

FAMILY POLICY

FAMILY POLICY AND PROCEDURE

(MATERNITY/ADOPTION/PATERNITY/SURROGACY/INFERTILITY TREATMENT)

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(North Western)

To ensure services provided by The Lead Employing Trust are accessible, the information is available upon request in a variety of formats including large print, Braille, on audio cassette or computer disk.

We can also provide help for British Sign Language users and provide information in languages other than English.

The Lead Employing Trust reaffirm their commitment to the Equal Opportunities Policy and the scheme shall be applied fairly to all the Trainees, irrespective of gender, marital status, responsibility for children or dependents, gender reassignment, race, nationality, ethnic/national origin, religion, political beliefs, disability, sexual orientation, age, trade union activities or any other factor, which could lead to the experience of discrimination.

Introduction

For the purpose of this document the Lead Employing Organisation shall be referred to as LET and the Host Educational Provider as the HEP. The latter includes NHS Trusts, GP Practices and any other accredited Training Organisation recognised by HEE NWO (North Western).

Document Location

The source of the document will be available on the LET website.

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Approvals

This document requires the following approvals:

Name	Title
	Chair of JLNC
	Staff Side Chair of the JLNC

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Other Relevant Associated Policies

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FAMILY POLICY

1 STATEMENT AND PRINCIPLES

- 1.1** The LET is committed to providing a fair, consistent and effective application of maternity, adoption, paternity, surrogacy and infertility leave provision, ensuring that Trainees are informed of their rights and entitlements.
- 1.2** This policy and procedure applies to all Core Trainees and Specialty Trainees employed under the LET Lead Employer - Health Education England North West Office (North Western) arrangement.
- 1.3** The policy is based on the following principles:
- Compliance with the law and in particular the relevant Medical Terms and Conditions applicable to Core Trainees and Specialty Trainees.
 - The LET is committed to achieving the highest standards of health care services for people. This can be achieved through a highly trained, skilled and motivated workforce. The provision of flexible forms of working plays an important part in making it possible to attract and retain the best possible staff and encourage equality and diversity within the workplace.
 - The LET recognises the need for Trainees to be able to take time away from the workplace when they become new parents. They are committed to promoting fair and equal treatment in the workplace. It is recognised that the provision of maternity, adoption, infertility and paternity leave is key to the organisation being able to demonstrate this commitment.
 - The LET recognises that Trainees who become parents have particular rights and needs. The purpose of this document is to provide the basis for a clear understanding of the nature and period of leave, paid and unpaid, that will apply in particular circumstances and to ensure that this is communicated effectively.
 - To ensure managers, i.e. HEE NWO, Programme Directors, Host Education Providers, Educational and Clinical Supervisors and Trainees are aware of their responsibilities.

2. DEFINITION and ABBREVIATIONS

The following abbreviations will be used throughout the document:

- SMP:** Statutory Maternity Pay.
- SAP:** Statutory Adoption Pay.
- OMP:** Occupational Maternity Pay.
- EDC:** Expected Date of Childbirth. The date is confirmed in the MATB1 certificate.
- EWC:** Expected Week of Childbirth. This is calculated from Sunday to Saturday, i.e. the week in which the baby is due.
- MA:** Maternity Allowance.
- ESC:** Employment Services & Payroll
- CML:** Compulsory Maternity Leave - a period of two weeks commencing with the date of the child birth, during which time a Trainee cannot, by law, work for her employer. It is normally part of OML (Runs concurrently).
- MATB1:** The name of the Maternity Certificate given to the pregnant Trainee by a GP/Registered Midwife indicating her EWC.

3 OUTCOME OF NOT COMPLYING WITH THE LET'S FAMILY POLICY

Failure to comply with the procedure may result in disciplinary action as per the LET's Remediation, Capability and Disciplinary Policy or loss of entitlement

4 STATUTORY MATERNITY RIGHTS/BENEFITS AND THE LET'S POLICY

- 4.1** The statutory rights on Maternity will be adhered to by the LET, these include:
- Time off for antenatal care.
 - Protection against unfair dismissal on maternity-related grounds.
 - Maternity Leave and Maternity Absence.
 - Maternity Benefits.
- 4.2** The LET recognises their moral and legal obligations with regards to maternity leave and will provide appropriate support and advice to ensure obligations are met.

5 NOTIFICATION

- 5.1** Trainees should contact their Clinical Supervisor to discuss their pregnancy in line with the Maternity Policy, who should then arrange a Risk Assessment in conjunction with the LET and HEP (please refer to section 8 for further details). It should be noted that Trainees are only required to inform their Employer of their pregnancy 15 weeks before the EWC, but it is helpful to provide as much notice as possible.

Practice Managers dealing with GP Specialty Trainees may contact the LET for advice, if required, due to having no local HR Department. The Trainee may also contact the LET for advice on the policy as required. The Trainee should also notify their Programme Director of their pregnancy.

- 5.2** Trainees are required to notify the LET in writing before the end of the 15th week before the expected date of childbirth of their intention to take Maternity Leave, and of an approximate date to start their Maternity Leave (a minimum of 28 days' notice is required).
- 5.3** The earliest date Maternity Leave can commence is the beginning of the 11th week before the expected week of childbirth.
- 5.4** Trainees are reminded that annual leave accrues during paid and unpaid Maternity Leave. Please see section 13.
- 5.5** The LET HR Department will officially inform the HEP HR Departments affected by the maternity leave, HEE NWOHEE NWO, Payroll and the Programme Director.

6 APPLYING FOR MATERNITY LEAVE

- 6.1**
 - The Maternity/ Adoption Leave Application Form must be completed and submitted with a MATB1 certificate (this is normally provided around the 26th week of pregnancy and is obtained from a GP or midwife).
 - The application form must be signed by the Trainee and HEP or HEP HR Manager to confirm that the Risk Assessment has been completed and the Family Policy has been discussed.
 - This paperwork should then be given to the LET as early as possible. The application and MATB1 form should then be forwarded to the LET HR Department. Trainees can change their mind about when they want their maternity leave to start but they must give the manager at least 28 days' notice of the change, unless this is not reasonably practicable.
 - Trainees are asked where possible to give as much notice of intention to commence maternity leave so that appropriate arrangements can be made. In order to qualify for SMP, Trainees must continue to be employed by the Trust until immediately before the beginning of the 11th week before the EWC (This is the earliest date at which maternity leave can commence).
- 6.2** The Maternity Application Form is then authorised by the LET for processing. Within 28 days of receiving this notification (including the MATB1), the LET will write to the Trainee to confirm the details of their maternity leave including:

(i) the Trainee's paid and unpaid leave entitlements under this agreement (or statutory entitlements if the Trainee does not qualify under this agreement);

(ii) unless an earlier return date has been given by the Trainee, their expected return date based on her 52 weeks paid and unpaid leave entitlement under this agreement; and

(iii) the length of any period of accrued annual leave which it has been agreed may be taken following the end of the formal maternity leave period;

(iv) the need for the Trainee to give at least 28 days' notice if they wish to return to work before the expected return date.

(v) the need for the Trainee to give at least 8 weeks' notice if they wish to return to work later than the expected return date, so that service provisions can be maintained/planned.

(vi) if the Trainee does not return to work and was paid OMP, there is a requirement to pay this difference in entitlement back.

6.3 The LET will forward all documentation to Payroll Services for processing.

7 TIME OFF FOR ANTENATAL CARE

7.1 All pregnant Trainees, regardless of length of service or hours of work, are entitled to time off for antenatal care appointments that have been made on the advice of a doctor, midwife or health visitor. Trainees are reminded that they must give the HEP as much notice as possible so that service can be maintained.

Fathers of the unborn child(ren) and partners of pregnant women are entitled to unpaid time off to attend two ante-natal appointments (time off is capped at six and a half hours for each appointment).

7.2 Antenatal care can include medical examinations, relaxation classes, aqua natal classes and parent-craft classes. If the appointment falls within normal hours of work the Trainee will receive time off with pay.

7.3 Except for the first appointment, the Trainee must show their Clinical Supervisor when requested:

- A certificate from a registered medical practitioner, registered midwife or registered health visitor, confirming the pregnancy
- An appointment card, or relevant document, showing appointment times etc.

8 HEALTH & SAFETY PRE AND POST BIRTH

8.1 The Clinical Supervisor or nominated Representative at the HEP has the responsibility to complete a Risk Assessment of the work conditions for the Trainee concerned and should liaise with The Pennine Acute Hospitals NHS Trust's Occupational Health Department

as necessary. Practice Managers dealing with GP Specialty Trainees may contact the LET for advice if required due to having no local HR Department. This must be carried out in accordance with HEP Risk Management Policies Relating to Pregnancy and Employment (further information/details can be obtained from the LET should this be required). A written copy of any Risk Assessment(s) should be sent to the LET and HEP HR Department. It is the responsibility of the HEP HR Department to ensure implementation where appropriate.

- 8.2** If, in the opinion of a Registered Medical Practitioner, an expectant mother should refrain from her normal duties, she should be referred to the LET Occupational Health Service and, if the advice of Occupational Health concurs, then reasonable adjustments should be made to the Trainee's working hours and conditions so that the Trainee can be supported.
- 8.3** If neither of these options is reasonably practicable, the Trainee shall not be required to work and will receive their full pay with banding until either the risk has passed or until the start of the 4th week before the EWC, at which point the Maternity Leave will automatically start (accurate recording of this data will be essential for training purposes). The LET must be informed of any such changes.
- 8.4** It is also necessary to take into account any risks to new mothers (who have recently given birth or who are breastfeeding). Where there are significant risks to the Trainee or child, or where it is found that a doctor's normal duties would prevent her from successfully breastfeeding her child, it may be necessary to temporarily adjust working conditions/hours or, where appropriate, to offer suitable alternative work with Programme Director and HEE NWO approval. In these situations, the Trainee will continue to receive their normal rate of pay.

9. BREASTFEEDING

- 9.1** The LET is committed to encouraging new mothers to breastfeed as a way of maintaining a close relationship with their baby and for the proven health benefits for both the mother and baby. At least 28 days' notice must be given when deciding to breastfeed on your return to work. This will ensure you and the Host Organisation can make necessary arrangements to meet your request and the needs of the service.
- 9.2** Women who have recently returned to work having given birth should have paid time off for post-natal care, e.g. attendance at health clinics. Except for the first appointment, the Trainee must show their Clinical Supervisor their appointment card when requested.
- 9.3** There are ways of combining breastfeeding with working outside the home, through the expression of milk at work.
- 9.4** With milk expression, the frequency and time taken are very individual and may vary over time. Success depends upon the new mother being comfortable and relaxed and not under the impression of being timed. Given this, the LETs and HEPs do not advocate a prescriptive approach but will make appropriate time and facilities available to balance the needs of the individual and service delivery.
- 9.5** As yet, no legislation exists within the UK but as guidance, the LET considers that up to two hours will be granted per full working day to enable the Trainee to breastfeed if this

is practicable or to express milk. This is to be mutually negotiated and agreed with their Clinical Supervisor and local representatives responsible for maintaining service delivery and will be in addition to existing breaks.

9.6 Where the Trainee continues to breastfeed, a risk assessment will be undertaken and suitable rest facilities will be provided. These facilities will include:

- A clean, healthy and safe environment for women who are breastfeeding; and
- Suitable access to a private room to express and store milk in an appropriate refrigerator.

9.7 The Trainee is responsible for their own personal hygiene and for the safe cleaning and storage of equipment in addition to the clear labelling, storage and collection of milk. Milk stored in the fridge must always be removed by the Trainee to whom it belongs. The LET and the HEP accept no responsibility for the incorrect storage, handling or labelling of expressed milk.

9.8 No travel expenses will be paid for the mother to breastfeed off site.

10 SICKNESS PRIOR TO CHILDBIRTH

10.1 If the Trainee is off sick prior to 4 weeks (36th week) before the EWC, it will be treated as normal sickness absence.

10.2 If a pregnancy related illness occurs during the last 4 weeks (36th week) before EWC which requires a fit note to be submitted, or if a Trainee has three episodes of pregnancy related sick leave within the last 4 weeks before EWC, the Trainee will be required to commence their maternity leave with effect from the beginning of the 36th week or the beginning of the next week after the Trainee last worked, whichever is later.

11 PREMATURE BIRTH

11.1 Where a Trainee's baby is born prematurely, the Trainee will be entitled to the same amount of maternity leave and pay as if their baby was born at full term.

11.2 Where a Trainee's baby is born before the 11th week before the expected week of childbirth, and the Trainee has been absent from work through certified sickness during the actual week of childbirth, maternity leave will start on the day after the baby is born.

11.3 Where a Trainee's baby is born before the 11th week before the expected week of childbirth and the Trainee has worked during the actual week of childbirth, maternity leave will start on the first day of the Trainee's absence.

12 MISCARRIAGES/STILL BIRTH

12.1 In the event of a still birth on or after the start of the 24th week of pregnancy the Trainee will be entitled to the same amount of maternity leave and pay as if the baby was born alive. The maternity leave will commence the day after the miscarriage/ still birth.

- 12.2 Where a Trainee has a miscarriage before the start of the 24th week of pregnancy, normal sick leave provisions will apply in line with the [Managing Attendance Policy](#).

13 ANNUAL LEAVE/PUBLIC HOLIDAYS

- 13.1 Annual leave entitlement will continue to accrue during paid and unpaid Maternity Leave.
- 13.2 HEPs and Trainees must ensure annual leave is confirmed to be taken before or after the period of maternity leave without any carry over.
- Arrangements must be made by the Trainee and the HEP about taking annual leave that will accrue during maternity leave. This can be taken before and after the formal maternity leave period in agreement with the manager and within the annual leave year, i.e. 1st August to 31st July.
- 13.3 Please note the carry-over of annual leave will only be approved in extenuating circumstances by prior agreement with the HEP (e.g. if you are unable to take annual leave prior to or following maternity leave due to service requirement or the timing of your maternity leave). Only one week's annual leave/public holiday (pro rata) in total may be carried over to the next leave year with agreement. However, every effort must be made by the HEP and the Trainee to plan annual leave within the annual leave year.
- Further clarification on how annual leave is to be taken can be obtained from the LET.
- 13.4 Should the Trainee decide not to return to work, and where maternity pay has been exhausted, accrued leave must be taken prior to their contract of employment ceasing.
- 13.5 Bank holidays will be accrued during any period of maternity leave. Please note the carry-over of public/bank holidays will only be approved in extenuating circumstances by prior arrangement with the HEP as detailed in paragraph 13.1.

14 MATERNITY BENEFITS (LEAVE AND PAY)

- 14.1 All pregnant female Trainees are entitled to a total of 52 weeks statutory maternity leave made up of:
- 26 weeks Ordinary Maternity Leave
26 weeks Additional Maternity Leave
- 14.2 Trainees do not have to take all 52 weeks but as a minimum must take two weeks leave immediately following the birth of their baby.
- There are 3 types of maternity pay; Statutory Maternity Pay (SMP), Occupational Maternity Pay (OMP) and Maternity Allowance (MA).

15 **STATUTORY MATERNITY PAY**

- 15.1 For the purpose of calculating Statutory Maternity Pay (SMP) the **qualifying week to be eligible to claim (SMP)** is the 15th week before the baby is due.
- 15.2

Statutory Maternity Pay is paid for up to 39 weeks. This comprises:

- 90% of average gross (before tax) weekly earnings for the first 6 weeks.
- SMP or 90% of average gross (before tax) weekly earnings, whichever is the lower for the next 33 weeks.

16 **OCCUPATIONAL MATERNITY PAY**

Occupational Maternity Pay is an enhanced benefit payable by the LET and is dependent on length of NHS continuous service and a written commitment by the Trainee that they intend to return to work with the same or another NHS employer, for a minimum period of 3 months after their maternity leave has ended.

17 **NHS CONTINUOUS SERVICE**

For the purposes of calculating maternity entitlements based on continuous NHS service, a break in service of up to 3 months will be disregarded as a break. The length of service should be reduced by the break.

In addition, the following breaks in service will also be disregarded (though not count as service):

- (i) Employment under the terms of an honorary contract;
- (ii) Employment as a locum with a general practitioner for a period not exceeding twelve months;
- (iii) A period of up to twelve 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 speciality concerned;
- (iv) A period of voluntary service overseas with a recognised international relief organisation for a period of twelve months which may exceptionally be extended for twelve months at the discretion of the employer which recruits the Trainee on her return;
- (v) Absence on an employment break scheme in accordance with the provisions of Schedule 25;
- (vi) Absence on maternity leave (paid or unpaid) as provided for under this agreement.

The LET may at their discretion extend the 3 months period.

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.

The LET has the discretion to count other previous NHS service or service with other employers.

18 MATERNITY PAY and ADOPTION PAY

Trainees Intending to Return to Work:

12 Months NHS Continuous Service or More

18.1 Trainees with 12 months or more continuous NHS service at the beginning of the 11th week before the Expected Week of Childbirth (EWC) or placement, are entitled to the following **Occupational Maternity/Adoption Pay**

- for the first 8 weeks Full pay which incorporates Statutory Maternity Pay or Maternity Allowance
- for the next 18 weeks Half pay plus any Statutory Maternity Pay or Maternity Allowance (providing the total does not exceed full pay)
- for the next 13 weeks Statutory Maternity Pay or Maternity Allowance Only
- for the remaining 13 weeks Unpaid leave

NB: Trainees should note that to qualify for SMP they must have 26 weeks or more continuous service with the Lead Employer by the 15th week before the EWC.

18.2 Less Than 12 Months NHS Continuous Service

Trainees with less than 12 months' continuous NHS service but at least 26 weeks' service by the qualifying week, are entitled to:

- for the first 6 weeks 90% of salary – based on average salary over previous 12 weeks (higher rate SMP)
- for the next 33 weeks Standard rate SMP or 90% of average weekly earnings if lower than the standard weekly rate.
- for the remaining 13 weeks Unpaid leave

Trainees with **less than 26 weeks' service** by the qualifying week will not be entitled to maternity pay through the LET. They will, however, be able to claim maternity allowance through the Benefits Agency.

19 MATERNITY ALLOWANCE

Maternity Allowance is a weekly benefit paid by the Benefits Agency to pregnant women who are not entitled to SMP.

20 TRAINEES NOT INTENDING TO RETURN TO WORK

Trainees with more than 26 weeks' service with the LET by the qualifying week are entitled to:

- 6 weeks 90% of salary (higher rate SMP)
- 33 weeks Standard rate SMP or 90% of the average weekly earnings, whichever is less.

Trainees with less than 26 weeks' service by the qualifying week will not be entitled to maternity pay through the LET. They will, however, be able to claim maternity allowance through the Benefits Agency.

21 CALCULATION OF MATERNITY PAY

21.1 If paid weekly, Payroll will add together all the Trainee's gross earnings in the 8 weeks up to and including the last pay day before the qualifying week. (The qualifying week is 15 weeks before the EWC). The total will then be divided by 8 to obtain the average weekly earnings.

If paid monthly, then the final two salaries paid prior to the qualifying week are used. These amounts are added together; this is then multiplied by 6 and divided by 52 to obtain the average weekly earnings.

If paid weekly, Payroll will add together all the Trainee's gross earnings in the 8 weeks up to and including the last pay day before the qualifying week. (The qualifying week is 15 weeks before the EWC). The total will then be divided by 8 to obtain the average weekly earnings.

If paid monthly, then the final two salaries paid prior to the qualifying week are used. These amounts are added together; this is then multiplied by 6 and divided by 52 to obtain the average weekly earnings.

21.2 If a Trainee has entered into the salary sacrifice scheme, their average weekly earnings are calculated using the amount of earnings actually paid to them during the relevant period. SMP cannot be sacrificed and must be paid in full.

21.3 In the event of a retrospective pay award and/or annual increment being implemented during the paid maternity leave period, the maternity pay will be recalculated and adjusted accordingly.

21.4 In the event of a pay award or annual increment being implemented before the paid maternity leave period begins, the maternity pay should be calculated as though the pay award or annual increment had effect throughout the entire maternity pay calculation period and if such a pay award was agreed retrospectively, the maternity pay should be re-calculated on the same basis.

- 21.5** If the Trainee is absent due to sickness absence during the period when the average weekly earnings are calculated, maternity pay calculations will be based on notional full sick pay if the Trainee is on half or no pay due to the sickness absence.
- 21.6** By prior agreement with the LET HR Manager, Occupational Maternity Pay may be paid in a different way, for example a contribution of full and half pay or a fixed amount spread equally over the maternity period. Should a Trainee wish their maternity pay to be paid differently, the request should be put in writing and attached to the completed maternity application form prior to the maternity leave period.

22 KEEPING IN TOUCH

- 22.1** Prior to the commencement of maternity leave the Trainee should discuss and agree with their HEP Manager any voluntary arrangements for keeping in touch during the maternity leave.
- 22.2** This may include how the Trainee will be kept up to date of developments at work and how the HEP can be updated on any changes that may affect the Trainee's return to work date. Any such work must be by agreement with the Trainee and the Trust. The Trust cannot therefore require a Trainee to carry out such work. Similarly, a Trainee cannot insist on working KIT days.
- 22.3** The LET must be informed of any KIT arrangements by the Trainee.

23 KEEPING IN TOUCH DAYS (KIT DAYS)

- 23.1** Subject to the HEP's agreement, Trainees may take up to 10 keeping in touch days during their maternity leave. Work can be undertaken on the keeping in touch days as well as training. Trainees will be paid their basic daily rate, for the hours worked less appropriate maternity leave payment.
- 23.2** Should a Trainee work less than a full day (e.g. 2 hours) on a keeping in touch day, this will be counted as 1 keeping in touch day having been taken however payment will only be made for the hours worked.
- 23.3** Keeping in touch days cannot be taken during the 2 week compulsory maternity leave period.
- 23.4** If a Trainee takes more than 10 KIT days then they will lose their maternity entitlement as of the date they exceed this 10 day entitlement.

24 INCREMENTS

- 24.1** Maternity leave, whether paid or unpaid, shall count as service for annual increments and for the purposes of any service qualification period for additional annual leave.

25 FIXED TERM/TEMPORARY/TRAINING CONTRACTS

- 25.1** If a Trainee is on a fixed term contract which is due to expire after the 11th week before the EWC/ placement but before the actual EWC/ placement itself, providing that they hold at least one years continuous NHS service, their

contract will be extended to enable them to receive the 39 weeks OML. There will be no entitlement to unpaid AML, but absence on maternity leave (paid and unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service. If the contract is due to expire prior to the 11th week before the EWC/ placement the Trainee may still be eligible to receive 39 weeks SMP.

25.2 If it is not possible for the Trainee to return to work due to the expiry of the fixed term contract (which would have occurred regardless of the pregnancy), then it will not be necessary for the Trainee to repay the Occupational Maternity Pay paid.

25.3 Trainees on fixed term contracts, who have less than 12 months NHS continuous service (section 18.2), will not be entitled to Occupational Maternity Pay but may be entitled to Statutory Maternity Pay or Maternity Allowance.

25.4 Trainees participating in a planned rotation of appointments as part of an agreed Programme of Training will have the right to return to work in the same Training Programme but not necessarily the same rotations as planned before maternity leave was taken. The contract will be extended to enable the practitioner to complete the revised Programme of Training.

26 REGULAR USER CAR PAYMENTS & LEASE CARS

Please contact your employing Lead Employer Trust for advice.

27 RETURNING TO WORK FOLLOWING MATERNITY LEAVE

27.1 Whilst on unpaid leave Trainees are entitled to the same terms and conditions as if they were not absent from work apart from remuneration.

27.2 All Trainees are entitled to 52 weeks maternity leave. Unless otherwise indicated by the Trainee it will be assumed that the Trainee is taking her full 52 week entitlement.

27.3 Trainees may not return to work earlier than two weeks following the birth of the baby know as Compulsory Maternity Leave.

27.4 All Trainees are entitled to return to their job under their original contract, on no less favourable terms and conditions. However, a Trainee may return to a different placement which may in turn result in differing pay conditions, for example out of hours banding supplement.

27.5 The LET expects Trainees to return to work after taking their full maternity leave. Should a Trainee wish to return earlier than the full 52 weeks leave or on a different date to the date notified on the Maternity Application form, the Trainee must notify the LET in writing with a minimum of 28 days' notice in advance of the revised return date. Should a Trainee decide they wish to return later than the date stated on the application form, a minimum of 8 weeks' notice must be given in writing to the LET. Trainees are asked to give as much notice as possible so that appropriate arrangements may be made.

27.6 Trainees returning to work but with a different NHS Trust will fulfill their maternity obligations. A copy of the Trainee's new appointment letter must be forwarded to the LET at least 15 months after the commencement of maternity leave to ensure the Occupational Maternity Pay, which the Trainee received, is not reclaimed by the LET or within 3 months of commencing their new role with another NHS Trust, whichever is the earliest.

- 27.7 Trainees who have indicated their wish to return to work and then decide not to, will be liable to repay the Occupational Maternity Pay received whilst on paid maternity leave.
- 27.8 Trainees must return to work for a minimum period of 3 months in order to avoid repayment of Occupational Maternity Pay. Outstanding annual leave may be used within the 3 month period.
- 27.9 However, if there are any very exceptional mitigating circumstances as to why a Trainee cannot return to work then these will be considered sympathetically. The Trust has the discretion to waive their rights to recovery in cases where it is considered that undue hardship or distress would be caused.
- 27.10 Trainees do not contribute to the NHS pension scheme during their unpaid leave. However, arrangements will be made for them to catch up on their contributions once they return to work, usually over a period equivalent to the length of maternity leave taken. Further guidance can be obtained from the LET Payroll department.
nwdeanery.payrollhelpdesk@pat.nhs.uk

28 **RETURNING TO WORK ON FLEXIBLE WORKING ARRANGEMENTS**

- 28.1 There is no automatic right for a Trainee to be granted a change to their terms and conditions of employment on resuming work. However, Trainees returning from maternity leave do have a right to request a change in their working pattern and the LET does have a duty to facilitate such requests, wherever possible, with the consideration of service delivery. This should be done in accordance with the normal procedure for applying for Less Than Full Time Training, which is via HEE NWO Health Education England North West Office.
- 28.2 Trainees returning to work on a full time basis and later wishing to reduce their hours should also refer to the normal procedure for applying for Less Than Full Time Training. The procedure lies with Health Education England North West Office HEE NWO and Trainees are advised to contact HEE NWO Health Education England North West Office for further information <https://www.nwpgmd.nhs.uk/content/less-full-time-training>

29 **DEFERMENT OF RETURN TO WORK DUE TO SICKNESS**

Trainees unable to return to work on the date notified, due to illness, must provide a self-certificate or doctor's certificate, whichever is appropriate, to cover their absence. Trainees will be deemed as having returned from maternity leave and the period of absence classified as sick leave with normal sick pay provisions applying and will be managed in line with the Managing Attendance Policy.

30 **COUNSELLING AND ADVICE**

- 30.1 The LET has a free and confidential Occupational Health service which can be accessed via telephoning 0161-720-2727.

31 **REDUNDANCY**

The LET will ensure that Trainees will not be dismissed or selected for redundancy in preference to other comparable Trainees because she is pregnant or has recently given birth.

ADOPTION LEAVE**32.1**

Under Adoption Leave, Trainees are entitled to the same provisions as laid out in the maternity provisions, which are detailed below providing they meet the qualifying criteria.

Entitlements to adoption leave apply for a child or children newly placed who are under the age of 18.

- All Trainees are entitled to take 52 weeks adoption leave.
- There will be entitlement to paid occupational adoption leave for Trainees wishing to adopt a child who is newly placed for adoption.
- Occupational Adoption Pay will be at the same rates as Occupational Maternity Pay and will be subject to the same qualifying conditions.
- It will be available to people wishing to adopt a child who has primary carer responsibilities for that child.
- Where the child is below the age of 18, adoption leave and pay will be in line with the maternity leave and pay provisions as set out in this agreement.
- Eligibility for Occupational Adoption Pay will be twelve months' continuous NHS service ending with the week in which they are notified of being matched with the child for adoption. This will cover the circumstances where Trainees are newly matched with the child by an adoption agency.
- If there is an established relationship with the child, such as fostering prior to the adoption, or when a step-parent is adopting a partner's children, there is scope for local arrangements on the amount of leave and pay in addition to time off for official meetings.
- If the same employer employs both parents, the period of leave and pay may be shared. One parent should be identified as the primary carer and be entitled to the majority of the leave. The partner of the primary carer is entitled to Occupational Paternity Leave and Pay.
- Reasonable time off to attend official meetings in the adoption process should also be given, subject to reasonable notice.
- Trainees not eligible for occupational adoption pay may still be entitled to Statutory Adoption Pay (SAP) subject to the qualifying conditions. The rate of SAP is the same as for Statutory Maternity Pay. Trainees who adopt children who do not live in the UK may not be allowed to claim SAP until the child enters the country. Advice must be sought from HMRC, and claim for payment would have to go via the HMRC.

For advice on pre adoption courses, Trainees should contact their LET and ask for leave as per the Special Leave Policy.

32.2**Supporting Evidence**

A matching certificate issued by the adoption agency is required, showing:

- Name and address of agency
- Name and address of Trainee
- Date on which the Trainee was notified he or she had been matched with the child

- Date on which the agency expect to place the child with the Trainee and, if the placement had already occurred, the date of the placement.
- The relevant UK authority's official notification confirming you are allowed to adopt (overseas adoptions only).
- The date the child arrived in the UK – e.g. plane ticket (overseas adoptions only)

33 SURROGACY – INTENDED PARENTS

Adoption leave and pay is available to eligible Trainees who become the legal parents following an application for adoption or parental order provided they provide at least 15 weeks before the baby is due that they intend to take adoption leave and proof of the adoption and surrogacy. For parents using a surrogate a written statement (statutory declaration) to confirm a parental order application (signed in the presence of a legal professional) has or will be applied for in the 6 months after the child's birth.

Eligibility to qualify for Statutory Adoption Leave and Pay is as detailed in section 32 of this policy.

34 PATERNITY LEAVE

34.1 Trainees must satisfy the following conditions in order to qualify for maternity support (paternity) leave:

- Will take time off work to support the mother or care for the child.
- Are the baby's biological father, or be married or be the partner of the baby's mother (this includes same-sex partners, whether or not they are registered civil partners), or live with the mother in an enduring family relationship, but not an immediate relative.
- Are the baby's biological father, or be married or be the partner of the baby's mother (this includes same-sex partners, whether or not they are registered civil partners), or live with the mother in an enduring family relationship, but not an immediate relative.
- Have responsibility for the child's upbringing.
- Have worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due.
- Submit maternity support (paternity) application form at least 28 days prior to commencing paternity leave, or as soon as reasonable practicable. Trainees are asked where possible to give as much notice of intention to commence maternity leave so that appropriate arrangements can be made.
- Paid time off to attend ante-natal classes will be given subject to the needs of the service, reasonable notice and proof can be provided.

- Trainees who have not worked continuously for their employer for 26 weeks ending with the 15th week before the baby is due will be entitled to 2 weeks unpaid leave.

34.2 Length of Paternity Leave

Trainees who are eligible can choose to take 2 weeks paid paternity leave in a block (not odd days). Full pay will be calculated on the basis of the average weekly earnings rules used for calculating occupational maternity pay entitlements. Trainees will receive full pay less any statutory paternity pay receivable.

34.3 Trainees can choose to start their leave:-

- On any day of the week
- From the date of the child's birth or actual date of adoption (whether this is earlier or later than expected), or
- From a chosen number of days or weeks after the date of the child's birth, or actual date of placement in adoption cases (whether this is earlier or later than expected), or
- From a chosen date within 8 weeks of the date of the child's birth, or actual date of placement in adoption cases.

34.4 Leave must be completed:-

- Within 8 weeks of the actual date of birth of the child, or actual date of placement in adoption cases, or
- If the child is born early, within the period from the actual date of birth up to 8 weeks after the first day of the expected week of birth, or if the actual date of placement in adoption cases is earlier than expected.

34.5 Only one period of leave is available to Trainees irrespective of whether more than one child is born as the result of the same pregnancy, or more than one child is placed in adoption cases.

34.6 Shared Parental Leave

Please refer to the [LET Shared Parental Leave Policy](#) on our [Lead Employer Documents](#) page.

35 INFERTILITY TREATMENT

35.1 Where a Trainee, male or female, is undergoing programmes of treatment they are allowed time off up to 1 working week with pay in any given leave year, which must be taken in no less than half days.

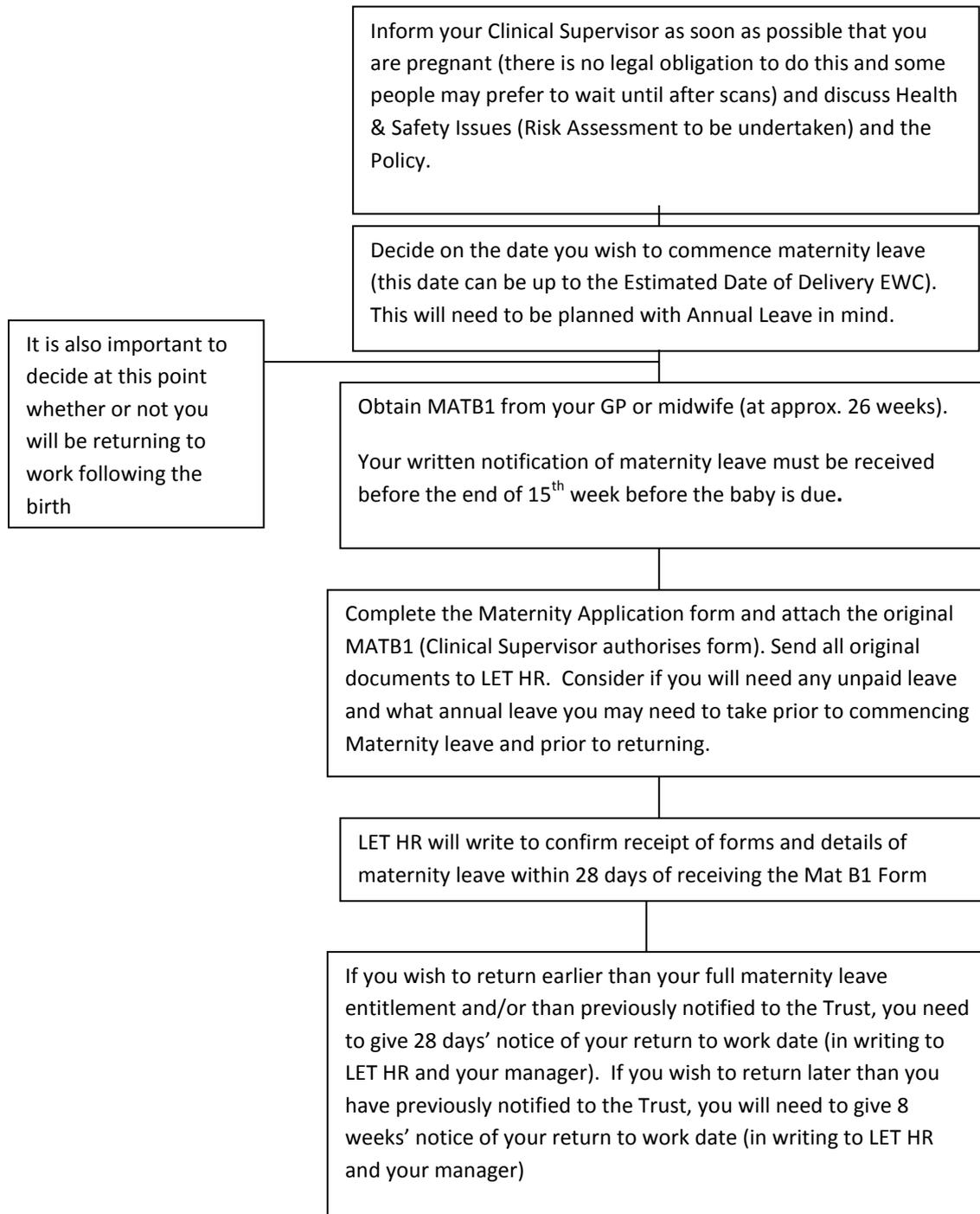
- 35.2** Trainees must discuss with their Clinical Supervisor as soon as reasonably possible dates of any planned treatments. Evidence of appointments may be required for manager (please refer your LET Special Leave Policy). This time off is available to partners where necessary, including partners in same-sex couples.
- 35.3** Time off should not be treated as sickness absence and should be exempt from use in disciplinary proceedings or action to improve attendance.
- 35.4** Taking time off for fertility treatment will not affect pay, performance ratings or promotion. Neither will it be included in reasons for dismissal.
- 35.5** The LET will maintain strict confidentiality regarding infertility treatment of any Trainee.
- 35.6** The Trainee is reminded they can access Occupational Health services.

Scheme of Delegation

Policy		FAMILY POLICY	
Application		Applies to all CT and Specialty Trainees employed by Lead Employer Trust	
Trainee	LET	HEP	HEE NWO/HEE NWO
Trainee will comply with the Family Policy including the procedures, time frames and notifications.	Will ensure that the Policy is available and supplied upon demand.	The CS/ nominated HEP representative will organise the Risk Assessment for the Trainees and ensure that the LET receive a copy of the report and take any necessary actions in consultation with the LET as appropriate. The HEP Manager will also discuss the Policy with the Trainee.	HEE NWO will inform the LET of any adjustments to the Trainee’s Training Programme as a result of any leave taken once this has been confirmed with the Training Programmer Director.
The Trainee will inform their CS at the HEP that they are pregnant so that the HEP can organise a Risk Assessment and discuss the Policy.	Will confirm in writing the Trainee’s leave details and entitlements to the Trainee, HEP, HEE NWO, TPD and Payroll upon receipt of the application form.	Regarding any gaps in rotations brought about as a result of maternity leave: Normal arrangements for providing cover will apply and will be dependent upon the HEP & LET involved.	HEE NWO will ensure that any adjustment to the Trainee’s Training Programme is communicated to the Trainee.
The Trainee will comply with any Occupational Health & Risk Assessment Requests.	Will inform the HEP so that appropriate cover arrangements may be made for any gaps and so to remind the HEP organises the Risk Assessment.	Provide support and advice to the Trainee.	The HEE NWO will consider and respond to all forms of flexible working as per the Policy and respond to the Trainee and other relevant stakeholders listed, i.e. the LET.

<p>Trainees will issue their completed application form, showing the dates of requested leave and also ensuring that they submit any required supporting evidence, i.e. Mat B1 to the LET by the specified times.</p>	<p>The LET will also inform in writing the Trainee's Training Programme Director and HEE NWO in so that the Trainee's Training Programme may be adjusted accordingly, as required.</p>		
<p>Trainees will ensure that they give required notice periods for any changes to their original requests for leave as per the Policy.</p>	<p>The LET will ensure that payroll receive all the required documentation so that payment can be made to the Trainee and so that the leave is recorded.</p>		
<p>Comply with all other requirements, i.e. KIT Days ensuring communication appropriately.</p>	<p>Provide support and advice to the Trainee.</p>		
<p>Inform Training Programme Director of the pregnancy.</p>			

MATERNITY GUIDELINES FLOWCHART



Appendix 3

MATERNITY/ADOPTION LEAVE APPLICATION FORM

This form must be completed and returned to the LET HR Department no later than the end of the 15th week before the baby/placement is due. For Maternity, please attach the MAT B1 that has been to be signed by a doctor or a midwife, confirming your pregnancy and EWC.

Section A – To be completed by the Trainee (please attached your MatB1 Form)

Name of Employing Trust.....

Name: **Assignment Number(s):**

Home address:

.....

Post Title & Grade: **Contracted Hours:** **per week**

Dept: **NHS Start Date:**

Date of Commencement with the Lead Employer Trust:

Expected date of Childbirth or placement of adoption

Expected date to commence Maternity Leave/Adoption leave:

Expected Return to Work Date:

- a) I intend to return to work for a minimum of 3 months.
- b) I do not wish to return to work.
- c) I am undecided about returning to work but will advise you in writing giving 28 days' notice whether I intend to return, prior to the commencement of my maternity leave.
- d) I have planned my annual leave and had it authorised by my HEP (Please attach authorisation).

I agree to pay back any overpayment of occupational maternity pay, if I initially intend to return to work and subsequently decide not to return.

I undertake to ensure that the LET Human Resources/Manager is informed, in writing, if I take up other employment.

If you are a member of the NHS Pension Scheme, contributions are deducted from all maternity pay or tax refunds. Contributions during unpaid leave will be deducted from salary after return to work.

I have read and understand the LET Family Policy (For Maternity, please attach your MatB1 Form).

Signature of Trainee: Date:

Print Name:

Section B – DECLARATION BY HEP MANAGER / CLINICAL SUPERVISOR

I acknowledge the details as contained within this Maternity/Adoption Leave Application Form and confirm that I have discussed the Policy with the Trainee and arranged a Risk Assessment.

Signed: Date:

Print Name: Designation:

*The form should now be returned to the LET HR Department.

Section C – TO BE COMPLETED BY THE LET HR DEPARTMENT

This application for Maternity/Adoption leave is approved for the period

From: To:

Signed: Date:

Print Name: Designation:

The above form should be completed and forwarded with the **MAT B1** form (for Maternity applications) to the LET HR Department for processing. The LET HR Department must confirm the dates to the HEPs affected by the Maternity Leave and also inform the HEE NWO and Training Programme Director.

HEE NWO Informed.

HEP HR Informed.

Training Programme Director Informed.

Signed: _____

Date: _____

Application for Paternity Leave

Appendix 4 – Page 1

This form must be completed and returned to your LET HR manager once signed by the Trainee and HEP Manager with a copy of the Mother’s MatB1 form (for Maternity).

Section A - Personal Details

Name: Home Address:
 Post/Grade:
 Hours per week:
 Hospital/ General Practice:
 Department:
 NI Number:

Starting date in the NHS or a Local Authority without a break in service:

Starting date (if different) with Lead Employer Trust:

Expected date of birth of your baby/ placement of child:

Expected date/dates of paternity leave:

Your Declaration

You must be able to meet all three criteria below to get OSPP and ordinary Paternity Leave.

I declare that:

- I am
 - the baby’s biological father, OR
 - married to or in a civil partnership with the mother, OR
 - living with the mother in an enduring family relationship, but am not an immediate relative,

AND

- I will have responsibility for the child’s upbringing

AND

- I will take time off work to support the mother or care for the child.

Signature:

Date:

Section B – Host Approval

Declaration by Host Manager/ Clinical Supervisor

I have discussed this application with the applicant who meets the requirements for paternity leave as stated in this policy.

Signature:

Date:

This should be returned to the Lead Employer Trust HR Department who will then inform the HEP HR TPD and HEE NWO.

Section C – LET Approval

I have confirmed the arrangements of this Paternity Leave with:

- HEE NWO
- HEP HR
- Training Programme Director

Signed: _____ Date: _____

FAMILY POLICY

JOINT AGREEMENT OF POLICY

This Policy document has been considered and approved by the Representatives of Staff and Management on the Joint Local Negotiating Committee.

Signatories:

On Behalf of the LETs: Kerten

Date: 12/5/16

On behalf of the LNC: Strane

Date: 12/5/2016