

Maternity, Paternity, Adoption Leave Policy No. 14

Induction and Benefits

1. The regulations for maternity, paternity and adoption leave and pay for Trust employees are set by the Employment Rights Act 1996 as amended by the Employment Relations Act 1999 and the Employment Act 2002, the Maternity and Parental Leave Regulations 1999, the Maternity and Parental Leave (Amendment) Regulations 2002, Section 6 and Section 7 of the General Whitley Council conditions of Service, Management of Health & Safety at Work Regulations 1999, Workplace (Health, Safety & Welfare) Regulations 1992, Sex Discrimination Act 1975 and the Work and Families Act 2006.

Application

2. The policy applies to all staff subject to the relevant eligibility criteria.
3. This policy sets out entitlements for staff and procedures to be followed when an employee has notified the Trust of impending maternity, paternity and adoption.

Purpose

4. The purpose of the policy is to ensure that regulations for Maternity, Paternity and Adoption leave are implemented consistently across the Trust ensuring eligible staff receive any relevant leave/pay.

Policy Statement

5. The Oxford Radcliffe Hospitals NHS Trust is committed to improving working lives and to ensuring all staff have access to the appropriate leave and pay according to legislation and Agenda for Change agreements.
6. The Oxford Radcliffe Hospitals NHS Trust is also committed to ensuring the safety and well-being of new and expectant mothers.

Responsibilities

7. Individuals have a duty to inform their manager that she is either pregnant, has recently given birth or is breast feeding. Unless the Trust is made aware of an individual's condition, appropriate action cannot be taken.

Oxford Radcliffe Hospitals

8. Line Managers have a responsibility to undertake a risk assessment once they have been made aware of an individual's condition.
9. Occupational Health is responsible for assessing the impact of the work environment on the health, safety and well being of expectant or new mothers as requested by the individual or their line manager.
10. HR will be responsible for confirming an individual's entitlement on receipt of the relevant documents e.g. MATB1 (Maternity).

Monitoring

11. The policy will be monitored by HR who will be responsible for the administration of the relevant leave and pay arrangements detailed in this document.
12. The policy will also be monitored through the equality impact assessment process – Appendix 2
13. The HR Policy Group will review this policy in three years, unless changes in legislation prompt an earlier review.

Training and Development

14. Briefing sessions will be available to Managers and maternity entitlements are also detailed in the Maternity Workshops available to staff.

Associated Documents and Policies

15. This policy links to:
 - 15.1. Maternity Process - Appendix 1
 - 15.2. Equality Impact Assessment
 - 15.3. Annual Leave and Special Leave Policy 18 (parental, carers leave)
 - 15.4. Avoidance and Handling of Redundancies Policy 9

Maternity, Paternity, and Adoption Leave Guidelines

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PREGNANCY

Health and Safety

1. If an employee is pregnant, has recently given birth or is breast-feeding it is very important that their Line Manager conducts a Risk Assessment for their post in order to ensure that they are adequately protected in the workplace:
2. The line manager will assess the nature, degree and duration of exposure to risk.
3. The risk assessment will be reviewed by the employee and the line manager on a recurring basis at agreed intervals; however this should occur no less than once a month.
4. In the event that there is a concern that any aspect of the duties of work or the work environment may contribute to ill health or represent a risk to the health and well being of the mother or baby, a referral will be made to the Occupational Health Department.
5. Guidelines and a form are attached at the back of this document for this purpose. The form should be retained by the line manager and a copy sent to the Occupational Health Department.
6. Night workers must advise their line manager if they believe night work is detrimental to their health and safety. The line manager must refer them to Occupational Health.
7. At present, if individuals work with a VDU it is not considered that this causes a Health and Safety risk whilst pregnant. Individuals should continue working until such time as they are informed that the views on this alter significantly.
8. See Appendix A for further details

Antenatal Care

9. Employees are entitled to paid time off to keep appointments for antenatal care made on the advice of a registered medical practitioner, registered midwife or registered health visitor. This is not restricted to medical examinations related to the pregnancy i.e. it may include relaxation and parent craft classes.
10. Individuals may be requested to demonstrate that they have made an appointment for antenatal care.
11. Individuals should give reasonable notice to their line manager of any such appointments.

Entitlement to sick pay during pregnancy

12. If an individual is sick up to 4 weeks before the expected week of the birth, this sickness supported by a medical statement or a self-certificate will be treated in the usual way as per the Trust's Absence Management Policy.
13. If the employee is off work ill, or becomes ill with a pregnancy related illness during the last four weeks before the expected week of childbirth, maternity leave will normally commence at the beginning of the fourth week before the expected week of childbirth or the beginning of the next week after the employee last worked, whichever is the later.
14. Once maternity leave has started there is no entitlement to sick pay for the duration of the maternity leave.

MATERNITY LEAVE AND PAY

Entitlements

15. An individual should choose the option that is applicable to their circumstances according to the length of their NHS and ORH Trust service. Refer to Table 1.
16. All women employed by the Trust whose expected week of childbirth is on or after 1 April 2007 will be entitled to 52 weeks (one year's) maternity leave regardless of length of service with the employer.
17. Statutory maternity pay (SMP) has been extended from 26 weeks (six months) to 39 weeks (nine months). The additional three months will be paid at the flat rate of SMP.

Refer to Table 1 – see over

Table 1

Service	Entitlement
<p>Less than 1 years continuous service in the NHS (at the beginning of the 11th week before the expected week of birth) and less than 26 weeks continuous service in this Trust at the qualifying week (15 weeks before the expected week of birth)</p>	<p>All employees will have the right to take 52 weeks of maternity leave whether or not they return to NHS employment. Employees may be able to claim Maternity Allowance (MA) from Job Centre Plus or a Social Security Office.</p> <p>There is no entitlement to Statutory Maternity Pay (SMP)</p>
<p>Less than 1 years continuous service in the NHS (at the beginning of the 11th week before the expected week of birth) but more than 26 weeks service in the Trust at the qualifying week (15 weeks before the expected week of birth)</p>	<p>Whether or not intending to return to work: Statutory Maternity pay (SMP): 6 weeks at 90% of average earnings: 33 weeks at £123.06 (or 90% of employees salary if this is less than £123.06). Further option of 13 weeks additional unpaid maternity leave.</p>
<p>More than 1 years continuous service in the NHS (at the beginning of the 11th week before the expected week of birth) but less than 26 weeks service in the Trust at the qualifying week (15 weeks before the expected week of birth)</p>	<p>If intending to return to work for a minimum period of 3 months after her maternity leave has ended: 8 weeks full pay (subject to reduction of SMP/MA at £123.06 per week) and 18 weeks half pay plus any SMP/MA at £123.06 per week providing this does not exceed full pay. Individual should also be able to claim £123.06 per week (or 90% of the employees salary if this is less than £123.06) for 13 weeks (MA) from Job Centre Plus or a Social Security Office. Further option of 13 weeks additional unpaid maternity leave. Employees may be able to claim Maternity Allowance (MA) from Job Centre Plus or a Social Security Office.</p> <p>If not intending to return to work for a minimum period of 3 months after her maternity leave has ended: 6 weeks at 90% of average weekly earnings, and a flat rate sum for the following 33 weeks. Employees may be able to claim Maternity Allowance (MA) from Job Centre Plus or a Social Security Office. Further option of 26 weeks additional unpaid maternity leave.</p>

Service	Entitlement
<p>More than 1 years continuous service in the NHS (at the 11th week before the expected week of birth) and more than 26 weeks service in the Trust at the qualifying week (15 weeks before the expected week of birth)</p>	<p>If intending to return to work for a minimum period of 3 months after her maternity leave ended: 8 weeks full pay(SMP included), 18 weeks half pay plus any SMP (providing half pay + SMP does not exceed full pay, in which case full pay will be payable) + 13 SMP AT £123.06. Further option of 13 weeks additional unpaid leave.</p> <p>If not intending to return to work for a minimum period of 3 months after her maternity leave ended: SMP pay: 6 weeks at 90% of average weekly earnings and a flat rate sum for the following 33 weeks. Employees may be able to claim Maternity Allowance (MA) from Job Centre Plus or a Social Security Office Further option of 13 weeks additional unpaid maternity leave.</p>

18. Please note the SMP rate is as at April **2009**, for up to date information on rates please see the DTI website www.dti.gov.uk/er/workingparents.htm or contact the Human Resources department.

Continuous Service

19. Continuous service with Oxford Radcliffe Hospitals NHS Trust is an individual's original start date in the Trust.
20. Continuous NHS service is based on:
- 20.1 Employment with health authorities, NHS Boards, NHS Trusts, Primary Care Trusts and the Northern Ireland Health Service.
 - 20.2 A break in service of less than 3 months will be disregarded (though not counted as service)
 - 20.3 The following breaks in service will also be disregarded (though not counted as service): employment under the terms of an honorary contract; employments as a locum with a general practitioner for a period not exceeding 12 months; a period of up to 12 months spent abroad as part of a definite programme of postgraduate training on the advice of the postgraduate Dean or College or Faculty advisor in the specialty concerned; a period of voluntary service overseas with a recognized international relief organization for a period of 12 months; absence on an employment break scheme in accordance with provisions of section 7 of the General Council Handbook; absence on maternity leave (paid or unpaid) as provided for under NHS policy.

20.4 Employment as a trainee with a General Medical Practitioner in accordance with the provisions of the Trainee Practitioner Scheme shall similarly be disregarded and count as service.

What do the different entitlements mean?

Statutory maternity pay (SMP)

- 21. Statutory Maternity Pay is a state maternity scheme, which is operated and paid for by the employer.
- 22. An individual does not have to intend to return to work to get SMP.

Eligibility for SMP?

- 23. An employee is eligible to receive SMP, if: -
 - 23.1 They have been employed by this Trust for at least 26 weeks continuing into the 15th week (or qualifying week) before the date that their baby is due.
 - 23.2 Their weekly average earnings are at or above the amount where they have to start paying NI contributions - this is called the lower earnings limit.
 - 23.3 They have given notice that they intend to stop work due to pregnancy (see paragraph 36).
- 24. If they do not qualify for SMP, they may be eligible for Maternity Allowance (MA), which is paid directly to individuals by the DSS. Forms are available from the Social Security Office, Post Offices and Antenatal clinics. If staff are excluded from SMP, the Payroll Department will issue Form SMP 1 and return the original of the MATB1, as these documents are required by the Department of Social Security.
- 25. Individuals may have to pay tax and national insurance contributions on SMP but these would be deducted in the normal way.

When does SMP start?

- 26. If an employee continues to work after the 11th week before the week the baby is due, they can choose when they want their SMP to start. SMP will start from any day they choose, once they have stopped work to have the baby. This means that their SMP should start from the first day of their maternity leave.

How long is SMP paid for?

- 27. SMP is paid for a continuous period of up to 39 weeks.

Occupational Maternity Pay (OMP)

28. Occupational Maternity Pay is the NHS scheme, and is only applicable if you intend to return to work.

Eligibility for OMP?

29. Employees are eligible to receive OMP if: -

29.1 They have been employed by the NHS for at least one year at the 11th week before the date that their baby is due.

29.2 They intend to return to work to the Oxford Radcliffe Hospitals NHS Trust, or another NHS employer for a minimum period of 3 months after her maternity leave has ended.

Return to work requirement:

30. After maternity leave of up to 52 weeks, an employee is required to return to work for a minimum period of 3 months unless continued absence is covered by a sickness certificate. In the event of failure to return to work, having notified the Trust of an intention to do so, the Trust reserves the right to demand repayment of the whole of the maternity pay received, less any SMP to which the employee is entitled.

Calculation of pay

31. Full pay will be calculated on the basis of the average weekly earnings in accordance with the earning rules for SMP purposes, (provided by the Social Security Contributions & Benefits Act 1992 as amended) and subject to the following qualifications: -

31.1 In the event of a pay award and or annual increment being implemented from any date before the paid maternity leave period, maternity pay should be calculated as though the pay award had effect throughout the entire SMP calculation period (and if such a pay award were agreed retrospectively, the maternity pay should be recalculated on the same basis).

31.2 In the event of a pay award and or annual increment being implemented during the paid maternity leave period, the maternity pay will be calculated from the date that the pay award/increment came into effect. (if such a pay award were agreed retrospectively, the maternity pay should be re-calculated as detailed in Para 31).

31.3 In the case of an employee on unpaid sick absence, or on half pay sick absence during the whole or part of the period used for calculating average weekly earnings in accordance with the earnings rules for SMP purposes, average weekly earnings for the period of sick absence shall be calculated on the basis of

notional full sick pay.

Please note: -

32. The 2 months (8 weeks for weekly paid staff) before the 15th week before the date that the baby is due are used to calculate the “average” pay, regardless of whether they are representative months.
33. If salary sacrifice or childcare vouchers are used to pay for childcare, this would affect the “average” pay for the calculation of maternity pay. Please contact the Trust’s Childcare Coordinator, or the Human Resources Department, for further information.

Notification

34. Employees are required to formally notify the Trust of their intention to take maternity leave before the end of the 15th week before the baby is due. The following information is required:
 - 34.1 Confirmation of pregnancy
 - 34.2 Expected week of delivery
 - 34.3 The intended start date of maternity leave
35. Information about entitlements and other general information including the end date of her maternity leave will be provided by Human Resources within 28 days of receipt of the above information.
36. Employees will need to:
 - 36.1 submit a MATB1 certificate indicating the expected date of birth; this is available from the GP or midwife from 20 weeks of pregnancy.
 - 36.2 complete the standard Maternity Application Form obtainable from the Human Resources Department, or at Appendix C.

Working for another employer

37. If you have a contract with another employer (including agencies) and intend to work for them during your maternity leave with the Trust, you must notify HR as this may affect your maternity payments.

Commencement of maternity leave

38. Maternity leave can start on any day of the week inclusive of the due date.
39. The earliest day that maternity leave can commence is the 11th week before the expected week of birth and the latest is from the day following the birth.

Changing the start of maternity leave

40. Once an employee has notified their Manager of the date they wish to start their maternity leave, they can change the date providing they notify their Manager and Human Resources of the new start date. This notification has to be done either 28 days before the original start date or 28 days before the new date.

What happens if the baby is born before maternity leave commences?

41. If the baby is born prior to the 11th week before the expected week of the birth, then maternity leave will commence from the date of the birth. Prior absence, supported by a medical certificate or self-certificate, will be treated as sick leave in accordance with the arrangements for sick leave. If an employee has worked in the actual week that the baby arrives, they are entitled to payment in respect of the work done and maternity leave will commence from the first day they are off work. If the manager agrees and the baby has been born prior to the 11th week before the expected week of birth, and subsequently the baby is in hospital, an employee may choose to split maternity leave entitlement, e.g. immediately after confinement and taking the balance of leave following the baby's discharge from hospital.

Miscarriage and Stillbirth

Miscarriage

42. If a miscarriage occurs before the 25th week of pregnancy, normal sick leave provisions will apply as necessary.

Stillbirth

43. If the baby is stillborn after the 24th week of pregnancy, the employee will be entitled to the same amount of maternity leave and pay as if the baby was born alive.

Conditions whilst on maternity leave

Reasonable contact

44. Employers can make "reasonable contact" with employees whilst on maternity leave. Before going on leave, employees and managers should discuss and agree any arrangements for keeping in touch during maternity leave, including:

- 44.1 Any voluntary arrangements for keeping in touch with developments at work, and preparing for a return to work;
- 44.2 keeping the manager in touch with any developments that may affect the intended date of return.

Returning to work during maternity leave (“Keeping in touch (KIT) days”)

- 45. Employees can return to work for up to ten days during maternity leave, allowing work under the contract of employment. This is subject to agreement with the Manager, and does not forfeit the right to the remainder of maternity leave entitlement or SMP.
- 46. If working for more than 10 days, employees will lose one week’s SMP for each week or part week that they work under the contract of employment paying SMP. This also means that if employees work the 10th “keeping in touch day” and do a further day’s work in the same week, they will lose SMP for that week.
- 47. KIT days are different to the “reasonable contact” that employers and employees may make with one another mentioned above. N.B. KIT days enable employees to carry out paid work for their employer, and are not limited to the contracted job i.e. they can be used for training or other events.
 - 47.1 Employees are not obliged to work during maternity leave if they do not wish to, nor do they have the right to work KIT days if the Manager does not agree to them.
 - 47.2 KIT days may be undertaken at any stage during maternity leave, by agreement with the Manager. The exception to this is the first two weeks after the baby is born.
 - 47.3 KIT days do not extend maternity leave.
 - 47.4 Employees will receive the maximum of a normal basic daily pay rate for the hours worked (this may include an element of SMP if occurring during paid maternity leave but should not exceed the normal daily pay rate).
 - 47.5 Working for part of a day counts as one “KIT” day.

Contractual rights

48. During maternity leave (both paid and unpaid) an employee retains all of her contractual rights except remuneration.

Annual Leave

- 49 Annual leave is accrued during maternity leave whether paid or unpaid as per the contract.
50. Maternity leave will count as service for the purpose of satisfying the service qualification for entitlement to additional annual leave based on years of service.
51. Carry over of annual leave into a new leave year due to maternity leave will be limited to the statutory amount of 20 days (pro rata for part time staff). Any contractual leave entitlement over and above 20 day (pro rata for part time workers) should be taken within the current leave year to avoid losing their entitlement. The amount of annual leave to be taken/carried over in this way should be discussed and agreed with the manager.
- 51.1 e.g. an individual whose maternity leave spans two annual leave years and who will have accrued more than 20 days (pro rata for part time staff) during their maternity leave period should ensure they arrange to take their additional contractual entitlement of leave prior to commencing their maternity leave to avoid losing their entitlement.
52. If annual leave is booked prior to the start of maternity leave and the baby is born before or during that period of annual leave, then maternity leave will commence from the beginning of the actual week of the birth. If an employee has worked in the actual week that the baby arrives, they are entitled to payment in respect of the work done and the maternity leave will commence from the first day off work. Any outstanding annual leave can then be attached to the end of the formal maternity leave.

Please note

53. The manager must notify payroll of the first day of annual leave taken immediately following maternity leave as this is considered as the return to work date.

Public Holidays

54. Entitlement to leave in lieu of public holidays does not accrue during any part of maternity leave.

Incremental dates

55. Absence on maternity leave, paid or unpaid, will count towards an employees normal annual increment and will not defer the normal incremental date.

Pension payments on maternity leave

56. Pension rights and contributions shall be dealt with in accordance with the provisions of the NHS Pensions Scheme. Employees should contact the Trust's Pensions Officer for further advice.

Maternity leave whilst on a fixed term or training contract

57. If an employee is on a fixed-term or training contract which expires after the 11th week before the expected week of childbirth, and the conditions in paragraphs 15-17 are satisfied, an employee will have their contract extended so as to allow them to receive the 39 weeks paid contractual maternity leave as per entitlements in Table 1
58. The contract will not be extended to cover a period of unpaid leave, however if an employee has 2 or more years continuous service they may have an absence (before they return to work in their next appointment) for up to 52 weeks on maternity leave, and this will not constitute a break in service.
59. Medical practitioners or employees participating in a planned rotation of appointments as part of a training programme, have the right to return to the same post or in the next planned post with the same or another authority, irrespective of whether the contract would have ended if pregnancy and birth had not occurred. In this case, the contract will be extended to enable the training programme to be completed.
60. If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred the repayment provisions set out in paragraph 66 will not apply.

Returning to work

61. An employee has the right to return to her job under her original contract and on no less favourable terms and conditions.
62. If at the end of the maternity leave the employee wishes to return to work on different hours the Trust has a duty to facilitate this wherever possible, with the employee returning to work on different hours in the same job. If this is not possible the Trust must provide written objectively justifiable reasons for this and the employee should return to the same grade and work of a similar nature and status to that which they held prior to their maternity leave. A further option would be to join the Oxford Radcliffe Hospitals Career Break Scheme – please refer to the Flexible

Working Options Policy no 39.

63. If organisational change occurs during the period of maternity leave the individual must be consulted during the change process and if their post is significantly changed or removed they will be entitled to be offered a suitable alternative vacancy where one is available. The terms and conditions of her employment must not be substantially less favourable to her than if she had continued to be employed under her original contract. In such circumstances the Trust's Procedure for the Avoidance and Handling of Redundancies.

Changing the return date while on maternity leave?

64. Employees intending to return to work before the expected return date agreed must provide their Manager with at least 8 weeks notice prior to her new return date. If an employee wishes to return to work after the planned return date she must also give at least 8 weeks notice of this change prior to her original return date. N.B. full entitlement is 52 weeks.

Changing a decision to return to work

65. Employees should contact the Human Resources Department immediately as entitlement to maternity pay may be affected. Employees can keep any statutory maternity pay that they are entitled to as someone not returning to work but they must refund any amounts received over and above this. Annual leave entitlement may also be affected.

Illness and returning to work?

66. If an employee is ill when they are due to return to work and they have submitted a medical statement from a GP, or a self certificate to cover absence, they are entitled to sick leave under the usual arrangements from that date.

Failure to return to work

67. If an employee has notified their Manager of their intention to return to work, or their intention to return to another authority or Trust, and they fail to do so, they will be liable to refund all the maternity pay received less any SMP to which they were entitled. If however they provide the Trust with a copy of a letter of appointment from another NHS employer, within 15 months of the commencement of the maternity leave, this will be classed as a return to work and no repayment will be required.

Miscellaneous provisions

What if work could be harmful to the baby?

68. See Paras 1 - 7 and Appendix A, Health and Safety.

Provision for Breastfeeding Mothers

69. The Management of Health and Safety at Work Regulations 1999 provide safeguards for new mothers, and babies from contamination of breast milk by any working conditions or physical, biological or chemical agents. The regulations do not give a specific right to women to breastfeed on their return from maternity leave. The regulations specifically require the Trust to provide facilities for breastfeeding mothers to rest, and to provide adequate rest and meal breaks.
70. European Commission guidelines (2000) recommend that breastfeeding workers should have access to a private room in which to express milk, be able to use a secure, clean refrigerator for storing of expressed milk, and have access to facilities for washing and sterilizing receptacles.
71. If an employee wants to work flexibly to breastfeed they should make a request for flexible working as detailed under the Trust's Policy for Flexible Working Options.

Compassionate leave

72. The Trust has the discretion to grant special leave for domestic, personal and family needs, see Annual and Special Leave Policy 18.

Parental leave

73. See Annual and Special Leave Policy 18.

Childcare

74. Oxford Radcliffe Hospitals has a Childcare Coordinator to offer support and advice on available childcare and information on financial support such as Tax Credits and Voucher Schemes.
75. Contact details for the Childcare Coordinator are tel: 01993 894384/ 0799 9560376
email: janice.morrison@oxoncis.org.uk.

MATERNITY SUPPORT (PATERNITY) LEAVE AND PAY

76. There will be an entitlement to two week's maternity support leave. Subject to eligibility an employee may be paid occupational maternity support pay for this leave. Full pay will be calculated on the basis of the average weekly earnings rules

used for calculating occupational maternity pay. The employee will receive full pay less any statutory paternity pay receivable.

Eligibility

77. In order to be eligible for maternity support pay, an employee must have twelve month's continuous service with one or more NHS employers at the beginning of the week in which the baby is due. Employees who are not eligible for occupational maternity support pay, may still be entitled to Statutory Paternity Pay (SPP) subject to qualifying conditions. The rate of SPP is the same as SMP.
78. Maternity support (Paternity) leave and pay will apply to biological and adoptive fathers, nominated carers and same sex partners

Notice of intention to take paternity leave

79. Employees must inform their manager of their intention to take paternity leave by completing form SC3 "Becoming a Parent" or form SC4 "Adopting a child" (HM Revenue and Customs) at least 28 days before they want leave to start. The employer should accept later notification if there is a good reason.
80. Employees can change their mind about the date on which they want their leave to start providing they tell their manager at least 28 days in advance (unless this is not reasonably practicable).
81. Leave may be taken as two separate weeks; however the full entitlement must be taken no later than fifty -six days following the birth of the baby.
82. Employees must also provide a copy of their partner's Maternity Certificate (MATB1 form) or matching certificate if appropriate.
83. Managers should then forward the Self Certificate and the MATB1/Matching forms to the Human Resources Department.

Ante-natal classes

84. The Trust will allow reasonable paid time off to biological and adoptive fathers , nominated carers and same sex partners of a woman who is pregnant to attend antenatal classes, which will include the time spent travelling to an appointment and waiting. An ante natal appointment is any appointment made on the advice of a GP, midwife, or health visitor, which can include relaxation or parentcraft classes.
85. The Trust can ask for written proof of appointments (excluding the first) and a certificate from the GP or midwife confirming pregnancy. The Trust can refuse time off if this information is not provided.

86. The Trust cannot make individuals attend these appointments in their own time or make the time up later.

ADOPTION

Entitlements

87. The rights to adoption leave and Statutory Adoption Pay (SAP) allow an eligible employee who is adopting a child to take time off when a child is placed with them for adoption.
88. An Adopter is a person who has been matched with a child for adoption or, if a couple has been matched jointly, the member of the couple who has chosen to take adoption leave and/or SAP. Where the child is below age 18, adoption leave and pay will be in line with the maternity leave and pay provisions as at Table 1. The partner, who does not take adoption leave and pay, may be eligible for Paternity leave and pay as per paragraphs 75 to 85.
89. Adopters on or after 1 April 2007 will be entitled to 52 weeks (one year's) adoption leave made up of 26 weeks (six months) Ordinary Adoption Leave (OAL) and 26 weeks (six months) Additional Adoption Leave (AAL) regardless of length of service.
90. Statutory Adoption Pay (SAP) has been extended from 26 weeks (6 months) to 39 weeks (9 months). The additional three months will be paid at the flat rate of SAP. The remaining 13 weeks will be unpaid.
91. Payment is in line with the flat rate of Statutory Maternity Pay and broadly the same conditions apply.
92. In the case of both partners in a joint adoption working for the Trust, each case is treated individually, however, the period of leave and pay may be shared.
93. Adoption leave should cover official meetings in the adoption process as well as time after the adoption itself. Due to the complexities of the adoption process, leave may need to be staggered and Managers are encouraged to use discretion and flexibility.
94. The Human Resources department should be contacted for further advice and guidance and employees who are considering the adoption of a child are encouraged to discuss this with Human Resources.

Starting Adoption leave:

95. Adoption leave can start from the date of the child's placement or from a fixed date which can be up to 14 days before the expected date of placement.

96. Leave can start on any day of the week.

Matching certificate:

97. Employees must give their Manager (who will then forward to Human Resources) the matching certificate provided by the adoption agency as evidence of entitlement to SAP. The certificate includes basic information on matching and expected placement dates.

Notification:

98. Notification of the intention to take adoption leave, or paternity leave for adoption, must be given within 7 days after receipt of notification of having been matched with a child, or if this is not possible, as soon as is reasonably practicable.

99. It is recommended that employees notify their manager when they are approved for adoption to allow time to plan for the intended period of leave.

100. 28 days notice must be given of the commencement of either adoption leave or paternity leave for adoption,

101. Notice must be in writing, and include:

101.1 The intention to take adoption leave

101.2 The date on which the child is expected to be placed for adoption

101.3 The date on which they intend to start their adoption leave

101.4 The adoption matching certificate which is available from the adoption agency.

101.5 The Employer should then notify the Employee of the date on which their adoption leave will end.

102. Employees do not have to give any further notification to their Manager if they intend to return to work on the date previously agreed prior to going on Adoption Leave i.e. this date is usually at the end of your full adoption leave entitlement period.

What happens if the placement is disrupted?

103. If adoption leave begins before the placement of the child and the placement is not made, or during adoption leave the child dies or returns to the adoption agency, the employee's leave will normally finish 8 weeks after the end of the week in which one of these occurred.

Conditions whilst on Adoption leave

Reasonable contact

104. Employers can make “reasonable contact” with employees on adoption leave. Before going on leave, the manager should discuss and agree any arrangements for keeping in touch with the employee. This will include:
- 104.1 any voluntary arrangements to help employees keep in touch with developments at work, and to facilitate a return to work;
 - 104.2 keeping the manager in touch with any developments that may affect the intended date of return.

Returning to work during adoption leave (“KIT days”)

105. Employees can return to work for up to ten days during adoption leave, subject to agreement with the Manager, without losing the right to the remainder of their adoption leave entitlement or to SAP.
- 105.1 If an employee works for more than 10 days, they will lose one week’s SAP for each week or part week that they work under the contract of employment paying SAP. This also means that if an employee works the 10th KIT day and does a further days work in the same week, they will lose SAP for that week.
106. KIT days are different to the “reasonable contact” that employers and employees may make with one another mentioned above. During KIT days employees can carry out paid work for their employer. The type of work carried out on KIT days should be agreed with the Manager and is not limited to the usual job i.e. they can be used for training or other events.
- 106.1 Work during adoption leave may only take place by agreement between both the employee and their Manager. Employees are not obliged to work during adoption leave if they do not wish to, nor do they have the right to work KIT day if the Manager does not agree to them.
 - 106.2 KIT day may be undertaken at any stage during the adoption leave, by agreement with the Manager. The exception to this is the first two weeks after the baby is born.
 - 106.3 KIT day do not extend adoption leave.

106.4 Employees will receive the maximum of a normal basic daily pay rate for their job (this may include an element of SAP if occurring during paid adoption leave but should not exceed the normal daily pay rate)

Changing a return date?

107. Employees must provide their Manager with at least 28 days' notice if they wish to return to work before they have used up their full adoption leave entitlement.

Annual Leave during Adoption leave

108. Annual leave is accrued during adoption leave whether paid or unpaid as per contractual arrangements.

109. Adoption leave will count as service for the purpose of satisfying the service qualification for entitlement to additional annual leave based on years of service.

110. Where the amount of accrued leave would exceed normal carry over provisions, it may be mutually beneficial for annual leave to be taken before and/or after the formal adoption leave (paid and unpaid). The amount of annual leave to be taken in this way, or carried over should be discussed and agreed with the manager. (Normal carry over provisions allow for up to one working week equivalent of annual leave to be carried forward into a new leave year), however this should be waived in these circumstances. Payment in lieu may be considered as an option where accrual exceeds normal carry over

111. If annual leave is booked prior to the start of adoption leave and the baby is born before or during that period of annual leave, or the child is placed during this period, then adoption leave will commence from the beginning of the week in which the event occurred. If an employee has worked in the actual week that the baby/child is placed/arrives, they are entitled to payment in respect of the work done and the adoption leave will commence from the first day off work. Any outstanding annual leave can then be attached to the end of the formal adoption leave.

112. Please note the manager must notify payroll of the first day of annual leave taken immediately following adoption leave as this is considered as the return to work.

Public Holidays

113. Entitlement to leave in lieu of public holidays does not accrue during any part of adoption leave.

Health and Safety

The law requires every employer to assess workplace risks for all their employees, and take practical action to control those risks. Employers must take particular account of risks to new and expectant mothers as defined below:

- Pregnant Worker
- Worker who has recently given birth within the previous 6 months
- Worker who is breast-feeding

Employees must actually have informed the Trust in writing that they are either pregnant, have recently given birth or are breast-feeding. The Trust may ask for written medical evidence to confirm this. Once an employee has informed the Trust of the above, they are required to take measures in order to safeguard the employee's health and safety.

The measures to be taken are as follows: -

Assessment

The line manager must carry out an assessment of working conditions in order to ascertain whether there is any potential risk to an employee's health and safety that may affect their pregnancy. The physical, biological and chemical and other environmental hazards in the workplace that may create potential risks must be assessed.

The actual risk to the employee depends on the "nature, degree and duration of the exposure" in each case. Therefore, each case will be looked upon on its own merits.

Assessment will take place in respect of "all activities liable to involve a specific risk of exposure to the agents, processes or working conditions". Annex I of the Directive provides a non-exhaustive list of the "agents, processes and working conditions" referred to above and these are detailed below: -

Physical Agents

Those agents which are regarded as agents causing foetal lesions and/or likely to disrupt placental attachment, particularly shocks, vibration or movement; the handling of loads entailing risks; noise, ionising radiation; non-ionising radiation; extremes of cold or heat; movements and postures, travelling and mental and physical fatigue and other physical burdens.

Biological Agents

Agents of risks groups 2, 3 and 4 within the meaning of Article 2(d) nos. 2, 3 and 4 of Directive 90/679/EEC insofar as it is known that the agents or the therapeutic measures necessitated by the agents endanger the health of pregnant women and the foetus.

Chemical Agents

Substances labelled R40, R45, R46, and R 47 under Directive 67/548/EEC; chemical agents in Annex I to Directive 90/394/EEC; mercury and mercury derivatives; antimetabolic drugs; carbon monoxide; chemical agents of known and dangerous percutaneous absorption insofar as the above are known to endanger the health of pregnant women and the unborn child.

Other environmental hazards

This would include shift patterns that might disrupt normal restorative sleep over and above any disruption associated with the pregnancy itself.

Once the assessment has taken place, the Trust must decide what appropriate measure to take in response to the results of the assessment. The results and measures that it decides to take will be communicated to the employee.

Adjustment to Working Conditions

Where the assessment reveals a risk to an employee's health and safety, the Trust must make a temporary adjustment to their working conditions and/or hours of work so that they are not exposed to the risk. However, if having ascertained that there is a risk, it is in fact not "technically and/or objectively feasible or cannot reasonably be required on duly substantiated grounds", an employee should be moved to another job to avoid exposure to the risk. If this is not possible, they will be suspended on pay for such a period as is necessary for their health and safety. During this period of absence, their contractual rights remain. However, if they unreasonably refuse an offer of suitable alternative employment, they will lose their right to remuneration.

Specific Risks

In addition to the list of agents, processes and working conditions outlined above, Annex II of the Directive provides a non-exhaustive list of "specific risks" which are harmful to 2 of the categories of relevant workers outlined earlier, namely the pregnant worker and the breast-feeding worker. If an employee is either pregnant or breast-feeding, they should not be exposed to the following risks: -

Pregnant Workers

- Physical Agents: Work in hyperbaric atmosphere, for example, pressurised

enclosures

- Biological Agents: Toxoplasma, rubella virus (unless the pregnant worker is proved to be adequately immunised)
- Chemical Agents: Lead and lead derivatives capable of being absorbed by the human organism

Breast-feeding Workers

- Chemical Agents: Lead and lead derivatives capable of being absorbed by human organism

Night Work

New or expectant mothers (as defined above) are not obliged to perform night work. However, this obligation is only effective if an employee submits a medical certificate stating that night work should not be undertaken for health and safety reasons.

If such a medical certificate is submitted, the Trust will transfer an employee to daytime work for the requisite period. However, if this is “not technically and/or objectively feasible or cannot reasonably be required on duly substantiated grounds”, then the Trust may suspend the employee on full pay or extend their maternity leave.

Display Screen Equipment

Although there has been much debate about the effect visual display units (VDUs) have on women and their reproductive health, the guidance on the Health and Safety (Display Screen Equipment) Regulations states that as a whole, the scientific studies which have been carried out in this area, do “not show any link between miscarriages or birth defects and working with VDUs”. However, if employees are concerned or anxious about the situation they should consult the Occupational Health Department or their GP for further advice and guidance.

Further reading:

1. Workplace (Health, Safety and Welfare) Regulations 1992. Approved Code of Practice L24 - HSE Books 1992 - ISBN 0 7176 0413 6
2. New and expectant mothers at work: A guide for employers HSG122 (*Second edition*) - HSE Books 2002 - ISBN 0 7176 2583 4
3. Working safely with ionising radiation: Guidance for expectant or breastfeeding mothers Leaflet - INDG334 - HSE Books 2001
4. Infection risks to new and expectant mothers in the workplace: A guide for employers Guidance booklet - HSE Books 1997 - ISBN 0 7176 1360 7

Risk Assessment for Expectant & New Mothers

Department:

Assessor:

Date of Assessment:

Review Date:

Name of pregnant worker:

Expected date of delivery:

Please delete as appropriate:

Pregnant/given birth in last 6 months/breast feeding

Night/day work

Environment hygiene standards Acceptable/Not acceptable

Please give a brief list of tasks undertaken:

	Hazards Identified	Modifications/action taken/recommendations	Follow-up
Physical Agents			
Biological Hazards			

Oxford Radcliffe Hospitals

Chemical Hazards			
Radiation			
Working conditions			

(Attach additional sheets if required)

Further comments:

Signature: _____ (Employee)

Signature: _____ (Manager)

Send a completed copy to Occupational Health for inclusion in employee's notes

Maternity Checklist

As soon as you know you are pregnant, ask for a RISK ASSESSMENT

Checklist of maternity leave and pay	Done?
Discuss maternity leave, dates of leaving and if applicable, your expected date of return with your Manager as early as possible so an adequate Risk Assessment can be undertaken.	
If you think you may want to change your hours on return, discuss this with your Manager at the earliest opportunity.	
Ensure you contact your Manager with your MATB1 (obtained from your GP or Midwife from week 20 onwards) to fill in the application form (this is your confirmation of which option you will be taking)	
Check your annual leave entitlement and agree with your manager when and how you would like to use it.	
Keep your Manager informed of your intentions.	
It is important to remember that you need to inform the Human Resources Department of the actual date your maternity leave commences if it varies from your original maternity leave application.	
Provide 28 days notice of your return to work (if you decide to return earlier than the date agreed with your manager); otherwise your entitlements may be affected. If you decide to return on the date agreed with your manager, no notice is required. Please note, you cannot return to work within 2 weeks of the date of birth.	

Application for Maternity Leave

Name _____

Address _____

Job Title _____

Department _____

Head of Department _____

Start date with the Trust _____ Start date with the NHS _____

Maternity leave due to commence on _____

Intending to use annual leave before the commencement of Maternity leave YES/NO

If yes, please state number of days (days need to be agreed with Manager) _____

Intending to take 39 weeks (ordinary maternity leave)? YES/NO

Intending to take 52 weeks (ordinary and additional maternity leave)? YES/NO
(Please note 13 weeks will be unpaid)

Intending to return to work? YES/NO

Please note if you indicate "NO", this form will be taken as your contractual notice.

Intended date of return _____

Signed (Employee) _____ Date _____

Full name (Employee) _____

Signed (Manager) _____ **Date** _____

Full name (Manager) _____

Office use only:

Payroll no. _____

Date Trust employment commenced _____

MATB1 received: **YES / NO**

Expected date of confinement (EDC) _____

14th week before EDC _____

11th week before EDC _____

4th week before EDC _____

Entitlement: _____

Date paid leave ends: _____

Date unpaid leave ends: _____

Signed _____ Date _____

Title _____

Standard Maternity Letter

Oxford Radcliffe Hospitals 
NHS Trust

Private and Confidential

Human Resources Department
Carillion Building, Block 229
The John Radcliffe
Headley Way
Headington
Oxford
OX3 9DU

Dear

RE : MATERNITY/ADOPTION LEAVE

I have received details of your pregnancy/adoption and I am now writing to you to inform you of key dates and your entitlements to maternity/adoption pay and leave.

According to our records, your baby is due on (insert expected date of confinement - EDC) or your baby/child is due to be placed on (insert date) and you started working for the Trust on (insert start date) [*If you have any other continuous NHS service that needs to be taken into account, please let me know as soon as possible*].

Based on the due date/placement date, you may start maternity/adoption leave from (insert 11 weeks before due date). However, you can choose to work beyond this if you so wish. If you decide to work beyond (insert date 4 weeks prior to EDC), you should be aware that your maternity leave will start automatically after this date if you are absent from work for a pregnancy related illness.

You are entitled to take up to 52 weeks leave. You have opted to take XX weeks leave. You may return to work at any time during your maternity/adoption leave, but if you propose to return early you will need to give the Trust not less than 8 weeks notice of your intention to return. I understand that at present you intend to commence

maternity/adoption leave on (insert maternity/adoption leave start date). This means that you are due back at work, following maternity/adoption leave by (insert return date). Please note that you will not be contacted formally by the Trust to confirm your return to work date.

If you wish to change the start date of your maternity/adoption leave, you will need to give the Trust 28 days notice of this, (unless it is not reasonably practicable). This notice has to be done wither 28 days before the original start date or 28 days before the new date.

You can return to work for up to 10 "Keep in Touch "(KIT) days during maternity leave. Please refer to the terms and conditions associated with these days in the Trust's Maternity, Paternity and Adoption Leave Policy.

Your entitlement to maternity/adoption pay is as follows:

Insert maternity/adoption pay entitlement as laid down in maternity/adoption leave guidelines.

You will accrue annual leave during your maternity/adoption leave whether paid or unpaid. Entitlement to leave in lieu of public holidays, is not accrued during any part of your maternity/adoption leave. Leave accrued may be taken either before you go on leave or attached to the end of your leave.

Payment will be made by the Payroll Department on your normal pay day. You must inform the Human Resources Department immediately if the following circumstances apply during the period you are receiving Statutory Maternity/ Adoption Pay:-

- 1) You start to work for another employer.
- 2) You are taken into legal custody.

Please ensure that you discuss the conditions of your return to work with your manager before starting your maternity/adoption leave e.g. request to work part time.

If following your maternity/adoption leave you do not return to work, or return to another NHS employer, for less than three months you may be liable to refund the whole of the maternity/adoption Pay received, less any SMP/SAP to which you are entitled.

If you require any further information regarding your maternity/adoption leave entitlements, please do not hesitate to contact the Human Resources Department.

Finally may I take this opportunity to wish you well during your leave and I hope everything goes well for you and your family.

Yours Sincerely,

HR Advisor

Please note:

Oxford Radcliffe Hospitals has a Childcare Coordinator to offer support and advice on available childcare and information on financial support such as Tax Credits and Voucher Schemes.

Janice Morrison, Childcare Coordinator
Tel: 01865 782126