

Leave and Pay for New and Existing Parents Policy

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Summary of document:

The Health Board recognises the need for employees to be able to take time away from the workplace when they become parents. This policy provides the basis for a clear understanding of their statutory and employment entitlements and the type and period of leave, both paid and unpaid that can apply in relation to maternity, adoption, paternity leave, shared parental leave and ordinary parental leave.

Scope:
All Health Board employees, including Medical and Dental Staff.

To be read in conjunction with:
Agenda for Change Terms and Conditions
[438 - Shred Parental Leave Procedure](#) (opens in new tab)
[122 - All Wales Special Leave Policy](#) (opens in new tab)

Patient information:

Include links to [Patient Information Library](#)

Owning group:

People, Organisational Development and Culture Committee (PODCC)

20/10/2022

Executive Director job title:

Lisa Gostling – Director of Workforce and Organisational Development

Reviews and updates:

1.0 – New Policy

2.0 – amended version with corrected legal requirement dates

3.0 – amended appendix 1 minor

4.0 – amended minimal changes

The amended regulations came into effect on 8 March 2024 but will only apply to children who are due to be born or placed for adoption after 6 April 2024. The changes are: -

- An increase in the length of time available to take paternity leave following the birth or adoption of their child from 8 weeks to 52 weeks.
- A reduction in time that employees need to give notice of the birth of their child and intention to take paternity leave from 15 weeks before the 'Expected Week of Childbirth' (EWC) to 28 days. This also necessitated a change in Appendix 3 to reflect this.
- An increase in time to provide notification of paternity leave following the notification of the adoption of a child from 7 days to 28 days.

Keywords

Maternity, Adoption, Paternity Leave, Ordinary Parental Leave, Parent, Children, Babies

Glossary of terms

IVF - In Vitro Fertilisation

OD – Organisational Development

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Introduction

This policy provides a summary of the pay and leave available for staff in relation to a suite of family friendly benefits.

Scope

This policy applies to all staff employed by the Health Board, including Medical and Dental staff.

This guidance document should be read in conjunction with the Agenda for Change Terms and Conditions Section 15: Leave and Pay for New Parents (England, Wales and Scotland):

[NHS Terms and Conditions of Service Handbook | NHS Employers](#) (opens in new tab)

Aim

The aim of this document is to:

- Provide the basis for a clear understanding of the benefits, entitlements and the nature and period of leave, paid and unpaid, that will apply in relation to Maternity, Adoption, Paternity Leave and Ordinary Parental Leave.

Objectives

The aim of this document will be achieved by the following objectives:

- Summarising the process for maternity leave, adoption leave, surrogacy entitlements, time off to attend ante-natal appointments
- Maternity and adoption leave and pay entitlements
- What happens if you do not return to work
- Lease cars
- Paternity leave entitlement
- Ordinary statutory paternity leave process
- Rights if fostering

Who is Eligible for Maternity Leave?

All pregnant employees irrespective of length of service or type of employment contract are entitled to take up to 52 weeks maternity leave.

Notification

All pregnant employees are required to notify the Health Board in writing of their intention to take maternity leave before the end of the fifteenth week before the expected week of child birth (or if this is not possible, as soon as is reasonably practicable thereafter).

The employee must advise:

- Of their intention to take maternity leave;
- The date they wish their maternity leave to start;
- Whether the employee intends to return to work with the same or another NHS employer for a minimum period of three months after their maternity leave has ended.

What Form do I need to Complete?

The employee is required to provide a MATB1 form from their midwife or GP giving the week the baby is expected to be born and complete an application for Maternity Leave form. A link to the form can be found here: [Appendix 1 - Application for Maternity Leave/Pay](#) (opens in new tab).

A breakdown of Maternity and Adoption Leave Entitlements can be found by following the above link.

Am I Entitled to Ante-natal Care?

All pregnant employees are entitled to paid time off to attend ante-natal clinic on the advice of a registered midwife, health visitor or doctor. Ante-natal care may include relaxation and parentcraft classes.

Employees must provide evidence (record card or certificate of pregnancy) of the ante-natal appointment(s) if requested. Where evidence is requested but not provided by the employee, time off without pay may be approved. The employee should provide as much notice as practicably possible.

Health and Safety considerations Pre and post Birth

Where an employee is pregnant or has recently given birth or is breastfeeding, the line manager must carry out a risk assessment of the working conditions as early as possible. If it is found, or a medical practitioner considers, that an employee or the child would be at risk were they to continue with their normal duties, the employer should provide suitable alternative work for which the employee will receive their normal rate of pay.

Am I Eligible for Adoption Leave?

Adoption leave, paid and unpaid will be available to employees wishing to adopt a child and who have primary care responsibilities for that child. Where a couple adopt jointly, the couple may choose which partner takes adoption leave. The partner of an individual who adopts, or the other member of a couple who are adopting jointly may be entitled to paternity leave and pay.

To qualify for adoption leave, an employee must be 'newly matched' with a child for adoption by an approved adoption agency. If there is an established relationship with the child, such as fostering prior to adoption, time off for official meetings only will be considered.

If you have adoption leave, you can also have paid time off work to attend 5 adoption appointments after you've been matched with a child.

Notification

All employees who wish to take adoption leave must write to their manager as soon as practicably possible but no later than 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. Employees must inform their manager:

- When the child is expected to be placed with them;
- When they want their adoption leave to start;
- If they intend to return to work for a minimum of three months after adoption leave

A link to the form can be found here: [Appendix 2 - Adoption Leave Application Form](#) (opens in new tab).

What if I am on a Fixed-Term, Temporary or Training Contracts?

Employees subject to fixed-term, temporary or training contracts which expire after the eleventh week before the expected week of childbirth or the date of matching, or the 15th week before the baby's due date if applying for surrogacy arrangement and satisfy the conditions in option 1a shall have their

contracts extended so as to allow them to receive the 52 weeks which includes paid occupational and statutory maternity/adoption/shared parental pay, and the remaining 13 weeks of unpaid maternity/adoption/shared parental leave.

- If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth/adoption/shared parental leave had not occurred the repayment provisions will not apply.
- Employees on fixed term contracts who do not meet the criteria set out below may still be entitled to receive Statutory Maternity/Adoption/Shared Parental Pay.
- Absence on maternity leave (paid and unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service.

Surrogacy Entitlements

An employee who is carrying a baby as a surrogate will receive their entitlement in respect of maternity pay and leave. The entitlements will be based on their service in accordance with the maternity leave provisions.

There are 2 potential surrogacy scenarios:

- Where the birth parent is not genetically related to the baby (gestational or host IVF)
- Where one parent is genetically related (traditional surrogacy)

In both these circumstances new parents of a surrogate baby will be treated the same as those who have gone through the formal adoption process via an agency.

It is recognised that not all parents of a surrogate baby will go through the formal adoption process.

Adoption leave and pay is available to one of the parents of a child under a parental order provided that one of the intended parents is genetically related to the child and the child must live with the intended parents.

Notification

An employee using a surrogate to have a baby must inform the employer of the due date and when they want their leave to start in writing at least 15 weeks before the expected week of the child's birth. The employee must also provide a statutory declaration or written statement signed in the presence of a legal professional to confirm they have applied, or will be applying for a parental order in the 6 months after the child's birth.

Where a couple has a parental order in relation to a child or is applying for one, one of the parents can be eligible for adoption leave and pay and the other can be eligible for paternity leave and pay. The couple must elect which of them will take adoption leave.

A link to the forms can be found here: [Surrogacy Application Form](#) (opens in new tab).
[Application for Adoption Leave and Pay in Connection with Application for Surrogacy](#) (opens in new tab).

Time off to attend Ante-natal Appointments

Employees who intend to apply for a parental order and expect to become the child's legal parents in a surrogacy situation have the right to unpaid time off work to accompany the birth parent for no more than two ante natal appointments.

How will my Entitlements be Paid?

By prior agreement with the Health Board and payroll services, maternity pay may be paid in a different way, for example, a combination of full pay and half pay or a fixed amount spread equally over the maternity leave period.

What happens if I don't return to Work?

Where an employee indicates that they intend to return to work for the same or a different NHS employer and have received maternity pay on that basis but then does not return to work within 15 months of the beginning of their maternity leave period will be liable to refund the whole of their occupational maternity pay. In cases where the Health Board considers that to enforce this provision would cause undue hardship or distress, the health board will have the discretion to waive recovery of salary.

Lease Cars

All terms and conditions remain in respect of Lease Cars. This includes subsidy, contributions, conditions of use and penalties. Employees should contact the Lease Cars Department to confirm details of their lease and possible changes affecting their tax and other leasing arrangements.

What Paternity Leave am I Entitled to?

An employee whose partner or civil partner gives birth to a child, or is the biological parent of the child, is entitled to two weeks' statutory paternity leave provided that they have 26 weeks' continuous service by the end of the 15th week before the expected week of childbirth.

Statutory paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption.

To qualify for statutory paternity leave, the employee must also 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 other parent.

When can I take Paternity Leave?

Statutory Paternity Leave must be taken in a single block of one or two weeks within 52 weeks of the birth or adoption of the child. If the child is born early, it must be taken from the time of the birth but within 52 weeks of the expected date of childbirth.

Statutory Paternity Leave can start either from the date the child is born or placed for adoption or from a chosen number of days or weeks after that date.

Leave may start on any day of the week following the child's birth.

Notification

Where an employee wishes to request statutory paternity leave in respect of a birth child, they must give their line manager 28 days written notice of the date on which the baby is due, the length of statutory paternity leave they wish to take and the date on which they wish the leave to commence.

In the case of an adopted child, the employee must give written notice of their intention to take statutory paternity leave no later than 28 days after the date on which notification of the match with the child was given by the adoption agency.

A link to the application form can be found here: [Appendix 3 - Application for Paternity/Additional Leave](#) (opens in new tab).

If an employee subsequently wishes to change the timing of the statutory paternity leave, they must give 28 days' written notice of the new dates. The employee must also, if so requested, complete and sign a self-certificate declaring that they are entitled to statutory paternity leave and statutory paternity pay.

Ordinary Statutory Paternity Pay

Pay during ordinary paternity leave will be at a standard rate or at a rate equivalent to 90% of the employee's average weekly earnings if this figure is less than the standard rate. However, employee's whose average weekly earnings are below the lower earnings limit for national insurance contributions will not be eligible for statutory paternity pay.

Statutory paternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Statutory paternity pay can start from any day of the week in accordance with the date the employee starts their paternity leave.

What is Ordinary Parental Leave?

Employees are entitled to up to 18 weeks unpaid parental leave in respect of any individual child – an employee who is a parent of multiple birth children or several children of different ages under 18 will be entitled to 18 weeks in respect of each child. Parental leave must be taken no later than each child's 18th birthday.

How can Parental Leave be taken?

It may be taken in blocks of a week. Employees can take more than 1 week at a time up to a maximum of four weeks in any year. A part of a week counts as a week. In the case of a child with a disability, parental leave may be taken in one day, or multiples of a day, subject to a maximum of four weeks in any year.

How much Parental Leave can be taken?

Employees may not take more than 4 weeks leave in respect of any individual child in any year. For these purposes, a year is the period of 12 months beginning when the employee first becomes entitled to parental leave in respect of the child in question and each successive period of 12 months beginning on the anniversary of that date.

Part time staff are entitled to a pro-rata equivalent of 18 weeks.

In other than exceptional circumstances, a minimum of 4 weeks' notice is required, so that service cover can be planned.

The employee must give proper notice of the period of leave that they propose to take. This notice must be given at least 21 days before the date on which the leave is to start and must specify the dates on which the period of leave is to begin and end.

How do I request Parental Leave?

Employees should submit a completed application form to their line manager. [Request for Parental Leave](#) (opens in new tab).

For applications in respect of parental leave for disabled children, additional evidence will be required e.g. Disability Living Allowance.

Line managers should consider the request and respond as soon as practicably possible, contacting Workforce & OD for advice as appropriate. Managers must keep a record of all requests for parental leave.

Line managers are responsible for recording the amount of parental leave taken by employees particularly where the leave is taken in blocks of one week or more rather than in its entirety.

What are my Rights during Parental Leave?

Qualifying employees will be entitled to up to 18 weeks parental leave to be taken up until the child's 18th Birthday. During parental leave, the employee will remain employed, although pay and most contractual benefits will be suspended. The right to accrue statutory holiday entitlement will however, remain in place.

What happens when I return from Parental Leave?

At the end of parental leave an employee is entitled to return to the same job provided that the leave was for a period of 4 weeks or less (and did not follow on immediately from a period of additional maternity or adoption leave).

If the period of parental leave was longer than 4 weeks (or followed on immediately from a period of additional maternity or adoption leave), then the employee will be entitled to return to the same job or, if that is not practicable, to a similar job that has the same or better status, terms and conditions as the previous job.

What are my Rights if I am Fostering?

There is no legal right to either paid or unpaid leave for fostering. Fostering can be for varying lengths of time, from very short term to long term fostering, as such the health board will adopt a flexible approach. Employees must discuss their intentions to foster with their line manager as soon as possible to ascertain any support required. For very short term fostering requests for time off will be considered through the Special Leave Policy, see link: [All Wales Special Leave Policy](#) (opens in new tab). For long term fostering the Work Break Scheme, see link: [Employment Break Scheme](#) (opens in new tab) can be considered. Further advice and guidance is available from the Workforce & OD Department.

Responsibilities

Chief Executive

As Accountable Officer, the Chief Executive has overall responsibility for ensuring the health board has appropriate WCDs in place. These WCDs must comply with legislation, meet mandatory requirements, and provide services that are safe, evidenced-based and sustainable.

Director of Workforce & OD

The Director of Workforce & OD has responsibility for ensuring that all employment policies are developed in line with employment legislation and practice and are reviewed and updated as appropriate.

Managers

It is the responsibility of the manager in liaison with the Workforce and OD Department to ensure employees are aware of their entitlements under this policy and that any applications are made correctly within appropriate timescales.

Workforce & Organisational Development Department

The Workforce representative will ensure that all applications are processed in an appropriate timescales.

All Staff

It is the responsibility of the employee to notify the health board that they wish to take Maternity, Adoption, Paternity or Ordinary Parental Leave and to complete the appropriate application and provide any documentary evidence as required.

Where can I get Further Advice?

In the first instance please speak to your line manager, alternatively you may contact:

Operational Workforce Team:

Carmarthenshire: 0300 303 6138

Pembrokeshire: 01437 773138

Ceredigion: 01970 635782

Or email: WorkforceEnquiries.HDD@wales.nhs.uk (opens in a new tab)

Appendix 1 - [Application for Maternity Leave/Pay](#) (opens in new tab).

Appendix 2 - [Adoption Leave Application Form](#) (opens in new tab).

Appendix 3 - [Application for Paternity/Additional Leave](#) (opens in new tab).