatment.</p> <p>Fathers and adoptive parents (of either sex) have rights to Paternity leave, Adoption and Shared Parental leave. These rights apply within all parental partnerships including those of the same sex, so gender neutral terms are used throughout wherever possible.</p> <p>When there is a requirement to provide or confirm any information in writing, this also includes communication via email.</p>	
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Disclaimer

If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or [Corporate Governance](#).

Summary of reviews/amendments				
Version number	Date of Review	Date of Approval	Date published	Summary of Amendments

	December 2017			Added a paragraph to Scope of Policy to explain use of gender neutral terminology wherever possible.
	December 2017			Added reference to the Equality Act (2010); Shared Parental Leave Regulations (2014); Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations (2014).
	December 2017			Added information to clarify average earnings calculations.
	December 2017			Updated summary of Shared Parental Leave.
	December 2017			Added a section on Parental Leave.
	December 2017			Added a section on Equality and Welsh Language Monitoring.

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1 Introduction

This document seeks to provide information to all staff in relation to maternity, adoption and paternity (parental support) leave, and also to those staff planning In Vitro Fertilisation (IVF) treatment.

Women employees have had statutory maternity rights for many years. Since April 2003, fathers and adoptive parents also have statutory rights to paternity leave and adoption leave and Shared Parental Leave now gives parents greater flexibility about how they 'mix and match' care of their child during the first year.

2 Legislative and National Initiatives

Public Health Wales has updated existing policies to reflect changes in relevant legislation. This document has been produced to ensure that all of the provisions offered to employees comply fully with:

- The Employment Rights Act (1996)
- The Employment Relations Act (1999)
- The Employment Act (2002)
- The Social Security, Statutory Maternity Pay and Statutory Sick Pay (Miscellaneous Amendments) Regulations (2002)
- The Paternity and Adoption Leave Regulations (2002)
- The Statutory Paternity Pay and Statutory Adoption Pay (Amendment) Regulations (2004)
- The Civil Partnership Act (2004)
- Work and Families Act (2006)
- Maternity and Parental Leave etc Regulations (2009)
- NHS Terms and Conditions of Service Handbook (March 2010)
- Equality Act (2010)
- Additional Paternity Leave Regulations (2011)
- Shared Parental Leave Regulations (2014)
- Maternity and Adoption Leave (Curtailed of Statutory Rights to Leave) Regulations (2014)
- The Children and Families Act 2014

Definitions / Abbreviations:

- | | |
|---------|-------------------------------|
| - EWC | - Expected Week of Childbirth |
| - OML | - Ordinary Maternity Leave |
| - AML | - Additional Maternity Leave |
| - MATB1 | - Maternity Certificate |
| - SMP | - Statutory Maternity Pay |
| - OMP | - Occupational Maternity Pay |

- OAL - Ordinary Adoption Leave
- AAL - Additional Adoption Leave
- SAP - Statutory Adoption Pay
- OAP - Occupational Adoption Pay

- SPP - Statutory Paternity Pay
- SPL - Shared Parental Leave
- KIT - Keeping in Touch

A full Glossary of Terms is available in Appendix 1.

3 Roles and Responsibilities

The relevant responsibilities are detailed in each part of the document, according to subject area.

4 Maternity Provisions

All pregnant employees are entitled to take 52 weeks of maternity leave, regardless of length of NHS service. This section provides information about informing your line manager of your pregnancy, to returning to work after maternity leave, and all stages in between. The flowchart in Appendix 2 maps out the relevant stages for information.

4.1.1 Informing Your Manager

It is recommended that you inform your manager of your pregnancy as soon as possible so a [risk assessment](#) is carried out at the earliest opportunity and your period of leave can be planned for within your team.

4.1.2 Proof of Your Pregnancy

You need to provide proof of your pregnancy to receive Statutory Maternity Pay (SMP) and/or occupational maternity pay (OMP).

Your MATB1 certificate should be provided to the organisation within 21 days of your SMP start date (or as soon as possible if the baby is born early). Your doctor or midwife will usually issue your MATB1 15 weeks before the due date.

4.1.3 Risk Assessment and Health and Safety

If the [risk assessment](#) confirms that you or your unborn child would be at risk if you were to continue with your normal duties, Public Health Wales will look to provide suitable alternative work, at your normal rate of pay. Where it is not reasonably practicable to offer suitable alternative work, you will be suspended on full pay.

4.1.4 Antenatal Care

You have the right to paid time off for antenatal care, which includes parenting and antenatal classes as well as antenatal appointments, if they've been recommended by your doctor or midwife. You should provide your manager with confirmation of your pregnancy from your GP, and any ongoing appointment information if requested. Appointments should be arranged at the start or end of the working day, or on non-working days for part-time staff, wherever possible.

An individual who has a qualifying relationship with the employee, which includes the employee's spouse or civil partner, the father of the expected child, an individual in a long-term relationship with the expectant mother, or the intended parent (in the case of surrogacy arrangements), is eligible to take unpaid time off to accompany the employee at up to two antenatal appointments.

4.1.5 Sickness Absence During Pregnancy

Absence prior to the last four weeks before the expected week of childbirth, supported by a medical statement of incapacity for work, or a self-certificate for absences of 7 days or less, shall be treated as sickness absence in accordance with normal sickness absence provisions.

If you are absent from work with a pregnancy-related illness during the last four weeks before your expected week of childbirth, maternity leave will commence at this point or at the beginning of the next week after you last worked, whichever is the later.

4.2 Maternity Leave Entitlements

4.2.1 Entitlement to, and Structure of, Maternity Leave

All pregnant employees have the right to take 52 weeks Statutory Maternity Leave; it doesn't matter how long you've been employed by Public Health Wales, how many hours you work or how much you get paid.

This leave is broken down as:

- Ordinary maternity leave (OML) – the first 26 weeks
- Additional maternity leave (AML) – a further 26 weeks

There is no obligation to take the full 52 weeks leave but you must take a minimum of 2 weeks' leave after your baby is born.

At least 15 weeks before your due date, you must inform your line manager in writing of the date when the baby is due and when you want to start your maternity leave. A [Maternity and Adoption Leave Application Form](#) will need to be completed and sent to the People and OD team with a hard copy of the MATB1. People and OD will then write to you within 28 days of receipt, confirming your start and end dates of maternity leave.

4.2.2 Starting Leave and Early Births

Usually, the earliest you can start your maternity leave is 11 weeks before the expected week of childbirth.

Leave may also start:

- the day after the birth if the baby is born early;
- automatically if you're off work for a pregnancy-related illness in the four weeks before the expected week of childbirth (Sunday to Saturday).

4.2.3 Entitlements to Maternity Pay

There are different types of pay which you may receive whilst you are on maternity leave; the pay you receive will depend on your service in the NHS, and whether you intend to return to work in the NHS after your maternity leave. See Appendix 3 for details.

4.2.4 Statutory Maternity Pay

Statutory Maternity Pay (SMP) is a benefit for women on maternity leave, the conditions for which and the amount of which are determined by the Government, but it is paid by the employer.

SMP is paid for up to 39 weeks. In order to qualify, you must have 26 weeks' continuous service with Public Health Wales at the 15th week prior to the expected week of childbirth (EWC) and 12 months continuous NHS service at the 11th week prior to the EWC. SMP is

paid in the same way as your wages and PAYE Tax and National Insurance contributions will also be deducted.

4.2.5 Maternity Allowance

If you're not eligible for SMP, you will be provided with form SMP1 from the Payroll department, as you may be eligible to receive [Maternity Allowance](#) instead. In this case your original MATB1 form needs to be sent with the SMP1, and a copy of the MATB1 form should be sent to the People and OD team with your maternity leave application form.

4.2.6 Occupational Maternity Pay

Occupational maternity pay (OMP) is the additional payment made by Public Health Wales to eligible employees on maternity leave. Appendix 3 outlines the eligibility requirements.

4.2.7 Calculation of Maternity Pay

Maternity pay is calculated using the 'average weekly earnings rule'. Payroll will look at your EWC and count back 15 weeks (this is known as the qualifying week); your actual maternity pay will be based on the average of your salary/wages for the two full pay periods prior to the qualifying week. Any increments or pay awards are taken into consideration.

If you are on sick leave and are receiving reduced sick pay during the period used for calculating maternity pay, average weekly earnings are calculated on the basis of notional full sick pay.

If you are on an employment break or are away from the workplace for any other reason (e.g. secondment, parental leave etc.) during those two pay periods, please seek guidance from the central People and OD as your maternity pay entitlement may be affected.

An estimate of your gross pay whilst on maternity leave is available from the payroll department and can be requested after you have received confirmation from the People and OD team.

4.2.8 Early Births or if You Lose Your Baby

Employees will still be entitled to full Statutory Maternity Leave and OMP if your baby:

- is born early;

- is stillborn after the start of your 24th week of pregnancy; □ dies after being born.

If you require any support at this time, the Support for Staff webpage provides further information

4.3 Applying for Maternity Leave

To apply for maternity leave you must complete the [Maternity and Adoption Leave Application Form](#) and forward it along with your original MatB1 certificate to the central People and OD team, who will process your application and forward your details to the payroll department.

The earliest date that you can apply for maternity leave is 20 weeks before the EWC. The latest that you can apply for maternity leave is 15 weeks before your EWC (unless this is not reasonably practicable). Your completed maternity leave form must be signed by your manager and returned to the central People and OD team by this date.

You will receive a letter confirming:

- Your entitlements to paid and unpaid leave and/or SMP entitlements;
- Your expected return to work date (unless you have indicated an earlier return date). This will be based on your entitlement to take up to 52 weeks maternity leave;
- Your requirement to give at least 28 days notice if you wish to return to work before the expected return date

If you have any queries after applying for maternity leave, please contact the central People and OD team.

4.3.1 Changing the Start Date of Your Maternity Leave

If you want to change the start date of your maternity leave, you should notify your line manager **at least 28 days** beforehand or if this is not possible, as soon as you can after this date.

5 Post-Natal Care and Breastfeeding Mothers

Women who have recently given birth and returned to work from maternity leave should be given paid time off for post-natal care e.g. attendance at health clinics.

Employers are required to provide employees who are breastfeeding with suitable rest facilities. The Health and Safety Executive also encourages employers to provide a healthy and safe environment for women who are breast feeding with suitable access to a private room to express and store milk. For further information please refer to the Breastfeeding Guidelines.

6 Adoption Provisions

An adopter is a person who has been matched with a child for adoption by an adoption agency. In the case where two people, including same sex partnerships, have been matched jointly, the adopter/primary carer is whichever of them has opted to be the child's adopter for the purpose of taking Statutory Adoption Leave. When both parents are employed by Public Health Wales, 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 paternity (parental support) leave and pay.

Entitlements to adoption leave are applicable for a newly-matched child (up to the age of 18 years) placed with adoptive parents. Adoption leave is not available in cases where a child is not newly matched for adoption, such as where a step-parent is adopting a partner's children.

Parents who will become the legal parents of a child under a surrogacy arrangement are entitled to take Statutory Adoption Leave. Local authority foster parents who are also prospective adopters ("foster to adopt") are entitled to take Statutory Adoption Leave.

It is recommended that you inform your manager of the adoption as soon as possible, as this will allow us to start supporting you and enable your period of adoption leave to be planned for within your team; you should follow up your conversation in writing. You must provide your manager with written notification of having been matched with a child or children within 7 days of notification, or if this is not possible, as soon as you can after this date.

6.1.1 Prior to Adopting a Child/Children

For the primary carer, paid leave should be granted to allow adopters to fulfil the requirements of the formal adoption procedure e.g. counselling, screening, interviews, meeting the child and also at the time when the child comes under the full-time care of the adoptive parent. This provision is the same as the reasonable time that would have been given for ante-natal appointments. You will only be required to provide proof of your first appointment, however, you will be required to give your manager reasonable notice that you intend to take time off to attend a formal meeting/appointment.

6.1.2 Matching Certificate

When you have been matched with a child/children for adoption, you will be issued with a matching certificate. You must attach your original matching certificate to your application form when applying for adoption leave. In "foster to adopt" situations a letter from the local authority or court will be required in place of a matching certificate.

6.1.3 Commencing your Adoption Leave

You can start your adoption leave from the date of the child's placement (whether this is earlier or later than expected) or from a fixed date which can be up to 14 days before the expected date of placement. Leave can start on any day of the week.

6.1.4 Eligibility for Adoption Leave

Statutory Adoption Leave of up to 52 weeks is available to all employees irrespective of your length of service. This is made up of 26 weeks ordinary adoption leave (OAL) and 26 weeks additional adoption leave (AAL). This period of additional adoption leave will commence immediately after ordinary adoption leave.

Your entitlement to payment during your adoption leave is dependent on your length of service and whether or not you intend to return to work with Public Health Wales or another NHS employer. Your contract of employment will continue during your adoption leave.

To qualify for adoption leave you will have to:

- Notify your manager, in writing, within 7 days of being notified by a recognised adoption agency that you have been matched

with a child/children, and stating the date you plan to start your adoption leave. The earliest date you may start your adoption leave is 14 days before the expected date of placement.

- Provide your manager with a Matching Certificate/headed letter and return your completed application form.
- The child/children being adopted must be below the age of 18.

N.B. The original matching certificate must be attached to your application form and sent to the central People and OD team following authorisation by your manager.

Adoption leave counts as service for annual increments and for the qualification period for additional annual leave.

6.1.5 Occupational Adoption Pay

To qualify for occupational adoption pay (OAP) you need to have been continuously employed with one or more NHS employer for a period of no less than 12 months ending with the week you are notified of successfully being matched with a child/children and intend to return to work with Public Health Wales or another NHS employer.

6.1.6 Statutory Adoption Pay

To qualify for Statutory Adoption Pay (SAP) you will need to have been employed by Public Health Wales for a continuous period of at least 26 weeks as at the week you are notified of successfully being matched with a child/children.

Your average weekly earnings must also be at least equal to the lower earnings limit for National Insurance contributions.

6.1.7 Adoption Allowance

If you have not been employed by Public Health Wales for 26 weeks as at the week you are notified of successfully being matched with a child/children and do not have 12 months continuous service with an NHS employer, you will not be entitled to SAP. However, you may be entitled to Adoption Allowance, which can be claimed directly from the Job Centre Plus or your local Social Security Office. In this instance, the Payroll Department will issue you with a SAP1 form for completion.

Appendix 3 provides information on adoption pay and the range of entitlements in place.

6.1.8 Calculating Your Adoption Pay

Adoption pay is calculated using the 'average weekly earnings rule'. Payroll will look at your matching date and count back 15 weeks (this is known as the Qualifying Week). Your adoption pay will be based on the average of your salary/wages for the two full pay periods immediately prior to the qualifying week. Any increments or pay awards are taken into consideration.

If an employee is on sick leave and receiving reduced sick pay during the period used for calculating adoption pay, average weekly earnings are calculated on the basis of notional full sick pay.

If you are on an employment break or are away from the workplace for any other reason (e.g. secondment, parental leave etc.) during the two pay periods, please seek guidance from the People and OD team as your adoption pay entitlement may be affected.

6.1.9 Applying for Adoption Leave and Adoption Pay

To apply for adoption leave, you must complete the [Maternity and Adoption Leave Application Form](#) and forward it along with your original matching certificate to the People and OD team who will process your application and forward your details to the Payroll Department. Your completed adoption leave form must be signed by your manager.

You will receive a letter confirming:

- Your entitlements to paid and unpaid leave and/or SAP entitlements
- Your expected return to work date (unless you have indicated an earlier return date). This will be based on your entitlement to take up to 52 weeks adoption leave;
- The length of any period of accrued annual leave which it has been agreed may be taken following the end of the formal adoption leave period; and
- The need for you to give at least 28 days' notice if you wish to return to work before the expected return date.

6.1.10 Changing the Start Date of Your Adoption Leave

Should you wish to change the start date of your adoption leave, you will need to give your manager at least 28 days written notice of the change where possible.

6.1.11 Ante-Natal Care/Appointments Prior to Adopting

Managers should accommodate staff requests to attend ante-natal appointments or appointments relating to the adoption process wherever possible.

7 Annual Leave

Employees are encouraged to take any annual leave accrued prior to maternity / adoption / shared parental leave prior to commencing leave. Any annual leave to be carried forward should be discussed and agreed between the employee and manager. There is no requirement to use up any accrued annual leave at the end of the financial year.

Employees will continue to accrue annual leave during maternity/adoption leave, whether paid or unpaid, and will also be entitled to accrue hours for any public (bank) holidays which fall during the leave period. All arrangements for annual leave should be agreed prior to commencing maternity/adoption/shared parental leave.

Employees may not take annual leave whilst on maternity/adoption leave, however, employees can agree with their managers to use some annual leave after maternity/adoption leave has ended. If an employee decides to take this option, they are ending maternity/adoption leave and considered to be returning to work.

Employees cannot go back onto maternity/adoption leave after taking annual leave. However, annual leave can be used at the end of the maternity/adoption leave period to return to work on a phased return.

If employees have indicated that they will not be returning to work following maternity/adoption leave, the contract of employment will cease at the end of maternity/adoption leave unless indicated otherwise. Employees will only be entitled to the annual leave that has accrued as at the date the contract ends.

8 Keeping in Touch

'Keeping in Touch' (KIT) days are not obligatory and must be agreed between the employee and manager. KIT days are intended to help the employee keep in touch with their workplace and enable them to do some work during this period.

For those taking maternity leave, you cannot work on a KIT day until at least 2 weeks after the birth of your child.

You can work up to 10 KIT days whilst on maternity/adoption leave

The work that you undertake on a KIT day must be work that you are entitled to perform under your contract of employment (including training) or activities which help you to keep in touch with the workplace

KIT days do not have to be consecutive. A KIT day will be counted as one KIT day regardless of the length of time that you have worked on that day. The total duration of the Statutory Maternity Leave period will remain at 52 weeks regardless of whether or not you have worked any KIT days.

Any KIT day(s) worked must be by mutual agreement and neither you nor your line manager can insist upon such days taking place.

If you work a KIT day your maternity pay/allowance will be made up to full pay for those hours worked. If you are on unpaid maternity leave, you will be paid full pay for the hours you are in work.

It is important to note that you will only be paid for the hours you work on the KIT day. For example, if you work for 4 hours, payment will be made for 4 hours; if you work for 6 hours, payment will be made for 6 hours.

Your manager should keep a record of all hours worked on KIT days, which may be paid whilst on maternity leave. Your manager should email NWSSP.Payroll.PHW@wales.nhs.uk stating the date(s) worked and the number of hours worked and you will then be paid in the next available pay period.

9 Fixed Term, Training and Rotational Contracts

If you are employed on a fixed term, temporary or training contract which is due to expire after the 11th week before the EWC, your

contract will be extended to allow you to receive your maternity leave and pay entitlements.

If you choose to take maternity leave (paid and unpaid) for up to 52 weeks before a further NHS appointment, this will not constitute a break in service.

If you are unable to return to your original job, as the contract would have ended if pregnancy and childbirth had not occurred then the repayment provisions set out in Section 14 will not apply.

If you are on a planned rotation of appointments with one or more NHS employer, as part of an agreed programme of training, you shall have the right to return to work in the same post or in the next planned post irrespective of whether the contract would otherwise have ended if pregnancy and childbirth had not occurred. In such circumstances your contract will be extended to enable you to complete the agreed programme of training.

10 Reporting for Work

If you have stated on your [Maternity and Adoption Leave Application Form](#) that you intend to return to work, you must present yourself for work on your first working day after the date set out in the letter confirming your maternity leave and pay entitlements.

If you have stated on your [Maternity and Adoption Leave Application Form](#) that you have not decided whether or not you intend to return to work, your line manager will contact you to ask if you intent to exercise your right to return to work.

If you wish to return to work before the end of your maternity leave, or before the date you have indicated on your form, you may do so. However, you must provide your manager with 28 days written notice, as not providing this notice may result in the delay of your return to work.

Your manager must complete the [Maternity/ Adoption/ Paternity \(Parental Support\) Leave Return to Work Form](#) to inform payroll of your return from maternity leave; if they don't do this, there may be a delay in your pay.

11 Return to Work

After the period of ordinary maternity/adoption leave, you will be entitled to return to work to your original job under your original contract and on no less favourable terms and conditions.

If you decide to take a period of additional leave, you will be entitled to return to work to your original job but if this is not possible for practical reasons, you will have the right to a similar job, where the terms and conditions are not substantially less favourable than those of your present job.

12 Flexibility

If at the end of your maternity, adoption, or shared parental leave you wish to return to work but change your working hours, your manager is obliged to give the request fair and due consideration and we hope to facilitate this wherever possible. If this is not possible, your manager must provide their decision in writing, setting out objectively justifiable reasons in line with the Flexible Working Policy.

If it is agreed that you may return on a flexible basis, including changed or reduced hours, for an agreed temporary period this will not affect your right to return to your job under your original contract at the end of the agreed period.

To apply for a change in hours and for full details of your rights and responsibilities, please refer to the Flexible Working Policy, which is applicable to all staff. It is recommended that you discuss this with your manager in the first instance and apply as soon as possible.

13 Postponing Your Return to Work

The only circumstance in which you will ordinarily be able to postpone your return to work following maternity leave is for health reasons. In such circumstances you must provide a medical certificate.

14 Deciding Not to Return to Work

Should an employee who has notified their manager of their intention to return to work within the Trust or for a different NHS employer for a minimum of 3 months, decide not to return to work at the end of their agreed maternity/adoption leave period, they will be liable to

refund the whole of their maternity/adoption pay, less any SMP/SAP, received.

Return to work on an ad hoc NHS Bank arrangement will not constitute a return to work. In such instances the employee would be liable to refund the whole of their maternity/adoption pay, less any SMP/SAP, received.

In cases where the Trust considers that to enforce this provision would cause undue hardship or distress, they will have the discretion to waive their rights to recovery.

15 Pension

Pension contributions are payable during periods of paid and unpaid maternity/adoption leave, to avoid a break in service and the possible loss of pension rights, which have already been accrued. Therefore, members of the NHS Pension Scheme are required to continue to pay pension contributions throughout their paid maternity/adoption leave. Deductions are calculated on the variable amount of pay (occupational and statutory) received each month.

During any unpaid maternity/adoption leave period taken, pension contributions are not deducted but are assessed on the amount of pay received immediately prior to the unpaid leave. These arrears of pension contributions will then be deducted from salary on the employee's return to work, over the same period as the accumulation took place. In the event that an employee decides to return to work on a part-time basis, the period over which repayment takes place can be extended. This can be arranged between the manager and the Payroll Department, if so requested by the employee.

Employees should take this into consideration when planning their finances during and after their maternity/adoption leave. Employees may contact the Pensions Section of the Payroll Department for advice, prior to the commencement of their maternity/adoption leave.

Should an unpaid period of the maternity/adoption leave necessitate a tax refund, this will automatically be paid through the employee's salary. It should however be noted that the Payroll Services Department will use any such refund due to offset any pension contribution owing. Employees who may have any queries regarding this matter, should contact the Payroll Department.

16 Qualifying Pay Period

The qualifying pay period is two full pay periods prior to the EWC for the period of maternity or adoption leave. If there are any salary sacrifice schemes in place, such as childcare vouchers or annual leave purchase, the average pay will be calculated after deductions. Employees may want to evaluate the schemes they are involved in early in their planning preparations for the average salary to be affected.

17 Fostering

Public Health Wales is keen to support staff involved in a Fostering process. However, there is no statutory right to paid time off for employees who foster a child. All employees with at least 26 weeks' continuous service have the right to request flexible working therefore if you are a foster parent, you can request a working pattern that fits with your caring responsibilities.

18 Surrogacy

Public Health Wales is keen to support staff involved in a surrogacy process. Legal and occupational entitlements may vary according to an individual's circumstances. You are therefore advised to contact the People and OD team as soon as possible for personalised guidance.

19 Paternity (Parental Support) Provisions

Paternity (parental support) leave refers to a period of leave granted to an employee to enable them to care for their baby or to support the mother following the birth, or in the case of adoption, support the parent who is taking adoption leave.

It is recommended that you inform your manager of the pregnancy/adoption as soon as possible to ensure we can support as early as possible and, to allow your period of leave to be planned with your team; you should follow up your conversation in writing.

You must provide your manager with written notification of the EWC or having been matched with a child/children within 7 days of that notification, or if this is not possible, as soon as you can after this date

You are not required to provide proof of the pregnancy, although Public Health Wales may request this.

Partners have the right to unpaid time off to accompany partner to up to two ante-natal appointments.

19.1.1 Paternity (Parental Support) Leave

When you take time off because your partner's having a baby or adopting a child, there are different types of leave available. This leave will apply to the father of the child (including adoptive fathers), the mother's spouse or partner (whether opposite or same sex), or nominated carer. Either adoptive parent may take paternity leave where the other has elected to take adoption leave.

You are entitled to two weeks' of paternity (parental support) leave which can be taken around the time of the birth or the placement of the child.

To qualify for paternity leave you must have, or expect to have, responsibility for the upbringing of the child and be making the request to help care for the child or to support the primary care giver.

Paternity leave cannot commence prior to the birth of the child or the placing of a newly adopted child with an adopter. It must be taken within eight weeks of the date of childbirth or in the case of adoption within eight weeks of the date on which the child is placed with the adopter. It must be taken as periods of whole weeks, either as a single period of one week only or as two consecutive weeks. Neither occupational paternity pay nor Statutory Paternity Pay can be paid for any week in which the employee actually works.

19.1.2 Notification of Paternity Leave

To take Paternity Leave for newborn children, you are required to give your manager notice of your intention to take this leave 28 days before you wish to take it. For newly-adopted children, you are required to give your manager notice of your intention to take this leave within 7 days of the date on which you have been notified of having been matched with the child.

You should complete the [Paternity \(Parental Support\) Leave Application Form](#) and give this to your manager for approval.

19.1.3 Paternity Pay

In order to qualify for occupational paternity pay, you need to have been continuously employed with one or more NHS employer for a period of no less than 12 months at the beginning of the EWC or, in the case of adoption, for a period of no less than 12 months ending with the week you are notified of successfully being matched with a child/children.

In order to qualify you must meet the following criteria:

- Have been continuously employed with one or more NHS employer for a period of no less than 12 months at the beginning of the EWC or, in the case of adoption, for a period of no less than 12 months ending with the week you are notified of successfully being matched with a child/children.
- Have 26 weeks' continuous service with Public Health Wales by the end of the 15th week before the expected week of childbirth (known as the 'qualifying week')
- Be employed by Public Health Wales up to the date of birth
- Have average weekly earnings which are at least equal to the lower earnings limit for National Insurance contributions.
- Give the [correct notice](#)

If you do not qualify for occupational paternity pay, you may still qualify for [Statutory Paternity Pay](#).

Paternity pay is paid in the same way as your wages and PAYE Tax and National Insurance will also be deducted.

If you do not meet these qualifying conditions, you will not be entitled to paternity (parental support) pay, however, you will be entitled to paternity (parental support) leave of 2 weeks.

In the case of adoption, you must have 26 weeks continuous service with Public Health Wales at the beginning of the week in which the child is matched and 12 months' continuous NHS service at the 11th week prior to the EWC.

20 Shared Parental Leave

Shared Parental Leave (SPL) allows primary care givers to share 50 weeks of their 52 weeks Statutory Maternity/Adoption Leave and 37 weeks of their 39 weeks Statutory Maternity/Adoption Pay with their partner if they so wish. If a parent does not opt into the system, they

will still be entitled to maternity/adoption leave and pay as normal. The key points are:

- The shared leave applies to those with a working partner as long as both of them meet the qualifying conditions.
- Both parents will have to notify their employers of their intention to opt in to the SPL scheme. The notice will include providing the name and national insurance number of both the employee and the other parent.
- Both parents can take their leave together if they wish, or take it in succession.
- Employees will be required to provide a non-binding indication of their expected pattern of leave when they initially notify their employers that they intend to take SPL.
- Employees will have to give notice of their intention to actually take the period of leave.
- The primary care giver will be expected to give at least eight weeks' notice to end maternity/adoption leave (in order to start SPL). The notice is binding and can be given before or after the birth/placement.
- Both employees must give the employer eight weeks' notice before the start of the SPL which includes a two week discussion period.
- If the primary care giver gives notice of their intention to end maternity/adoption leave before the birth/placement they will be able to revoke that notice up to six weeks after the birth/placement.
- The number of times an employee can notify an employer of a period of leave will be capped at three (the original notification and two further notifications or changes). Changes which are mutually agreed between employer and employee do not count towards this cap.
- Each parent will have the right to have up to 10 'Keeping in Touch' (KIT) days during SPL (this is in addition to the ten days allowed during maternity and adoption leave).
- Employees who have taken SPL will have the right to return to the same job if the total leave taken is 26 weeks or less in aggregate, even if the leave is taken in discontinuous blocks.

Further information and the necessary forms are available in the [Shared Parental Leave 'How To' Guidance](#).

21 Parental Leave

'Parental Leave' is different from '*Shared* Parental Leave'. An employee is entitled to up to 18 weeks' unpaid parental leave per child if they are the birth or adoptive parent of a child who is under 18 years of age. To qualify for parental leave, employees must have completed at least one year's continuous service with the organisation.

Each parent can take a maximum of 4 weeks unpaid parental leave for each child in any one year. Parental leave is taken as whole weeks rather than individual days. A 'week' equals the length of time an employee normally works over 7 days.

22 In Vitro Fertilisation (IVF) and other Fertility

Treatments

The Trust recognises that infertility can cause considerable distress. As a provider of healthcare services, the Trust is sympathetic to staff who decide to undertake fertility treatment and will provide limited special leave for this purpose, where the request is supported by documentary evidence from the employee's GP or Consultant or Specialist.

22.1.1 Scope of the Guidance

This guidance will apply to all employees who have completed a minimum of 12 months continuous service with Public Health Wales.

22.1.2 Leave Arrangements

In view of the fact that fertility treatment can be a lengthy process, managers should discuss the likely duration of your treatment with you, together with the number of occasions and dates, where possible, when you are likely to need time off from work to attend hospital for your fertility treatment appointments.

In any one leave year, Public Health Wales will provide an employee who is to receive fertility treatment with up to three days paid special leave and up to seven days unpaid special leave.

To apply for special leave, to receive fertility treatment, you should complete the Special Leave Application Form and input onto ESR

(Special Leave Increasing Balance). Wherever possible, you are required to request the leave at least 7 days in advance of the proposed treatment date.

22.1.3 Sickness Absence

If you experience side effects or ill health as a result of your fertility treatment, which renders you unfit for work, such absences must be reported, certificated and recorded in accordance with the [All Wales Sickness Absence Policy](#).

23 Training and awareness raising

All staff will be made aware of these procedures upon commencement with Public Health Wales. Copies can also be viewed on the Public Health Wales Intranet or obtained via the People and OD team. Training will be provided as appropriate depending on the complexity of the policy.

24 Monitoring and Auditing

The designated lead will monitor and audit this document to ensure it is compliant with current legislation, and that it is implemented and adhered to.

25 Equality and Welsh Language Monitoring

These procedures are inclusive of all staff regardless of age, marriage, including equal/same sex marriage and civil partnership, disability, sex, sexual orientation, pregnancy and maternity, race, religion or belief, or gender identity.

26 Information Governance Statement

This policy has the potential to deal with extremely sensitive information and Public Health Wales staff involved need to be fully aware of the material they are handling. The preferred method of information exchange should be via post, however in exceptional circumstances and due to time constraints the use of password protected emails is permitted.

Any materials/documents should be transported in a secure manner to ensure maintenance of confidentiality and minimise risk of loss. The following security measures should be followed:

- Documents should be sent by recorded delivery post with double enveloped contents.
- Documentation should be viewed on a "need to know basis"
- All documents should be stored in the appropriate secured storage facilities and destroyed confidentially in accordance with Public Health Wales retention and destruction guidelines
- Emails can be used to arrange meetings, although careful wording of the appointment and who can see the calendar must be considered.

Appendix 1 Glossary of Terms

AML/AAL

Additional Maternity Leave/Additional Adoption Leave. An additional period of leave of up to 26 weeks immediately following OML or OAL.

Expected Week of Childbirth (EWC)

This is the date during the week (commencing on Sunday) given by a Registered Medical Practitioner/Registered Midwife which indicates when the baby is expected, or when an adoption agency indicates when the child is to be placed in cases of adoption.

MATB1

The name of the Maternity Certificate given by a Registered Medical Practitioner/Registered Midwife during pregnancy, indicating the EWC.

Matching Certificate

In cases of adoption, a document confirming the adoption is referred to as the Matching Certificate and is issued by the adoption agency or local authority.

OML/OAL

Ordinary Maternity Leave/Ordinary Adoption Leave. The core period which covers the first 26 weeks of maternity/adoption leave.

OMP/OAP

Occupational Maternity Pay/Occupational Adoption Pay – the element of pay that Public Health Wales makes provision for over and above the statutory minimum; it is subject to at least 1 year's continuous service in the NHS at the 11th week before the EWC.

Primary Care Giver

The parent that is taking maternity leave or adoption leave as the primary care giver for the child or children.

Qualifying Week (QW)

This is the 15th week *before* the EWC and influences eligibility to pay and leave under this policy.

ShPP

Shared Parental Pay. This is the element of pay that Public Health Wales must pay qualifying employees as a statutory minimum.

SMP/SAP

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Statutory Maternity Pay/Statutory Adoption Pay. This is the element of pay that Public Health Wales must pay qualifying employees as a statutory minimum.

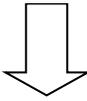
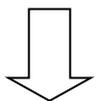
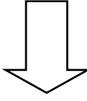
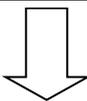
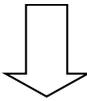
SPL

Shared Parental Leave where statutory and additional maternity or adoption leave can be divided by parents.

SPP

Statutory Paternity Pay. This is the element of pay that Public Health Wales must pay qualifying employees as a statutory minimum.

Appendix 2 Maternity Flowchart

	Employee	Manager
	Employee contacts manager to inform them of pregnancy and discuss potential timescales	
	Review any salary sacrifice schemes as can effect OMP	Manager carries out a risk assessment and makes any necessary adjustments - seeking advice from Health and Safety or Facilities if appropriate
	Manager and employee discuss options and develop a plan to accommodate the leave taking into account divisional needs	
	Employee completes application form and sends to HR by email. Original MatB1 to be sent by post – no later than the 26 week of pregnancy	
		Agree when annual leave will be taken before and plan leave for after return to work
	HR writes to employee within 28 days of receipt of notification and MatB1confirming dates	
	Commence Maternity leave Whilst on maternity leave can start childcare vouchers	

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	Can work up to 10 keeping in touch days without effecting maternity leave / pay	Keep a record of keeping in touch days
	Agree return to work date - need to give 8 weeks' notice if before 52 weeks	Complete Maternity Return to Work form and send to Payroll - include KIT days, annual leave carry over and any changes to hours

Appendix 3 Pay Entitlements

Maternity Pay

Qualifying Period	Option	Intention	Entitlement
You have 26 weeks continuous service with the organisation at the 15 th week prior to the EWC and 12 months continuous NHS service at the 11 th week prior to the EWC	A1	You wish to return to work with the same employer or another NHS employer for a minimum of 3 months	8 weeks full pay inclusive of SMP 18 weeks half pay plus SMP 13 weeks SMP 13 weeks nil pay
	A2	You do not wish to return to the same or another NHS Employer for a minimum of 3 months	SMP which is 6 weeks at 90% of your average weekly earnings and 33 weeks at the standard rate * (* if this exceeds the amount you received in the 6 week period you will remain at the lower rate)
If you have less than 26 weeks continuous service with the organisation at the 15 th week prior to the EWC but 12 months continuous service with the NHS at the 11 th week prior to the EWC	B1	You wish to return to work with the same or another NHS employer for a minimum of 3 months	8 weeks full pay 18 weeks half pay 26 weeks nil pay
	B2	You do not wish to return to the organisation or another NHS employer for a minimum of 3 months	You will not be entitled to SMP. However, you may be entitled to Maternity Allowance. The Payroll department will send you form SMP1 with instructions on how to claim

You have 26 weeks continuous service with the organisation at the 15 th week prior to the EWC but less than 12 months	C1	You wish to return to work with the same or another NHS employer for a minimum of 3 months	SMP which is 6 weeks at 90% of your average weekly earnings and 33 weeks at the standard rate * (* if this exceeds the amount you received in the 6 week period you
continuous service at the 11 th week prior to the EWC			will remain at the lower rate) 13 weeks at nil pay
	C2	You do not wish to return to the organisation or another NHS employer for a minimum of 3 months	SMP which is 6 weeks at 90% of your average weekly earnings and 33 weeks at the standard rate * (* if this exceeds the amount you received in the 6 week period you will remain at the lower rate)
You have less than 26 weeks continuous service with the organisation at the 15 th week prior to the EWC and less than 12 months continuous service at the 11 th week prior to the EWC	D1	You wish to return to work with the same or another NHS employer for a minimum of 3 months	You will not be entitled to SMP. However, you may be entitled to Maternity Allowance. The Payroll department will send you form SMP1 with instructions on how to claim
	D2	You do not wish to return to the organisation or another NHS employer for a minimum of 3 months	You will not be entitled to SMP. However, you may be entitled to Maternity Allowance. The Payroll department will send you form SMP1 with

			instructions on how to claim
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If you do not return to work with the Public Health Wales, after indicating your intention to do so, you may be liable to repay the maternity pay received, less any payments you may be entitled to receive under the Statutory Maternity Pay Regulations.

Adoption Pay

Qualifying Period	Option	Intention	Entitlement
You have 26 weeks continuous service with this Public Health Wales and 12 months continuous NHS service as at the week you are notified of successfully being matched with a child/ children.	A1	You wish to return to work with the same or another NHS employer for a minimum of 3 months	8 weeks full pay inclusive of SAP 18 weeks half pay plus SAP 13 weeks SAP 13 weeks nil pay
	A2	You do not wish to return with the same or another NHS Employer for a minimum of 3 months	SAP which is 6 weeks at 90% of your average weekly earnings and 33 weeks at the standard rate * (* if this exceeds the amount you received in the 6 week period you will remain at the lower rate)
If you have less than 26 weeks continuous service with this Public	B1	You wish to return to work with the same or another NHS employer for a minimum of 3 months	8 weeks full pay 18 weeks half pay 26 weeks nil pay

<p>Health Wales but 12 months continuous service with the NHS as at the week you are notified of successfully being matched with a child/ children.</p>	<p>B2</p>	<p>You do not wish to return with the same or another NHS Employer for a minimum of 3 months</p>	<p>You will not be entitled to SAP. However, you may be entitled to Adoption Allowance. The Payroll Dept will send you an SAP1 form which you must complete and send to the Job Centre Plus and/or local Social Security Office together with your matching certificate</p>
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<p>You have 26 weeks continuous service with this Public Health Wales but less than 12 months continuous NHS service as at the week you are notified of successfully being matched with a child/ children.</p>	<p>C1</p>	<p>You wish to return to work with the same or another NHS employer for a minimum of 3 months</p>	<p>SAP which is 6 weeks at 90% of your average weekly earnings and 33 weeks at the standard rate * 13 weeks at nil pay (* if this exceeds the amount you received in the 6 week period you will remain at the lower rate)</p>
	<p>C2</p>	<p>You do not wish to return with the same or another NHS Employer for a minimum of 3 months</p>	<p>SAP which is 6 weeks at 90% of your average weekly earnings and 33 weeks at the standard rate * (* if this exceeds the amount you received in the 6 week period you will remain at the lower rate)</p>

You have less than 26 weeks continuous service with this Public Health Wales and less than 12 months continuous NHS service as at the week you are notified of successfully being matched with a child/children.	D1	You wish to return to work with the same or another NHS employer for a minimum of 3 months	You will not be entitled to SAP. However, you may be entitled to Adoption Allowance. The Payroll Dept will send you an SAP1 form which you must complete and send to the Job Centre Plus and/or local Social Security Office together with your matching certificate
	D2	You do not wish to return to work with the same or another NHS employer for a	You will not be entitled to SAP. However, you may be entitled to Adoption
		minimum of 3 months	Allowance. The Payroll Dept will send you a SAP1 form which you must complete and send to the Job Centre Plus and/or local Social Security Office together with your matching certificate.

If you do not return to work with the Public Health Wales, after indicating your intention to do so, you may be liable to repay the maternity pay received, less any payments you may be entitled to receive under the Statutory Adoption Pay Regulations.

Paternity (Parental Support) Pay Entitlements

You must be taking time off to look after the child and be one of the following:

- the child's father
- the spouse or partner of the mother or adopter
- the child's adopter
- the intended parent (if you're having a baby through a surrogacy arrangement)

Qualifying Period/Conditions	Option	Entitlement
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<p>You must have been continuously employed with one or more NHS employer for 26 weeks ending with the 15th week before the expected week of childbirth (known as the 'qualifying week') and must:</p> <ul style="list-style-type: none"> • be employed up to the date the child is born (or placed with the adopter) • meet the earnings threshold and other eligibility conditions for paternity pay • give the correct notice <p>An employee adopting a child must:</p> <ul style="list-style-type: none"> • have worked continuously with one or more NHS employer for at least 26 weeks by the end of the week they were matched with a child (UK adoptions) • have worked for you continuously for at least 26 weeks by either the date the child arrives in the UK or when they want their pay to start (overseas adoptions) 	<p>Statutory Paternity Pay</p>	<p>2 weeks Statutory Paternity Pay (SPP) at the standard rate or 90% of your average weekly earnings (whichever is lower).</p>
<ul style="list-style-type: none"> • confirm that their partner is getting Statutory Adoption Pay in writing or by giving you a copy of their partner's form SC6 • meet the other eligibility conditions for paternity pay. 		

<p>You must have been continuously employed with one or more NHS employer for a period of no less than 12 months at the beginning of the week in which the baby is due or, in the case of adoption, for a period of no less than 12 months ending with the week you are notified of successfully being matched with a child/children.</p>	<p>Occupational Paternity (parental support) Pay</p>	<p>2 weeks full pay, inclusive of SPP.</p>
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If you do not meet these qualifying conditions, you will not be entitled to paternity (parental support) pay, however, you will be entitled to paternity (parental support) leave of 2 weeks.