NHS Trust

Ref: FOI/GS/ID 4679

Please reply to: FOI Administrator Trust Management Maidstone Hospital Hermitage Lane Maidstone Kent ME16 9QQ Email: mtw-tr.foiadmin@nhs.net

24 April 2018

Freedom of Information Act 2000

I am writing in response to your request for information made under the Freedom of Information Act 2000 in relation to paternity entitlement.

You asked:

Please can you send me any policies/procedures containing information about your employees paternity leave and pay entitlement, including how to apply.

Trust response:

Please find attached copies of the Trust Paternity Leave Policy and Procedure and Paternity Application Form.

MAIDSTONE AND TUNBRIDGE WELLS NHS TRUST

Paternity Leave Policy and Procedure

Requested/ Required by:	Human Resources Department
Main author:	HR Business Partner
Other contributors:	
Document lead:	HR Business Partner Contact Details: 01892 634750
Directorate:	Corporate
Specialty:	Workforce
Supersedes:	Paternity and Parental Leave Policy and Procedure (Version 4.0: June 2011)

- Approved by: HR Senior Meeting, 3 June 2014
- Ratified by: Workforce Committee, 17 June 2014

Review date: June 2019, or at a time of significant change

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Document history

Γ		
Requirement for document:	The right to Ordinary Paternity Leave ("OPL") was enacted by section 1 of the Employment Act 2002 which inserted sections 80A to 80E into the ERA 1996 pursuant to which the Secretary of State introduced secondary legislation, the Paternity and Adoption Leave Regulations 2002 (SI 2002/2788) (the PAL Regulations), to regulate the exercise of the right. The PAL Regulations set out the minimum statutory entitlement to OPL together with the criteria the employee must meet and the steps they must take to exercise that entitlement. The right to additional paternity leave ("APL") was enacted when the Work and Families Act 2006 inserted sections 80AA and 80BB into ERA 1996. Secondary legislation, the Additional Paternity Leave Regulations 2010 (SI 2010/1055) (the APL Regulations) came into force on 6 April 2010 and regulates the exercise of the right which applies to parents of a baby due on or after 3 April 2011 and to adoptive parents who are notified that they have been matched with a child on or after that date.	
Cross references:	 ACAS – Paternity Leave and Pay Business Link Maternity, Paternity and Adoption. HM Revenue and Customs rates and thresholds (hmrc.gov.uk) Directgov Health and Safety Executive GOV.UK – Additional Paternity Pay and Leave. 	
Associated documents:	 Agenda for Change: NHS Terms and Conditions of Service Handbook, Sections 15 (16.66) and section 35 (35.11 to 35.22). Maidstone and Tunbridge Wells NHS Trust. <i>Parental Leave Policy and</i> <i>Procedure</i> [RWF-OPPPCS-NC-WF43] Maidstone and Tunbridge Wells NHS Trust. <i>Maternity and Adoption</i> <i>Leave Policy and Procedure</i> [RWF-OPPPCS-NC-WF41] Maidstone and Tunbridge Wells NHS Trust. <i>Expectant Mother Policy</i> <i>and Procedure</i> [RWF-OPPPCS-NC-WF44] Maidstone and Tunbridge Wells NHS Trust. <i>Flexible Working Policy</i> <i>and Procedure</i> [RWF-OPPPCS-NC-WF50] Maidstone and Tunbridge Wells NHS Trust. <i>Special Leave and Other</i> <i>Leave Policy and Procedure</i> [RWF-OPPPCS-NC-WF50] Maidstone and Tunbridge Wells NHS Trust. <i>Disciplinary Policy and</i> <i>Procedure</i> [RWF-OPPPCS-NC-WF10] 	

Version	Version Control: Details of approved versions			
Issue:	Description of changes:	Date:		
1.0	Paternity Leave Policy / Paternity Leave Procedure	December 2003		
2.0	Paternity Leave Policy / Paternity Leave Procedure	February 2008		
3.0	Reviewed	February 2008		
4.0	Revised document to take account of latest legislation. Consolidate two separate policies/procedures into one 'Paternity and Parental' document.	June 2011		
5.0	Paternity and Parental leave policy separated into two policies. Policy reviewed and updated, minor amendments made. Also amendments made to the appendices.	June 2014		

Policy statement for

Paternity Leave

- 1. Maidstone & Tunbridge Wells NHS Trust is committed to becoming an employer of choice and to providing opportunities for employees to balance both work and family commitments.
- 2. Paternity leave is provided to enable employees' time away from work following the birth or adoption of a child.
- 3. The right to paternity leave and pay is available to an employee who is the biological father, partner, husband or civil partner and must have responsibility for the child.
- 4. This policy/procedure applies to all staff employed by the Trust and those employed on temporary or fixed term contracts. It does not apply to individuals employed by agencies or other contractors.
- 5. Legislation sets a minimum level of entitlements for paternity leave. Employers must abide by these minimum standards but can choose to enhance them if they so wish. The Trust operates an enhanced paternity procedure.
- 6. This policy document outlines the entitlements for employees and the procedure to be followed when wishing to take paternity leave.

Paternity Leave Procedure

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1.0 Introduction and scope

- 1.1 The Trust recognises that employees have dependants and that from time-totime they may need time off to deal with emergency situations, look after their family or other reasons. Whatever the circumstances the Trust aims to help its staff balance work and home life, offering time off when required.
- 1.2 The Trust encourages employees to have a balance between their work and family commitments, believing that it ensures a more effective and efficient workforce. Paternity leave is provided to enable employees' time away from work following the birth or adoption of a child.
- 1.3 The Trust recognises that fathers or partners (including same sex relationships) need time at home to help and support their partners during the birth of a child. This policy/procedure outlines both statutory obligations in relation to paternity leave entitlements and regulations as well as NHS provisions outlined in Sections 15 and 35 of the *Agenda for Change Terms and Conditions Handbook*.
- 1.4 The right to paternity leave and pay is available to an employee who is the biological father, partner, husband or civil partner if they have or expect to have responsibility for the child's upbringing.
- 1.5 This policy/procedure applies to all staff employed by the Trust and those employed on temporary or fixed term contracts. It does not apply to individuals employed by agencies or other contractors.

2.0 Definitions

- Statutory Paternity Leave (SPL): leave employees are entitled to if they meet certain qualifying criteria.
- Ordinary Statutory Paternity Pay (OSPP): a weekly allowance paid via the payroll department on behalf of the government.
- **Expected Date of Childbirth (EDC):** the actual date when the baby is due. This will be confirmed on the Maternity Certificate - Form MAT B1.
- Expected Week of Childbirth (EWC): the week in which the baby is due, starting with the preceding Sunday and ending the following Saturday. If the birth date falls on a Sunday, that date is the first day in the EWC.
- Additional Paternity Leave (APL): leave employees are entitled to if they meet certain criteria.
- Additional Statutory Paternity Pay (ASPP): pay that employees are entitled to if they meet the qualifying criteria

3.0 Duties

The employee is responsible for:

- Employees must inform their manager of their intention to take paternity leave by the 15th week before the expected week of childbirth, or if this is not practicable, as soon as possible
- Employees must inform their manager of:
 - a. the week the baby is due or the week the child is expected to be placed for adoption
 - b. when they wish the paternity leave to start
 - c. the duration of the paternity leave they wish to take. Leave can be taken in a single block of either 1 or 2 weeks.

- Employees may change their mind as to when they want paternity leave to start, but they will need to give their manager 28 days written notice or, if this is not practicable, as soon as possible.
- If they decide to return to work before the end of the agreed paternity leave entitlement, they must agree this with their manager.

The manager is responsible for:

- On notification of a paternity leave request, managers should discuss the paternity leave arrangements with the employee and ensure that employees are aware of this policy.
- Managers will need to ensure that employees fill out the appropriate form correctly and that this is forwarded to payroll.

The Human Resources professional is responsible for:

 When requested, the HR Professional will provide the manager and employee with advice on this policy on their rights and obligations.

Payroll are responsible for:

- ensuring that payments are made in line with both current occupational and statutory regulations
- ensuring that payments are made timely in line with normal salary crediting

4.0 Training / competency requirements

Staff must seek advice and support from their line manager, Human Resources, occupational and/or payroll when required.

5.0 Procedure

5.1 Paternity leave entitlements

The table below provides a summary of employees' entitlements to paternity leave and pay.

Employees' entitlement to paternity leave and pay

Type of leave	Eligibility to take leave	Length of leave	Eligibility for paid leave	Pay during leave	Weekly pay for 2014 – 2015
			Unpaid leave		
			Weeks are unpaid if employee	does not meet the qualifying	criteria period.
			Ordinary Sta	atutory Paternity Pay (OSPF	P)
Paternity	The biological father, partner, husband, or civil partner. Must have responsibility for the child. Have been	one week which can be	The employee should have been in continuous employment, for a minimum of 26 weeks, by the end of the 15 th week before the expected week of confinement to qualify for OSPP*.	OSPP* is paid for up to a period of two weeks at the prescribed rate or at 90% of the employees average weekly earnings if this is less.	OSPP - £138.18
	continuouslyconsecutive)employed for atTo be taken		Occupational Paternity Pay (OPP)		
	least 26 weeks by the end of the 15 th week before the baby is due.	within 56 days of the birth.	The employee must have 12 months continuous service with the NHS at the beginning of the week in which the baby is due.	OPP is the equivalent of full pay offset against OSPP*.	OSPP - £138.18

5.1.1 Conditions for paternity leave

In the event of a multiple birth or adoption, only one period of leave is available.

There may be occasions when agreed arrangements need to be deferred, e.g. if the child is placed in neonatal/intensive care. If such an event occurs the employee should discuss their requirement with the manager in the first instance and then contact the HR Department to arrange the alteration to the original request.

5.1.2 Contractual benefits

Employees taking paternity leave are entitled to the benefit of their normal terms and conditions of employment, excepting wages or salary.

5.1.3 Employee notification process

An employee must inform their line manager of their intention to take ordinary paternity leave by giving written notice by the 15th week before the week the child is expected to be born or placed for adoption, unless this is not reasonably practicable. The employee is required to complete the application form in **Appendix 4**.

In addition the employee must provide the HR Department (28 days prior to the anticipated date for commencement of the paternity leave) with a form SC3 – Statutory Paternity Pay/Paternity Leave - which is available from HM Revenue and Customs at http://www.hmrc.gov.uk/forms/sc3.pdf.

The employee must also provide documentary evidence of the date the child is expected to be born or placed for adoption (e.g. a MAT BI form or a Matching Certificate from an adoption agency) within 28 days as above. This should be followed by a telephone call to subsequently confirm the actual date that paternity leave commenced.

Employees should only submit forms to the HR Department once the anticipated dates of paternity leave have been discussed and agreed with their line manager.

An employee may change their mind about when they wish to start paternity leave by giving 28 days notice, unless this is not reasonably practicable.

5.1.4 Still birth

In the event of a still birth or infant mortality, a qualifying employee will be entitled to paternity leave if the baby is still born after 24 weeks of pregnancy.

In the event of a miscarriage before the 25th week of pregnancy, managers should consider a reasonable period of special leave with pay on compassionate grounds as appropriate.

5.1.5 Entitlement to time off for ante-natal care

An employee is entitled to take reasonable time off with pay to attend antenatal appointments. Apart from the first appointment, the employee should produce proof of future appointments and give reasonable notice of the appointments.

5.1.6 Work during the paternity leave period

An employee may not undertake any paid work within or outside of the Trust during the paid paternity leave period. If s/he does so, paternity leave and paternity pay will automatically cease and the leave will be treated as unauthorised absence. In these circumstances, action may be considered under the Trust's *Disciplinary Policy and Procedure*.

5.1.7 Return to work

Employees returning to work after one or two consecutive weeks paternity leave are entitled to return to the same job as before, on the same terms and conditions of employment, unless a redundancy situation arises.

If an employee cannot return to work at the end of a period of paternity leave because of illness, they will be required to follow their department's normal procedure for the notification and certification of sickness absence.

If an employee decides not to return to work following paternity leave they are required to give the Trust notice in accordance with their contractual terms and conditions.

5.2

Additional paternity leave (APL) and pay (ASPP) The table below provides a summary of employees' entitlements to additional paternity leave and pay.

5.2.1 Entitlement to additional paternity leave and pay

Type of Eligibility to take Leng		Eligibility for paid eave	Pay during leave	Weekly pay for 2014 – 2015
IeaveUp to not of not of not of the biologicalThe biological father, partner, husband, or civil 	to 26 weeks which may commence before 20 eks after the child was on or placed for adoption d must end no later than months after the date the ld was born. ave must be taken in ltiples of complete weeks, one continuous period d for a minimum period of o weeks.	Additi	ASPP* is paid for a maximum period of 26 weeks at statutory rate of 90% of the average weekly earnings whichever is less. This is dependent on the mother returning to work, before taking her full 39 weeks SMP, the balance of which will then transfer to her partner, at the same rate.	

5.2.2 Conditions for additional paternity leave (APL)

The member of staff must remain in continuous employment until the week before the first week of APL commencing.

5.2.3 Notification of additional paternity leave

The employee must inform their line manager of their intention to take APL providing eight weeks notice of the date on which they wish the APL to commence. Notification of intention to take APL is given by completion of application form, **Appendix 5**. This notice should state the expected week of childbirth, the child's date of birth and the dates on which you would like your APL to start and finish.

If the employee subsequently wishes to change the timing, cancel or postpone the APL request then they must provide six weeks written notice of the new dates/cancellation.

If the information provided on the application form, **Appendix 5** is found to be untrue or fraudulent, the employee may be subject to disciplinary action the Trust's *Disciplinary Policy and Procedure*.

5.2.4 Additional Statutory Paternity Pay (ASPP)

For fathers who will be entitled to Additional Statutory Paternity Pay (ASPP), you will be expected to provide a written declaration that you intend to care for the child during the APL period (and apart from the child's mother, you expect to have the main responsibility for the upbringing of the child) and that you are either the child's father or that you are the spouse, partner (as defined at * above) or civil partner of the child's mother by completing **Appendix 5**.

In addition, you must provide us with a written declaration from the mother of the child which states her name, address and national insurance number, the date of her return to work, your relationship with the child, that (to her knowledge) you are the only person exercising an entitlement to APL in respect of the child and that she consents to us processing the information she has provided (see **Appendix 6**).

5.2.5 Keeping in touch days (KIT)

Employees who are entitled to additional paternity leave/pay will be entitled to take up to 10 KIT days during the course of the additional paternity leave period. The criteria for KIT days is set out in Section 15 of Agenda for Change Handbook and is based on those used for statutory maternity leave and pay.

6.0 Monitoring and audit

The Human Resources Department, in partnership with Local Staff Side representatives, will review and be responsible for the administration, monitoring and evaluation of the scheme annually. All records of applications and decisions will be kept on file.

Process requirements

1.0 Implementation and awareness

The policy will be effectively implemented by carrying out the following communication and training activities:

- Once approved the document lead or author will submit this policy/procedural document to the Clinical Governance Assistant who will activate it on the Trust approved document management database on the intranet, under 'Trust polices, procedures and leaflets'.
- A monthly publications table is produced by the Clinical Governance Assistant which is published on the Bulletin Board (Trust intranet) under "Trust Publications"; notification of the posting is included on a bi-weekly Bulletin Board round-up email, circulated Trust wide by the Communications team.
- On receipt of the Trust wide Bulletin Board notification all managers should ensure that their staff members are aware of the new publications.
- Upon approval e-mail to all line managers informing them of the new policy and summarising the main points;
- HR Business Partnering team trained on main aspects of the policy;
- The HR department will be run a series of workshops on staff management; and
- Further promotion via trust communication vehicles, e.g. team brief, trust news and Trust e-mail bulletin.

2.0 Review

To be reviewed every five years or sooner if monitoring highlights the need and/or changes in legislation.

3.0 Archiving

The Trust intranet retains all superseded files in an archive directory in order to maintain document history.

APPENDIX TWO

CONSULTATION ON: Paternity Leave Policy and Procedure

Consultation process – Use this form to ensure your consultation has been adequate for the purpose.

Please return comments to: <u>*HR Business Partner*</u>

By date: 1 June 2014

Name: Name: List key staff appropriate for the document under consultation. Select from the following:	Date sent	Date reply received	Modification suggested? Y/N	Modification made? Y/N
Local Counter Fraud Specialist	02/5/2014			
Clinical Governance Assistant (RD)	02/5/2014	08/5/2014	Y	Y
Staff-side Chair (AK)	02/5/2014	14/4/2014	Tips from article	n
Medical Staff-side Chair (MB)	02/5/2014			
Medical Director	02/5/2014	17/5/2014	n	n
Director of Strategy & Workforce (PB)	02/5/2014			
Associate Director of Workforce (RH)	02/5/2014			
Head of Employee Services (TK)	02/5/2014			
HRBP Team	02/5/2014	23/5/2014	n	n
ADO's/ADNS's	02/5/2014			
GM's/Matron's	02/5/2014			
JCF Members	02/5/2014	05/04/2014	n	n
JMNC Members	02/5/2014			
Head of Occupational Health (JJ)	02/5/2014			
Clinical Manager	14/4/2014	06/04/2014	у	n
The role of those staff being consulted policy for comments with all staff within contribute to the development of the po	their sphere			

APPENDIX THREE

Equality Impact Assessment

In line with Equality Act 2012 legislation, public bodies like MTW are required to assess and consult on how their policies and practices affect different groups, and to monitor any possible negative impact on equality. The completion of the following Equality Impact Assessment grid is mandatory and should be undertaken as part of the policy development and approval process. Please consult the Equality and Human Rights Policy on the Trust intranet, for details on how to complete the grid. **Please note that completion is mandatory for all policy development exercises.** A copy of each Equality Impact Assessment must also be placed on the Trust's intranet.

Title of Policy or Practice	Deternity Leave Deliev and Dreadure
Title of Policy or Practice	Paternity Leave Policy and Procedure
What are the aims of the policy or practice?	To ensure employees are informed of their rights surrounding paternity leave, pay and employment
	To ensure the policy reflects recent changes in the law.
Identify the data and research used to assist	1. ACAS Paternity guidelines;
the analysis and assessment	 Agenda for Change NHS Terms and Conditions of Service;
	3. HSE Guidance concerning employment of
	new and expectant mothers; and
	4. Examples of other NHS Trusts Paternity policies. Feedback from consultation.
Analyse and assess the likely impact on equality or potential discrimination with each of the following groups.	Is there an adverse impact or potential discrimination (yes/no). If yes give details.
Males or Females	No
People of different ages	No
People of different ethnic groups	No
People of different religious beliefs	No
People who do not speak English as a first language	No
People who have a physical disability	No - Covered in OH H&S assessment
People who have a mental disability	No - Covered in OH H&S assessment
Women who are pregnant or on maternity leave	No
Single parent families	No
People with different sexual orientations	No – Refer to Maternity and Adoption Leave Policy
People with different work patterns (part time, full time, job share, short term contractors, employed, unemployed)	No
People in deprived areas and people from different socio-economic groups	No
Asylum seekers and refugees	No
Prisoners and people confined to closed	No
institutions, community offenders	
Carers	
If you identified potential discrimination is it minimal and justifiable and therefore does not require a stage 2 assessment?	No potential discrimination identified.
When will you monitor and review your EqIA?	At the same time as the policy/procedure is reviewed.

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Where do you plan to publish the results of	As Appendix Three of this policy/procedure on
your Equality Impact Assessment?	the Trust Intranet (Q-pulse)

FURTHER APPENDICES

The following appendices are published as related links to the main policy /procedure on the Trust approved document management database on the intranet (Trust policies, procedures and leaflets):

No.	Title	Unique ID
4	Paternity leave application form	RWF-OWP-APP546
5	Additional paternity leave application form	RWF-OWP-APP547
6	Partner of an employee requesting	RWF-OWP-APP548
	additional paternity leave	

Paternity leave application form

To be completed by the employee 15 weeks before the date on which the child is due.

Name of employee	:				
Job title:					
Ward/Department:					
Directorate:					
Base:					
Length of service with the Trust:					
The baby is due on or the date the child has been placed for adoption:					
If the child has been born, please enter the actual date of birth:					
I would like my par start on (please sta	-				
I want to be away f (please delete as a		One week	Two weeks	Two separate weeks	
 Your declaration I declare that: I am the baby's biological father; or I am married to the mother/child's adopter; or I am living with the mother/child's adopter in an enduring family relationship, but I am not an immediate relative; I am the nominated carer; I have responsibility for the child's upbringing; I will take time off work to support the mother/child's adopter or care for the child I enclose a copy of form MATB1/SC3/adoption matching certificate. 					
Signature of employee:			Dated:		
Signature of manager:			Dated:		
Manager's name:			Manager's job title:		
To be completed by the Human Resources Department *The above named employee qualifies for paternity leave with full pay. *The above named employee qualifies for paternity leave with Statutory Paternity Pay.					

*The above named employee does not qualify for any form of paid paternity leave.					
Signed:					

Dated:	

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Once complete please return this form to the HR Department at Maidstone

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