

Maternity Policy

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| Author | Ramya Pillay |
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Version History

| V. | Date | Status and/ or amendments |
|------|------------|---------------------------|
| V1.0 | 08/12/2015 | First draft |

Equality statement

Surrey Downs Clinical Commissioning Group (Surrey Downs CCG) aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account the Human Rights Act 1998 and promotes equal opportunities for all. This document has been assessed to ensure that no-one receives less favourable treatment on grounds of their gender, sexual orientation, marital status, race, religion, age, ethnic origin, nationality, or disability. Members of staff, volunteers or members of the public may request assistance with this policy if they have particular needs. If the person requesting has language difficulties and difficulty in understanding this policy, the use of an interpreter will be considered.

Surrey Downs CCG embraces the six staff pledges in the NHS Constitution. This policy is consistent with these pledges.

Equality analysis

This policy has been subject to an Equality Analysis, the outcome of which is recorded below.

| | | Yes, No or N/A | Comments |
|----|---|-------------------|----------|
| 1. | Does the document/guidance affect one group less or more favourably than another on the basis of: | | |
| | Age Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds). | | |
| | Disability A person has a disability if s/he has a physical or mental impairment which | | |

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| | <p>has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.</p> | | |
| | <p>Gender reassignment The process of transitioning from one gender to another.</p> | | |
| | <p>Marriage and civil partnership In England and Wales marriage is no longer restricted to a union between a man and a woman but now includes a marriage between a same-sex couple. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must not be treated less favourably than married couples (except where permitted by the Equality Act).</p> | | |
| | <p>Pregnancy and maternity Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.</p> | | |
| | <p>Race Refers to the protected characteristic of</p> | | |

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|----|---|--|--|
| | Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins | | |
| | Religion and belief Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition | | |
| | Sexual orientation Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes | | |
| 2. | Is there any evidence that some groups are affected differently? | | |
| 3. | If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable? | | |
| 4. | Is the impact of the document/guidance likely to be negative? | | |
| 5. | If so, can the impact be avoided? | | |
| 6. | What alternative is there to achieving the document/guidance without the impact? | | |
| 7. | Can we reduce the impact by taking different action? | | |

For advice in respect of answering the above questions, please contact the Corporate Office, Surrey Downs CCG. If you have identified a potential discriminatory impact of this procedural document, please contact as above.

| Names and Organisation of Individuals who carried out the Assessment | Date of the Assessment |
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| | |

1 Introduction

The maternity policy is designed to provide a framework across Surrey Downs Clinical Commissioning Group(CCG) for a consistent and timely to approach to new and expectant mothers. It is intended to promote the employees awareness of their rights and entitlements during, and following pregnancy. The policy conforms to the NHS Staff terms and conditions of service and other current legislation.

2 Purpose

The CCG is committed to ensuring equality and diversity across the organisation and the purpose of the maternity policy is to provide an opportunity for all female staff to integrate the development of a career with family responsibilities. It is acknowledged that pregnancy and maternity place an individual in a group with protected characteristics as defined by the 2010 Equality Act (for a definition of this see the Equality Analysis Section of this document on pages 3-5).

3 Scope

This policy applies to all pregnant employees and new mothers who have a contract of employment with the CCG.

4 Responsibilities

4.1 Line Manager's Responsibilities

- Line managers are responsible to ensure that all staff are treated fairly and within the provisions and spirit of the Equal Opportunities Policy.
- Managers must respect the confidentiality of the employee at all times and not disclose any personal information to a third party(with the exception of HR or the Occupational Health Service)
- It is the responsibility of the line manager to conduct pregnancy risk assessments for staff twice. First one to be conducted when they are first

informed of the pregnancy and the second to be conducted 6-8 weeks before the start of the maternity leave or earlier if required.

4.2 Employee's Responsibilities

- Pregnant employees are responsible for informing their managers and HR of their pregnancy
- It is their responsibility to complete the relevant forms in a timely manner and provide the MATB1
- To co-operate with the risk assessments that are conducted
- Ensure they read and understand the maternity policy and discuss any queries with their manager or a member of the HR team

4.3 Responsibility of the Human Resources Department

- The HR team are responsible for providing guidance and support to staff and managers on the appropriate use of the policy and procedure.

5 Definitions

5.1 Maternity Leave(ML)

- All employees irrespective of their length of service are entitled to 52 weeks of ML.
- Maternity Leave may commence at any time between eleven weeks before the EWC (see section 5.2) and the expected week of childbirth, provided the required notice is given.
- The employee must notify their line manager and the HR department no later than the 15th week before EWC.
- If subsequent to this, if the employee wants to change the date from which she wishes to start, she should notify her line manager and HR at least 28 days beforehand.

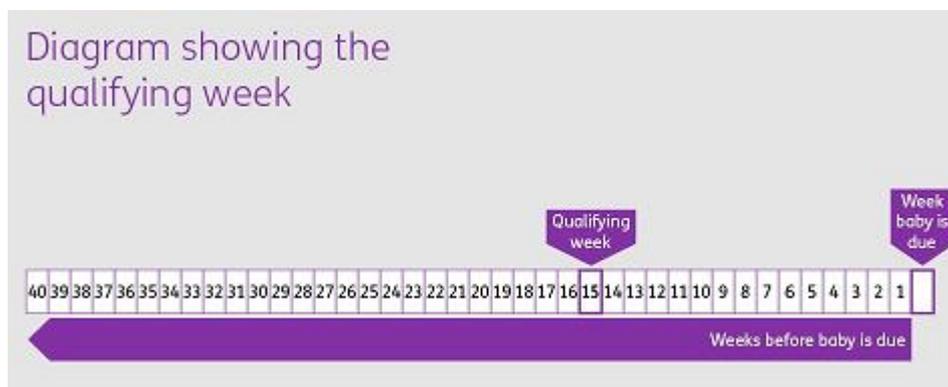
- If an employee is off work ill, or becomes ill with pregnancy- related illness during the last four weeks before the expected week of childbirth, maternity leave will normally commence at the beginning of the 4th week before the EWC or the beginning of the next week after the employee last worked, whichever is later.
- Where an employee is absent due to illness which is not pregnancy related then normal sick leave provisions will apply until the date previously agreed that maternity leave would commence.
- The legal minimum period of maternity leave which an employee is required to take is 2 weeks. This will commence on the day that the baby is born.

5.2 Expected Week of Childbirth(EWC)

- This is an important date for working out the employee's maternity pay. It is the date the baby is due and not when the baby is actually born.

5.3 Qualifying Week

- The qualifying week is the 15th week before the week in which the baby is due. The definition of a week for the qualifying week is a period of 7 days that begins at midnight between Saturday and Sunday.



5.4 Statutory Maternity Pay (SMP)

- Statutory maternity payments are made to staff who have been employed prior to becoming pregnant and during pregnancy. Staff qualifying for SMP(Appendix 2) are entitled to the payment whether or not they intend to return to work.
- There are two basic rules to qualify for SMP:
 - a) Continuous employment
The pregnant employee must have been employed with the NHS for a continuous period of at least 26weeks into the qualifying week(15 weeks before the week in which the baby is due)
 - b) Earnings rule
Average gross weekly earnings must be at least equal to the lower earnings limit for National Insurance (NI) purposes. The lower earnings limit is reviewed regularly, usually in April.
- If the above criteria are satisfied, the employee will be entitled to SMP for a maximum period of 39 weeks. The amount depends on their earnings. The first 6 weeks are paid at 90% of average weekly earnings and the remaining 33 weeks are paid at the weekly standard SMP rate(which changes annually) or the earnings related rate if this is less than standard SMP rate.
- SMP will be paid in the same way and at the same time as normal wages would have been paid.

5.5 Occupational Maternity Pay (OMP) under the NHS Scheme

An employee working full or part-time is entitled to OMP(Appendix 2) under the NHS scheme provided that she:

- has 12 months continuous service with one or more NHS employers and continues to be employed by SDCCG until at least the beginning of the 11th week before the expected week of childbirth (EWC); and
- notifies the SDCCG, by completing the maternity leave and pay notification

form (see Appendix 1) at least 15 weeks before her expected date of childbirth (EDC) that she intends to take Maternity Leave (or as soon as is reasonably practicable thereafter), of the date she wishes to start her maternity leave and intends to return to work for a minimum period of three months with the same or another NHS employer; and

- submits a statement (MAT B1) signed by a registered medical practitioner or a practising midwife at least 28 days before commencement of Maternity Leave, indicating the expected date of childbirth.
- Confirms her intent to return to work in writing.

Entitlements under the Scheme

- An employee who qualifies for full benefits and intends to return to work with the same or another employing authority will be entitled to 52 weeks Maternity Leave, paid as follows:-
 - a) 8 weeks at full pay including any SMP, Maternity Allowance (MA) or equivalent benefits receivable;
 - b) 18 weeks at half pay reduced only where half pay plus any SMP, Maternity Allowance (MA) or equivalent benefits payable exceeds full pay;
 - c) 13 weeks at SMP, if payable;
 - d) 13 weeks unpaid leave.
- An employee who qualifies for full benefits and does not intend to return to work for the same or another employing authority will be entitled to 52 weeks Maternity Leave, paid as follows:
 - a) 6 weeks SMP, paid as 90% of full pay (average weekly earnings);
 - b) 33 weeks at the lesser of standard rate SMP or 90% of average weekly earnings;
 - c) 13 weeks unpaid leave.
- In exceptional circumstances, for example in the case of a multiple birth or sick pre-term babies, the unpaid element of leave may be extended beyond 13 weeks. Requests for this should be submitted in writing to the employees' line manager who may seek advice from the HR Department.

6 Exceptional Circumstances

6.1 Early Childbirth

- Where childbirth occurs before the 11th week before the EWC and the employee has worked during the actual week of childbirth, Maternity Leave will start on the first day of the employee's absence.
- Where childbirth occurs before the 11th week before the EWC and the employee has been absent from work on certified sickness absence during the actual week of childbirth, Maternity Leave will start the day after the day of birth.

6.2 Miscarriage

Where an employee has a miscarriage before the 25th week of pregnancy then normal sick leave provisions will apply as necessary.

6.3 Still Birth

In the event of a still birth after the 24th week of pregnancy the employee will be entitled to the same amount of maternity leave and pay as if her baby was born alive.

7 Other Provisions

7.1 Ante-natal and Post-natal Care

- Pregnant employees have the right to reasonable paid time off for ante-natal care including relaxation and parent craft classes.
- Employees who return to work shortly after giving birth will be given paid time off for post natal care e.g. attendance at health clinics.

7.2 Calculation of Pay

- Maternity Pay is calculated on average earnings paid for two months prior to the Qualifying week. Employees with average weekly earnings below the Lower Earnings Limit who do not qualify for SMP may be entitled to Maternity Allowance (MA) or other benefits through the Jobcentre.

7.3 Implementation of a Pay Award Or Annual Increment

- Absence due to Maternity Leave, whether paid or unpaid, counts as service towards the normal annual increment.
- Where a pay award and/or annual increment are implemented from a date prior to the paid Maternity Leave period, the Maternity Pay will be calculated as though the pay award had effect throughout the entire SMP calculation period. If a pay award is agreed retrospectively, the Maternity Pay will be recalculated on the same basis.
- Where a pay award and/or annual increment is implemented from a date during the paid Maternity Leave period, the Maternity Pay due from the operative date of the pay award or annual increment should be increased accordingly. Again, if such a pay award were agreed retrospectively, the Maternity Pay should be recalculated on the same basis.
- In the case of an employee on unpaid sick absence or on sick absence attracting half pay during the whole or part of the period used for calculating average weekly earnings, in accordance with the earnings for the period of sick absence shall be calculated on the basis of notional full sick pay.

7.4 Employees on a Fixed-Term or Training Contract

- An employee who is entitled to full benefits under the NHS Scheme, i.e. who satisfies the conditions under Section 5.5(excluding the last point) and whose contract is due to end after the 11th week before the EWC, will have her contract extended to enable her to receive 52 weeks Maternity Leave which includes paid occupational and statutory maternity pay and the remaining 13 weeks of unpaid leave.

- Under these circumstances, there will be no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred, so the repayment provisions set out in this policy will not apply.
- Employees who do not satisfy the conditions under section 5.5 and whose contract ends after the 15th week prior to the EWC but before the 11th week prior to the EWC, will not be entitled to maternity leave but SMP may be payable. In this case, the contract will not be extended but the CCG will be responsible for paying any SMP due. Under these circumstances, the employee must inform the line manager and HR if she starts work for another employer following the birth of the baby and must still provide evidence of pregnancy via the MAT B1 form.

7.5 Contractual Rights

An employee retains all her contractual rights, except remuneration, during the Maternity Leave period.

7.6 Annual Leave

- Annual leave will continue to accrue during maternity leave, whether paid or unpaid.
- Where the amount of accrued leave would exceed the normal carry over provisions, the manager and employee should agree arrangements for the leave to be taken either prior to or immediately following the maternity leave period.
- In exceptional circumstances, where leave cannot be carried over for operational reasons, payment in lieu of annual leave may be considered.
- All maternity leave, including unpaid maternity leave, will count as service for the purpose of satisfying the service qualification for accruing additional annual leave entitlements.
- Bank Holiday leave is not accrued whilst on paid or unpaid maternity leave.

7.7 Pension

Contributions will be deducted from salary as normal during paid Maternity Leave and continue to be payable during unpaid leave. On return to work, arrears of contributions will be recovered and deducted from salary over an agreed period of time.

7.8 Pay Progression Framework

The expectation is that an employee on maternity leave will progress through a pay progression gateway on the due date if concerns have not been raised about the employee's capability prior to maternity leave commencing.

8 Maternity related Procedures

8.1 How to Claim Maternity Leave and Pay

- The maternity leave and pay notification form (Appendix1) should be completed no later than the end of the 15th week before the EWC and signed by the employee and their Line Manager. This should then be handed to Human Resources.
- Maternity Leave can start on any day of the week. Any Annual Leave to be taken before the commencement of Maternity Leave should be taken into account.
- On receipt of form MAT B1 from a registered medical practitioner or a practising midwife, should be handed to HR, who will then liaise with payroll to determine whether the employee qualifies for SMP. If the employee does not qualify for SMP, they will be sent a SMP1 form together with the Maternity Certificate MAT B1. These forms will be needed to claim Maternity Allowance from Jobcentre Plus.
- The employee will receive written confirmation detailing:
 - their maternity entitlements, both paid and unpaid
 - her expected return date based on 52 weeks paid and unpaid leave unless an earlier return date has been given

- details of any accrued annual leave that is to be taken at the end of the maternity leave period
- the need for her to give at least 28 days' notice if she wishes to return to work before the expected return date.
- If the employee subsequently decides that she wishes to change the start date of her maternity leave she must notify her Line Manager at least 28 days beforehand or where this is not possible as soon as is reasonably practicable.

8.2 Keeping in touch

- Before going on maternity leave employees should discuss and agree with their line manager any voluntary arrangements for keeping in touch during their leave.
- Keeping in Touch (KIT) days allow employees to do a limited amount of work under their contract during their Maternity leave period. They are intended to facilitate a smooth return to work for women returning from maternity leave and can include training or other activities which enable the employee to keep in touch with the workplace.
- An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of her baby.
- To enable employees to take up the opportunity to work KIT days, the CCG could consider the scope for reimbursement of reasonable childcare costs or the provision of childcare facilities.
- An employee may work a maximum of 10 KIT days without bringing her maternity leave to an end. Any days of work will not extend the maternity period.
- Working for part of any day will count as a whole KIT day.
- The employee will be paid at their basic daily rate for the hours worked less appropriate maternity leave payment for KIT days worked.
- Line managers must notify HR of the KIT days taken by the employee for the payroll run.

- Any work undertaken must be by agreement and neither the employer nor the employee can insist upon it.

8.3 Return to Work

- If the employee wishes to take her full entitlement to Maternity Leave she need not give any further notification of her return to work. An employee has the right to return to her job under her original contract and on no less favourable terms and conditions.
- If the employee wishes to return to work before the end of her full entitlement to leave, she must give at least 28 days' notice of her date of return.
- An employee has the right to apply to return to work on a part-time or flexible working basis. Applications should be made to their Line Manager and will be given fair and objective consideration (refer to section 8.6).

8.4 Sickness Following the end of Maternity Leave

- Where an employee is unable to return to work following the date she was due to return as a result of illness, normal sick leave provisions will apply.

8.5 Failure to return to Work

- An employee who has notified the CCG of her intention to return to work for a minimum of three months for the same or another NHS employer, and fails to do so within 15 months of the beginning of her maternity leave will be liable to refund the whole of her maternity pay, less any Statutory Maternity Pay received
- In exceptional cases where the CCG considers that to enforce this provision would cause undue hardship or distress, it has the discretion to waive the right of recovery

8.6 Returning on flexible working arrangements

- If, at the end of the maternity leave, the employee wishes to return to work on different hours, they should write to their manager detailing their expectations at least 8 weeks prior to their return to work.
- The CCG will duly consider this request; however they are not legally obliged to accept it.
- In circumstances where it is not possible for the CCG to accommodate the flexible working request, they will provide in writing the justifiable reasons for this.
- The employee should return to the same pay band and work of a similar nature and status, to that which they held prior to their maternity absence.
- If it is agreed that the employee will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period, this will not affect the employees right to return to her job under her original contract, at the end of the agreed period.

8.7 Health and Safety

- Where an employee is pregnant, has recently given birth or is breastfeeding, then a risk assessment of her working conditions will be carried out. If it is found, or if a medical practitioner considers, that an employee or her child would be at risk were she to continue with her normal duties, she will be provided with suitable alternative work for which she will receive her normal rate of pay. Where it is not reasonably practicable to offer suitable alternative work, the employee will be suspended on full pay.
- These provisions also apply to an employee who is breastfeeding if it is found that her normal duties would prevent her from successfully breastfeeding.
- During pregnancy, it is the responsibility of the member of staff to ensure that they discuss and agree a Personal Evacuation Plan (PEP) with their line manager to ensure that they are able to quickly and safely exit the building in the case of a fire or other incident requiring evacuation.

9 Miscellaneous provisions

- Employees on fixed-term or training contracts which expire after the 11th week before the expected week of childbirth and who satisfy the conditions, shall have their contracts extended so as to allow them to receive the 52 weeks, which includes paid contractual and statutory maternity pay, and the remaining 13 weeks of unpaid maternity leave.
- If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred, the repayment provisions will not apply.
- Staff on fixed term contract who do not meet the 12 months' continuous service conditions may still be entitled to statutory maternity pay.

10 Childcare Voucher Scheme

Information on the childcare voucher scheme and provisions available locally can be obtained from the HR Team.

11 Provision For Nursing Mothers

- Employees who have recently given birth should have paid time off for post-natal care e.g. attendance at health clinics etc.
- The CCG are required to undertake a risk assessment and to provide breastfeeding women with suitable private rest facilities. The health and safety executive guidance recommends that employers provide:
 - A clean, healthy and safe environment for women who are breastfeeding;
 - Suitable access to a private room to express and store milk in an appropriate refrigerator
- If a nursing is mother returning to work, she should inform her line manager as soon as possible so they are able to make the necessary arrangements.
- If an employee who is breastfeeding requests for flexible working arrangements to support breastfeeding mothers at work could be considered.

Appendix 1

Maternity leave and pay notification form

Please complete all sections, attach your MAT B1 Certificate to this form and return to HR

Personal Details

| | |
|--|--|
| Full Name: | |
| Payroll Number: | |
| Post Title: | |
| Pay Band: | |
| Directorate/Location: | |
| Home Address: | |
| Contact Tel No: | |
| Manager's Name: | |
| Manager's Job Title: | |
| Manager's Contact Details: | |
| Expected Date of Confinement: | |
| My last working day will be: | <i>(Taking into account any annual leave you wish to take prior to maternity leave)</i> |
| I intend to commence maternity leave on: | |
| My intended date of return is: | |

| | |
|---------------------------------------|-------------------------------------|
| My intended number of weeks leave is: | <i>(Maximum of 52 weeks)</i> |
|---------------------------------------|-------------------------------------|

Maternity Entitlement – (please tick appropriately)

I will have more than 12 months continuous service with the NHS at the beginning of the 11th week before the expected week of childbirth and wish to apply for full occupational and statutory maternity pay entitlement.

or

I have less than 12 months continuous service with the NHS and wish to apply for statutory maternity pay

or

I am unable to satisfy the conditions to qualify for statutory maternity pay. Please supply me with and SMP1 form to enable me to apply for maternity allowance through my local Jobcentre Plus office.

Maternity Pay

Please indicate your preference of how you would like to receive your maternity pay:

I would like to receive 8 weeks full pay (including SMP), then 18 weeks half pay plus SMP or allowances as applicable

or

I would like to receive my pay averaged over the Occupational Maternity Pay Period.

Pension Scheme

If you are currently a member of the pension scheme you have the option to opt out of the scheme for the duration of your maternity leave. If you wish to take up this option you will need to complete the enclosed SD502 form and return it directly to NHS Hampshire, Pensions Department, St James Hospital, Locksway Road, Portsmouth, PO4 8LD.

Please tick the box below if you wish to opt out:

- I wish to opt out of the pension scheme for the duration of my maternity leave (NB if you wish to rejoin the pension scheme on your return to work, you will have to notify Payroll)

Agreement

- I confirm that it is my intention to continue in the employment of NHS Surrey Downs CCG (or with another NHS body) for a minimum of three months upon my return from maternity leave.
- I do not intend to continue in the service of NHS Surrey Downs CCG (or another NHS body) following my Maternity Leave.

I have read Maternity, Paternity and Adoption Leave & Pay Policy and understand that if I fail to return to work for NHS South CSU or another NHS body for a minimum period of 3 months after my maternity leave has ended I will be liable to refund the maternity pay received, with the exception of any statutory maternity pay provision.

| | |
|---------------------------------|--------------------|
| Line Managers Signature: | Print Name: |
| | Date: |
| Employee Signature: | Print Name: |
| | Date: |

Appendix 2

Maternity Entitlement

