

MATERNITY, ADOPTION & MATERNITY SUPPORT (PATERNITY) LEAVE POLICY AND PROCEDURE

Summary

This policy and procedure outlines the process for applying for maternity, adoption and maternity support (paternity) leave, it also includes a surrogacy agreement. The policy covers a range of situations that may arise such as pay, sickness absence and returning to work. It sets out the rights and obligations of both staff and managers before, during and after leave.

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1. INTRODUCTION

- 1.1 This policy and procedure outlines the process for applying for maternity, adoption or maternity support (paternity) leave. It covers a range of situations that may arise during the process including changes in rates of pay, sickness absence and returning to work. It also sets out the rights and obligations of staff and managers. This policy applies to substantive Trust employees including those on fixed term contracts. For Bank workers' entitlement please refer to your terms of engagement.

2. MATERNITY LEAVE

Subject to giving the correct notice of at least 15 weeks before the due date, all women on maternity leave are entitled to take 52 weeks maternity leave. The pay entitlement during maternity leave is dependent on various criteria outlined below.

2.1 Entitlement to maternity pay and how it is calculated

- 2.1.1 Maternity pay is paid in the same way as normal pay and is subject to deductions of income tax, National Insurance contributions and superannuation, where appropriate.

A maternity flowchart can be viewed in Appendix 1. This will help you to determine what type of maternity pay you are eligible for.

2.2 Statutory Maternity Pay (SMP)

- 2.2.1 If you have at least 26 weeks continuous service with the Trust by the beginning of the 15th week before your Expected Week of Childbirth (EWC), you are entitled to SMP and 52 weeks leave. This is:

- 6 weeks on 90% of your normal pay
- 33 weeks on flat rate SMP or 90% of your average weekly earnings, whichever is lower
- 13 weeks unpaid leave

Please note that flat rate SMP varies each year, please contact the HR Department on extension 6660 or payroll to find out the current rate of SMP or you can view the information on the gov.uk website. New rates of SMP are introduced every April by the government.

- 2.2.2 You do not have rights to SMP if:

- You do not have 26 weeks continuous service with the Trust by the beginning of the 15th week before your EWC
- You do not provide proof of your pregnancy i.e. a copy of your MatB1 certificate
- Your earnings before tax are below the Lower Earnings Limit for National Insurance
- You work more than 10 Keeping in Touch (KIT) days during your paid maternity period
- You are in legal custody.

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2.2.3 If you have left the Trust, in some circumstances, you may still be entitled to receive SMP from us. You will receive SMP from the Trust if you had at least 26 weeks continuous service with us by the beginning of the 15th week before your Expected Week of Childbirth (EWC), you are employed by another employer, they are not able to pay you SMP and you satisfy the qualifying conditions outlined in sections 2.2.1 and 2.2.2.

2.2.4 Bank workers may be entitled to receive SMP subject to meeting the qualifying conditions.

2.3 Occupational Maternity Pay (OMP)

2.3.1 If you have at least 12 months' continuous service with the NHS by the 11th week before your Expected Week of Childbirth (EWC) and you intend to return to work at The Royal Marsden or the NHS for a minimum of 3 months, you will receive:

- 8 weeks on full pay less SMP or Maternity Allowance receivable
- 18 weeks on half pay
- 26 weeks unpaid leave

Continuous NHS service is working in the NHS with a break of less than 3 months between appointments. Breaks of less than 3 months will be disregarded though not count as service. See section 2.7 below for further information.

2.4 OMP plus SMP

2.4.1 If you have at least 26 weeks continuous service with the Trust by the beginning of the 15th week before your Expected Week of Childbirth (EWC), at least 12 months' continuous service with the NHS by the 11th week before your EWC and you intend to return to work at the Royal Marsden or the NHS for a minimum of 3 months, you will receive:

- 8 weeks on full pay
- 18 weeks on half pay plus the flat rate Statutory Maternity Pay (or average weekly earnings, whichever is lower)
- 13 weeks on SMP flat rate
- 13 weeks unpaid leave

2.5 How is maternity pay calculated?

2.5.1 The maternity pay (SMP and/or OMP) that you receive is calculated by averaging your total pay (gross earnings) over a two month period. The reference period used by the Payroll Department will be your last two monthly pay slips which precede the 15th week before your EWC. If you are due an increment or pay award then this will be taken into account.

Examples:

- If your due date fell in the week beginning 1st February, the 15th week before that date would be 19th October; therefore Payroll would calculate your maternity pay by averaging your total pay using the payslips for August and September.

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- If your due date fell in the week beginning 15th March, the 15th week before that date would be 30th November; therefore Payroll would calculate your maternity pay by averaging your total pay using the payslips for October and November (as you would have been paid on the 25th November).

2.5.2 If you are in a salary sacrifice scheme you would need to consider whether to leave the scheme to avoid this having a negative impact on your maternity pay. For further information, please contact the HR Department on extension 6660 or HRAdminandPay@rmh.nhs.uk.

2.5.3 In the event of a pay award being implemented before the paid maternity leave period, the maternity pay should be calculated as though the pay award was in effect throughout the entire Statutory Maternity Pay calculation period. If you believe your maternity pay calculation is incorrect please contact payroll directly for clarification on 0303 123 1144 or by emailing payroll on: sbs.payrolldesk@nhs.net.

2.5.4 In the event of a pay award being implemented from a date during the paid maternity leave period, the maternity pay due from the date of the pay award should be calculated as if the pay award had effect throughout the Statutory Maternity Pay calculation period.

2.5.5 In the case of an employee on unpaid sickness absence, or on sickness absence with half pay, during the whole or part of the period used for calculating average weekly earnings, average weekly earnings shall be calculated on the basis of notional full sick pay.

2.6 Maternity Allowance (MA)

2.6.1 If you are not eligible for SMP you may be entitled to receive Maternity Allowance (MA).

2.6.2 **Maternity Allowance for 39 Weeks:** You will qualify for MA for 39 weeks if you have worked for an employer for at least 26 weeks and were paid during that time for at least 13 weeks. The period of work can have occurred at any time during the 66 weeks up to the week before your EWC. You must have earned a minimum of £30 a week during the 13 week period.

2.6.3 **Maternity Allowance for 14 Weeks:** You will qualify for MA for 14 weeks if for at least 26 weeks in the 66 weeks before your baby is due:

- You are married or in a civil partnership
- You are not employed or self-employed
- You take part in the business of your self-employed spouse or civil partner
- The work you do is for the business and unpaid
- Your spouse or civil partner is registered as self-employed with HM Revenue and Customs (HMRC) and should pay Class 2 National Insurance
- Your spouse or civil partner is working as a self-employed person
- You are not eligible for SMP or the higher amount of MA (for the same pregnancy).

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2.6.4 The flat rate of MA varies each year, please check the gov.uk website to find out the current rate.

2.6.5 Information and MA Claim Packs can be found at your local Jobcentre Plus branch or can be downloaded from the gov.uk website. Please contact your local Jobcentre Plus for further information on how to claim.

2.7 Continuous Service

2.7.1 For the purpose of calculating whether you meet the 12 months' continuous service eligibility criteria with one or more NHS employers, set out in paragraph 2.3.1 above, the following provisions shall apply:

- The NHS employer can include NHS health authorities, NHS boards, NHS Trusts and the Northern Ireland Health Service
- A break in service of three months or less will be disregarded but the duration of the break will not contribute to your total length of service.

2.7.2 The following breaks in service will be disregarded (although the duration of the breaks will not count towards your total length of service):

- Work undertaken under the terms of an honorary contract
- Employment as a locum with a General Practitioner for a period not exceeding 12 months
- A period of up to 12 months spent abroad as part of a definite programme of postgraduate training on the advice of the postgraduate dean or college or faculty advisor in the speciality concerned
- A period of voluntary service overseas with a recognised international relief organisation for a period of 12 months, which may exceptionally be extended for 12 months at the discretion of the employer which recruits the employee on their return.

2.8 Pension payments during maternity leave

2.8.1 If you are paying into the NHS Pension Scheme, your pension contributions will continue at the same rate and will be deducted from your maternity pay. However, when your maternity pay ends and you commence unpaid maternity leave, your employee pension contributions will stop. During unpaid maternity leave the employer's contribution will continue to be paid and arrears of your employee contributions will accumulate.

2.8.2 When you return to work these arrears will be deducted from your pay. The repayments are calculated based on your pay immediately prior to commencing unpaid maternity leave. They will be collected over the same time scale as they built up e.g. if you are on no pay for three months, the accumulated arrears will be deducted over the three months following your return to work. If this creates financial difficulties please contact the pensions team of the payroll department to discuss alternative methods of repayment.

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2.8.3 If you have any further questions about how your pension is affected during your maternity leave please log an enquiry with the payroll helpdesk either by calling them on 0303 123 1144 or by emailing them on sbs.payrolldesk@nhs.net and a member of the pensions team will get back to you.

2.9 Returning to work

2.9.1 Your manager will be expecting you to return to work on the date stated on your Notification form in section A. To confirm that these dates have not changed, please complete the Return to Work Form (Appendix 4) enclosed with your Maternity Leave and Pay confirmation letter with your agreed return to work dates and send it to your manager at least 8 weeks before you are due to return. Your manager will need to send this form to the HR department before the 5th of the month you are due to return in to ensure you are paid correctly.

2.9.2 If you wish to return on a different date, either earlier or later than originally agreed, please complete the Return to Work Form with your new dates and discuss this with your manager, giving at least 8 weeks notice. The same procedure as above in 2.9.1 will apply.

2.9.3 An employee returning to work after maternity leave has the right to return to her job under her original contract and on no less favourable terms and conditions.

2.9.4 Employees who have received OMP are required to return to work in the NHS in a substantive post for a minimum of three months within 15 months of the beginning of maternity leave. This can be with the current or a different NHS employer.

2.9.5 If an employee decides not to return to work for this Trust and is due to commence employment with a different NHS employer following their maternity leave, the employee is required to commence the new employment within 15 months of the start of their maternity leave. A copy of the contract or letter confirming the commencement date with the new employer needs to be sent to the HR department at this Trust before the end of the employee's maternity leave. Consequences of failing to do so are outlined in 2.10.2 below.

2.9.6 Employees have the right to return to work on their current hours however, as the parent of a young child, they have the right to request flexible working. To request flexible working please follow the Flexible Working Procedure and complete the required application form. Managers will give each request careful consideration however it may not be possible to approve all flexible working requests. Flexible working is at the discretion of managers and will be dependant on the needs of the service.

2.9.7 Doctors in training returning from maternity leave should be able to contact a named consultant, normally the educational supervisor, who can support and advise them during the first three months of their return.

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2.10 Failure to return to work

2.10.1 Employees are required to provide their normal period of notice if they do not intend to return to work following their maternity leave.

2.10.2 An employee shall be required to refund the whole of the occupational maternity pay received (less any Statutory Maternity Pay, to which she is entitled) if she either:

- Fails to return when she had notified the Trust of her intention to do so
- Fails to remain in continuous employment in the NHS for 3 months following a return to work after maternity leave

OR

- Where she has notified her intention to return to another NHS employer, but fails to submit a copy of her contract or letter of appointment confirming that the start date with the new employer is within 15 months of the start of her Maternity Leave, as outlined in 2.9.5 above.

2.10.3 Where OMP has been paid but the employee does not return to work continuously for 3 months, the difference between SMP and OMP entitlement will be treated as an overpayment and repayment required. Only in exceptional circumstances would a waiver be considered and this must be authorised by the Chief Financial Officer.

2.10.4 If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred, paragraph 2.10.2 above shall not apply unless the Trust can demonstrate that the declaration of intent to return to work was not signed in good faith.

2.11 Post-natal care and breastfeeding mothers

2.11.1 Women who have recently given birth should be given paid time off for post-natal care e.g. attendance at health clinics.

2.11.2 The Trust will provide breast-feeding women with suitable rest facilities for the purpose of expressing and safely storing milk.

3. HOW TO APPLY FOR MATERNITY LEAVE

This procedure explains what you need to do to ensure that you receive your maternity pay/leave entitlements and that your maternity leave is organised appropriately within your department.

During your maternity leave you are still an employee. You must maintain the professional registration that is required for your role. If you intend to let your registration lapse due to not returning to work, or other relevant circumstances, you must discuss this with your manager in the first instance. You may also need to inform your regulatory body of your plans.

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3.1 Notifying your Manager

3.1.1 You need to notify your manager as soon as possible that you are pregnant and inform them that you will be applying for maternity leave/pay. You and your manager are responsible for completing a workplace risk assessment to ensure your continued health and safety during your pregnancy and during breastfeeding. For a risk assessment form for expectant mothers please see the Trust's 'Protection of New and Expectant Mothers at Work Policy'. If a potential risk is identified, your manager will refer you to Occupational Health for advice. Although there are no specific risks from working at night, individual conditions of work and health may need to be taken into account. Further advice regarding the suitability of night work may be sought by your manager from Occupational Health.

3.1.2 In the following circumstances, the Trust shall provide alternative work, for which the normal rate of pay will be received:

- Where a registered medical practitioner declares an employee as incapable of carrying out all or part of her duties in the period prior to the 15th week before the EWC.
- Where the Trust or the registered medical practitioner consider that she or the unborn child would be at risk were she to continue in her normal duties but that it is not necessary for her to refrain from all work.
- Where an employee has recently given birth and is breastfeeding and the substantive post cannot be adjusted.

3.1.3 Your manager may need to organise cover for you while you are on maternity leave (or a replacement if you are not returning), and communicate any changes to the users of your service. It is therefore vital that you give your manager as much notice as possible to enable them to make these preparations. It is also advisable to discuss arrangements for your return from maternity leave with your manager as soon as possible. If you are seeking reduced hours after your maternity leave you should discuss this with your manager before commencing maternity leave.

3.1.4 You must tell your manager in writing using the Trust Maternity Leave form before the end of the 15th week before your EWC:

- that you are pregnant and want to take maternity leave
- the date the baby is due using your MatB1 form
- the date you plan to start your leave
- whether you plan to return to work at the end of your leave or if you wish to resign.

*A copy of the Trust's Maternity Leave Form can be viewed in **Appendix 2**.*

3.1.5 If you do not give your manager the required notification as stated above you may lose your right to start your maternity leave on your chosen date.

3.1.6 You can change the date you start your maternity leave providing you tell your manager at least 28 days in advance. If you do not do this, you may lose your right to start your maternity leave on your chosen date.

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3.2 Timing of leave

3.2.1 The earliest date an employee may commence maternity leave is at the beginning of the 11th week before the EWC.

The latest an employee may commence maternity leave is the date the baby is due as stated on the MatB1 form. If the baby is born before the start of the expected maternity leave date, the date will change to the day after the baby was born.

3.2.2 Where childbirth occurs prior to the fourth week before the EWC, the following conditions will apply:

- When the employee has worked in the actual week of childbirth and is entitled to payment in respect of the work done, the maternity leave shall commence from the first day of the employee's absence.
- When the employee has been absent from work on certified sickness absence during the actual week of childbirth or on annual leave, maternity leave will start the day after the day of birth.
- When childbirth has occurred prior to the 11th week before the EWC and the child is in hospital, the employee may choose to split her maternity leave entitlement, taking a short period of leave immediately after childbirth (no less than 2 weeks), returning to work, and then taking the balance of leave following the child's discharge from hospital. Statutory Maternity Pay will not be interrupted and will run at the same time. It will form part of the employee's normal salary. Therefore not all future leave would attract Statutory Maternity Pay.

3.2.3 Employees must notify Human Resources immediately, if during their maternity pay period they either:

- Start work for another employer after the birth

OR

- Are taken into legal custody

3.2.4 If either of the above circumstances arises, the entitlement to SMP will end in the week before the particular event.

3.3 Employees On Fixed-Term or Rotational Training Contracts

3.3.1 Employees subject to fixed-term contracts or rotational training contracts which expire after the 11th week before the expected week of childbirth and who satisfy the qualifying conditions of OMP shall have their contracts extended so as to enable them to receive 52 weeks maternity leave.

3.3.2 For those employees who do not meet the eligibility criteria for OMP but do meet the eligibility criteria for SMP the contract will still expire on its due date. The Trust will still be obliged to pay SMP. This may be paid during maternity leave, during the maternity pay period beginning 11 weeks before the expected week of childbirth and ending after 39 weeks or as a lump sum as part of your final salary with the

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Trust. For each individual case a decision will be made in relation to the timing of the payment after consultation with payroll.

- 3.3.3 If you take up employment after the birth of your baby before the end of 39 weeks, you must inform the Trust and your SMP payment will stop the day before taking up new employment. You will not accrue any annual leave or bank holidays whilst you are being paid the 39 weeks SMP as you will no longer be a Trust employee.
- 3.3.4 Absence on maternity leave (paid and unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service.
- 3.3.5 Where an employee is participating in a planned rotation of appointments as part of an agreed programme of training, they shall have the right to return to work in the same post or in the next planned post with the same or another employing authority/Trust, irrespective of whether the contract would have ended if pregnancy and childbirth had not occurred. In such circumstances, the contract will be extended to enable the practitioner to complete the agreed programme of training.

3.4 Still birth and miscarriage

- 3.4.1 When a still birth occurs after the 24th week of pregnancy, the employee will be entitled to the same amount of maternity leave and pay as if the birth had been live.
- 3.4.2 Where an employee has a miscarriage before the 25th week of pregnancy, normal sick leave provisions will apply as necessary.
- 3.4.3 In the event of distressing circumstances we would encourage staff to make use of the Trust's staff counselling service, who can be contacted via the Occupational Health Department on ext 2139 or 3003.

4. ADOPTION LEAVE

4.1 Adoption Leave Entitlements

- 4.1.1 The provisions of the maternity policy (with the exception that OMP and SMP are replaced by Occupational Adoption Pay and Statutory Adoption Pay) apply to the adoption of a newly matched child and to the person who has primary care responsibilities for that child. The other parent may be entitled to paternity leave provisions (see section 10). Where both parents are employees of the Trust, the period of adoption leave may be shared.
- 4.1.2 If you are adopting a newly placed foster child you must be matched for adoption by a recognised agency to be eligible for Adoption Leave or Pay. If the foster child is not newly placed and has been under your care for some time, you will not be entitled to receive Adoption Pay or Leave. You will not be entitled to receive Adoption Pay or Leave for adopting a step child. However, in both cases you may be entitled to other forms of leave for official appointments. Appointment cards or letters will need to be provided as per the Special Leave Policy.

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4.1.3 In accordance with the Children and Families Act 2014 eligible employees and agency workers with 12 weeks service are entitled to time off to attend adoption appointments in the period between being notified of a match and the child being placed with the family for adoption:

- Single adopters are entitled to paid time off to attend up to 5 adoption appointments.
- In the case of joint adoptions (i.e. a couple who have been jointly matched to adopt the child) one of the adopters will be entitled to paid time off to attend up to 5 adoption appointments. The other adopter may be entitled to unpaid time off work to attend up to 2 adoption appointments.

Up to 6.5 hours is allowed for each appointment.

Where there are joint adopters, the adopter who took paid time off to attend adoption appointments cannot claim paternity leave and pay.

4.1.4 The earliest date on which adoption leave can begin is 14 days before the expected date of placement. The latest date on which leave can commence is the date the child is placed for adoption. If you are adopting a child from overseas the adoption leave period may begin on the date the child enters Great Britain or on a date no later than 28 days after this date.

4.2 Notification Requirements

4.2.1 Adoptive parent(s) must notify their manager of their intention to take adoption leave within 7 days of being matched with a child. They must give details of the expected placement date and start date of leave, by completing the Notification form in Appendix 2. They must also issue HR with a matching certificate from a recognised UK adoption agency. The HR department must respond within 28 days of receipt.

4.2.2 Leave should be granted to cover official meetings in the adoption process as well as time after the adoption itself.

4.2.3 Notification of return to work after adoption leave is as per the maternity policy (sections 2.9 and 2.10 above).

5. KEEPING IN TOUCH DAYS (KIT DAYS)

5.1 Before you go on maternity leave you need to agree with your manager how you will keep in touch during your leave. Keeping in touch will help you stay up-to-date with changes at work, making it easier for you to adjust when you return.

5.2 An additional way for keeping in contact during maternity leave is to do paid work called 'Keeping in Touch' (KIT) for a maximum of 10 days. Work undertaken on a KIT day should be agreed between you and your manager, but may not be limited to your normal duties; they can be used for training to update your skills, attend meetings and other events.

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- 5.3 KIT days can be worked from the third week of your maternity leave i.e. during paid and unpaid maternity leave, without bringing your maternity leave to an end, or losing your statutory maternity pay (SMP).
- 5.4 You may not work KIT days during the 2 weeks immediately after the birth of your child. This is a period of compulsory maternity leave during which employees are prohibited from working.
- 5.5 Working for part of any day will count as using 1 whole KIT day (for example, even if you come to work for one hour, this will count as 1 KIT day). You will be paid at your basic daily rate, for the hours worked less appropriate maternity leave payment for KIT days worked.
- 5.6 If the work carried out during one shift starts in the evening, and continues into the early hours of the next day, this will count as 1 KIT day.
- 5.7 KIT days must be agreed between you and your line manager. KIT days are optional; neither you nor your manager can insist on taking them.
- 5.8 Some important points for managers and staff to consider when arranging KIT days are:
- To agree on a structure, purpose and outcome for the days
 - To book your KIT days at times that will be most useful to you and your department e.g. during busy times or quiet times
 - To predict any disruptions or problems that may be caused when you attend work e.g. clarity for staff covering your post, and breastfeeding facilities for you
 - Managers must ensure that a risk assessment of your working conditions is carried out. If it is found that you would be at risk were you to continue with your normal duties, suitable alternative work should be found (for which you will receive your normal rate of pay)
 - To arrange childcare well ahead of time as this can be costly and generally more difficult to arrange on odd days. Although KIT days do not have to be consecutive, consideration may need to be given to working blocks of KIT days rather than a single day to ease any childcare difficulties. Childcare costs arising from KIT days are paid for by the employee.
- 5.9 For doctors in training who are on rotation, KIT days can be requested to be taken in the Trust they were working for when they commenced maternity leave or in the Trust they are due to work for following their return from maternity leave.
- 5.10 If you do not use all 10 KIT days during your maternity leave period, the remainder cannot be taken once your maternity leave period ends.
- 5.11 Please note the following rules regarding payment for KIT days:
- Payment for hours worked on KIT days will be based on the hourly rate of your basic contracted salary.

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- If you qualify for Occupational Maternity Pay (OMP) and you choose to work a KIT day during this period, you will be only be paid for the hours worked and you will not receive your OMP for that day. For example, if you come to work for 2 hours, you will only be paid for 2 hours for that day. Therefore, it would be more beneficial to take KIT days outside the OMP period.
- If you worked part-time prior to taking maternity leave, your hourly rate of pay for a KIT day will be based on your part-time salary.

5.12 If KIT days occur during the period when you are receiving Statutory Maternity Pay (SMP), please note:

- Your SMP will not be affected; this will be paid to you as a minimum. The Trust will then ‘top up’ the SMP for hours worked during a KIT day
- If you come in to work the equivalent of a full day, the maximum pay you will receive will be the equivalent to a normal day’s pay
- If a week in your maternity pay period contains only KIT days, you will be paid SMP for that week as a minimum, and the maximum you will receive will be the equivalent to a normal week’s pay
- If you have used up all 10 of your KIT days and do a further days work, you will not receive any SMP for that week.

Details of KIT days worked should be recorded on the KIT Day Record Form. This can be viewed in Appendix 3.

- If you would like to receive payment for KIT days as they are worked, please complete the form and send it to HRAdminandPay@rmh.nhs.uk. Payment will be processed in line with monthly Payroll deadlines.
- Alternatively, you can wait until you have taken all your KIT days and then submit the form at the end of your maternity leave to receive a lump sum payment for KIT days worked. However, the form must be sent to Human Resources before your maternity leave ends.

6. BANK WORK AND MATERNITY LEAVE

6.1 If an employee does Bank work during their paid or unpaid maternity leave, it could be deemed that they have returned to work and that their period of maternity leave should end. Therefore employees on maternity leave cannot work on the Bank whilst on maternity leave. However, some flexibility is afforded by the use of the paid KIT days up to a maximum of 10 days, as mentioned above.

7. SURROGACY AGREEMENT

7.1 If a member of Trust staff becomes pregnant as part of a Surrogacy agreement they will be managed under the maternity policy.

7.2 If you are the intended parent and primary carer of a child born through a surrogacy arrangement, your eligibility to leave will be the same as Adoption leave.

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The pay entitlement will depend on the circumstances of each case. However, please note that there are currently no provisions for Statutory Surrogacy Pay.

Adoption/surrogacy leave and pay is available to one member of a couple where a couple jointly adopt. The other member of the couple may be entitled to Paternity Leave and Pay.

7.3 On 1 October 2014 Parental Order parents became entitled to take unpaid leave to enable them to accompany the surrogate mother to up to 2 of her antenatal appointments (up to 6.5 hours is allowed for each appointment). This is subject to meeting certain criteria, including a 12 week qualifying period of service where the Parental Order parent is an agency worker.

7.4 Surrogacy leave and pay will be effective from the day the baby is born. However, the pay will be reclaimed if the following conditions are not met:-

- a) Documentary evidence of both the birth (birth certificate) and the surrogacy must be provided. In the UK this is a Parental Order issued by the courts. If this document is not produced in the year after the baby is born, all surrogacy pay would need to be recovered. The birth certificate is necessary to determine what day surrogacy pay needs to go into effect.
- b) The employee is required to return to work at the Royal Marsden NHS Foundation Trust or another Trust following their leave for a minimum period of three months. If not, all surrogacy pay will need to be recovered.

8. SICK LEAVE, ANNUAL LEAVE, BANK HOLIDAYS AND ANTENATAL APPOINTMENTS

8.1 Annual leave and Bank Holidays

8.1.1 Annual leave and Bank Holidays will continue to accrue during the 26 weeks Ordinary Maternity Leave and the 26 weeks Additional Maternity Leave.

8.1.2 Your annual leave entitlement will remain the same as if you continued working although you cannot take annual leave during your maternity leave.

8.1.3 Annual leave and Bank Holidays accrued prior to your maternity leave should be taken before you commence your maternity leave. Annual leave and Bank Holidays accrued during your maternity leave should be taken immediately upon your return from maternity leave. This must be authorised in advance by your manager and will be subject to the needs of the service.

8.1.4 If your baby is born during the annual leave you have taken directly prior to your maternity leave, your maternity leave will start early (refer to section 3.2) and any annual leave that you were not able to take as a result should be taken immediately upon your return from maternity leave.

8.1.5 If a change in the number of hours you work has been agreed on your return from maternity leave, all annual leave and Bank Holidays accrued during maternity leave should be taken before any such change can be implemented.

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8.2 Ante-natal care

- 8.2.1 The employee has the right to paid leave for ante-natal care as set out in The Work and Families Act 2006. All pregnant employees are entitled to reasonable paid time off to keep appointments for antenatal care made on the advice of a registered medical practitioner, registered midwife or registered health visitor.
- 8.2.2 Antenatal care is not restricted to medical examinations, for example it could include, relaxation, parent craft and antenatal classes. Except in the case of her first appointment, the employee must be prepared to show her line manager on request a certificate from a registered medical practitioner, registered midwife or registered health visitor confirming that she is pregnant; and an appointment card or some other document showing that an appointment has been made.
- 8.2.3 Where reasonably practical, appointments should be arranged on a non work day or where that is not possible to allow time to be worked that day.
- 8.2.4 Paid time off for ante natal appointments will not be granted unless you have informed your manager you are pregnant.
- 8.2.5 An employee who is a prospective father, or spouse, civil partner or partner of a pregnant woman, can take **unpaid** time off to attend up to two antenatal appointments. The maximum time for each appointment is six and a half hours.
- 8.2.6 If an employee wishes to take time off for an ante natal appointment they should make a written request to their manager (e-mail is sufficient) that states they are:-
- 1) the expectant mother's spouse, civil partner or partner, or the child's father;
 - 2) that the purpose of the time off is to accompany the expectant mother to an antenatal appointment;
 - 3) that the appointment in question is made on the advice of a registered medical practitioner, registered midwife or registered nurse; and
 - 4) the date and time of the appointment.

8.3 Sickness absence during pregnancy

- 8.3.1 If you are sick with a non-pregnancy-related illness during your pregnancy but before the date that you have agreed to commence your maternity leave, then normal sick pay arrangements will apply.
- 8.3.2 You need to advise your manager as soon as possible in the event of pregnancy-related illness. Pregnancy-related sickness absence will not result in formal sickness absence management nor will it be used to the detriment of the employee.
- 8.3.3 If you are sick with a pregnancy-related illness before the date that you have agreed to commence your maternity leave *and* prior to the 4th week before your EWC then normal sick pay arrangements will apply.

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8.3.4 If you are absent from work wholly or partly because of your pregnancy, your maternity leave will start automatically at the 4th week before your expected week of childbirth.

8.3.5 If you are working in the last four weeks of the pregnancy and the illness is attributable to pregnancy then maternity leave shall commence the day after the first day of such absence; the first day being dealt with in accordance with the normal sick leave provisions.

8.3.6 There is no need to report any sickness during the period of your maternity leave (either paid or unpaid).

8.4 Employees undergoing fertility treatment

8.4.1 The Trust's Managing Sickness Absence procedure shall apply for employees who are sick due to undergoing IVF or other fertility treatment. You should discuss the situation with your manager who may agree to an equal period of sick leave and annual leave.

9. SOURCES OF SUPPORT

9.1 The Employee Relations Team is available to give advice to employees throughout their pregnancy, maternity/adoption leave period and on their return to work. They can offer support and advice relating to maternity and childcare issues. It is recommended that you make contact with them at the earliest opportunity to benefit fully from the service.

10. MATERNITY SUPPORT (PATERNITY) ENTITLEMENTS

For rights related to ante natal appointments please see section 8.2 above.

10.1 Occupational Maternity Support (Paternity) Leave

10.1.1 Ordinary Paternity leave or Maternity Support Leave applies to biological and adoptive fathers, nominated carers and same-sex partners. All employees have a right to take up to two calendar weeks Occupational Maternity Support (Paternity) Leave on the birth of a child, or placement of a child for adoption.

10.1.2 The maximum duration of the leave is two calendar weeks. There is no entitlement to extra leave for multiple births or simultaneous placement of more than one child.

Maternity Support (Paternity) leave:

- can start from the date of the baby's birth or any day of the week following the birth, not before
- must be completed within 56 days of the date of the birth of the baby. If the baby is born earlier than expected, then the leave must be completed within 56 days after the actual date of birth
- must be taken in a block of either one or two weeks and not on occasional days

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10.1.3 The employee has an obligation to inform their manager of the intention to take paternity leave by the end of the 15th week before the baby is expected. The employee must provide the following details:

- The start date of the leave to be taken
- The week the baby is expected
- The duration of leave to be taken

10.2 Occupational Maternity Support (Paternity) Pay

10.2.1 If an employee has 12 months continuous service with the NHS at the beginning of the week in which the baby is due, they will be entitled to Occupational Maternity Support (Paternity) Pay which is 2 weeks at full pay.

10.2.2 Employees will only be eligible for this pay if they:-

- Discuss and agree the time off required with their manager
- Complete the paternity leave notification form found on the intranet
- Attach a copy of the mother's MatB1 to the notification form before submitting it to the HR department. The MatB1 will be provided to the baby's mother around 15-20 weeks before the baby is due.

10.2.3 Employees who are not eligible for the two weeks of Occupational Maternity Support (Paternity) Pay may still be entitled to ordinary paternity pay subject to meeting the necessary qualifying conditions. You must:-

- have worked for the Trust continuously for at least 26 weeks by the end of the 15th week before the expected week of childbirth (known as the 'qualifying week')
- be employed by the Trust up to the date of birth
- have earnings that meet the lower earnings limit (please see the gov.uk website for the current rate)
- provide the Paternity Leave Notification Form with a copy of the baby's mother's MatB1 form at least 28 days before you want paternity pay to start.

The rate of ordinary paternity pay (also known as Statutory Paternity Pay) is the same as SMP and changes on an annual basis. Please see the www.gov.uk website for further information.

10.2.4 An employee who qualifies for paternity leave is entitled to:

- return to the same job
- return to the same terms and conditions of employment
- not be subjected to a disadvantage, unfair treatment or dismissal.

10.3 Additional Paternity Leave - only for partners with babies born or children placed for adoption before 5 April 2015.

For partners with babies due from 5 April 2015 Shared Parental Leave may be available. Employees must read the [Shared Parental Leave Policy and Procedure](#) to determine if they are eligible.

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10.3.1 Employees can also take up to 26 weeks additional paternity leave within the first year of their child's life provided that the mother has returned to work before using her full entitlement to maternity leave. Additional paternity leave is also available to adoptive parents within the first year after the child's placement for adoption, provided that the child's adopter who elected to take adoption leave (the "primary adopter") has returned to work before using his/her full entitlement to adoption leave.

10.3.2 The eligibility factors are:

- You must be the father of the child or married to, the civil partner of, or the partner of, the child's mother, married to, the civil partner of, or the partner of, the primary adopter, and, in the case of a birth child, expect to have the main responsibility for the upbringing of the child (apart from the mother's responsibility). In the case of adoption, you must have been matched with the child for adoption. In both cases, you must be taking the leave to care for the child.
- You must have a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is due to be born or, in respect of an adopted child, as at the end of the 15th week before the week in which you were notified of having been matched with the child.
- You must remain in continuous employment until the week before the first week of additional paternity leave.
- The mother of the child must be entitled to one or more of maternity leave, statutory maternity pay or maternity allowance. In the case of adoption, the primary adopter must be entitled to one or both of adoption leave or statutory adoption pay. The mother or primary adopter must have returned to work and forfeited a portion of his/her maternity or adoption leave. Additional paternity leave is for a maximum of 26 weeks. If your partner has returned to work, the leave can be taken between 20 weeks and one year after your child is born or placed for adoption.

10.3.3 The earliest that your additional paternity leave can commence is:

- 20 weeks after the date on which the child is born;
- in the case of a child adopted within the UK, 20 weeks after the date of placement of the child for adoption; and
- in the case of a child adopted from overseas, 20 weeks after the date on which the child entered Great Britain;

and it must end no later than 12 months after that date.

10.3.4 Additional paternity leave must be taken as a single block in multiples of complete weeks. The minimum period is two consecutive weeks and the maximum period is 26 weeks.

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10.4 Notification and documentary evidence of eligibility

10.4.1 Where you wish to request additional paternity leave and pay, you must notify your manager using the appropriate form detailed in section 10.5 giving eight weeks written notice of:

- your intention to take additional paternity leave;
- the dates on which you propose that the period of leave will start and end; and
- the child's expected week of birth and actual date of birth (or the date that you received notification of being matched with the child and the date of placement of the child for adoption, or, for overseas adoptions, the date that you received official notification and the date that the child entered Great Britain).

10.4.2 You must also give your manager a signed declaration confirming your eligibility in terms of your relationship with the child/mother (and that you have been matched with the child for adoption if you are adopting a child), and that the proposed period of leave is for the purpose of caring for the child.

10.4.3 Within the same time frame, the mother or adopter should provide a written and signed declaration providing:

- her name and full address;
- her national insurance number;
- the date on which she intends to return to work;
- confirmation of the father's (or partner's) eligibility to paternity leave in respect of their relationship to the child/mother and that they will be responsible for the child's upbringing;
- confirmation that the employee applying for additional paternity leave is the only applicant; and
- confirmation that she consents to the processing of this information.

10.4.4 Within 28 days of your giving notice, the Trust may also ask for a copy of the child's birth certificate or adoption matching certificate and the employment details of the mother or adopter that has taken adoption leave. If asked for this information you must give it within 28 days or you may not be able to take your leave.

10.5 Notification forms

10.5.1 Ordinary Paternity Leave

[SC3 Becoming a Parent Form](#)

[SC4 Becoming an Adoptive Parent Form](#)

(Remember to also attach a copy of the Mat B1, or adoption certificate)

10.5.2 Additional Paternity Leave

SC7 (for births), <http://www.hmrc.gov.uk/forms/sc7.pdf>

SC8 (for UK adoptions), <http://www.hmrc.gov.uk/forms/sc8.pdf>

SC9 (for overseas adoptions), <http://www.hmrc.gov.uk/forms/sc9.pdf>

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10.6 Additional Statutory Paternity Pay (ASPP)

10.6.1 Additional statutory paternity pay may be payable during some of additional paternity leave. You are entitled to additional statutory paternity pay if:

- you are the father of the child or married to, the civil partner of, or the partner of, the child's mother, married to, the civil partner of, or the partner of, the child's primary adopter, and, in the case of a birth child, expects to have the main responsibility for the upbringing of the child (apart from the mothers responsibility) or, in the case of adoption, has been matched with the child for adoption, and in either case intends to care for the child during the additional statutory paternity pay period;
- you have a minimum of 26 weeks' service, as at the end of the 15th week before the week in which the child is due to be born or, in respect of an adopted child, as at the end of the 15th week before the week in which you were notified of having been matched with the child (the "relevant week");
- you remain in continuous employment until the week before the additional statutory paternity pay period begins;
- your average weekly earnings for the period of eight weeks ending with the relevant week are not less than the lower earnings limit for national insurance contributions;
- the mother is entitled to statutory maternity pay or maternity allowance or, in the case of adoption, the primary adopter is entitled to statutory adoption pay, and the mother or primary adopter has returned to work before his/her full entitlement to statutory maternity pay/maternity allowance/statutory adoption pay has been exhausted;
- the mother or primary adopter has at least two weeks of his/her maternity or adoption pay period that remains unexpired; and
- you give proper notification in accordance with the rules set out above.

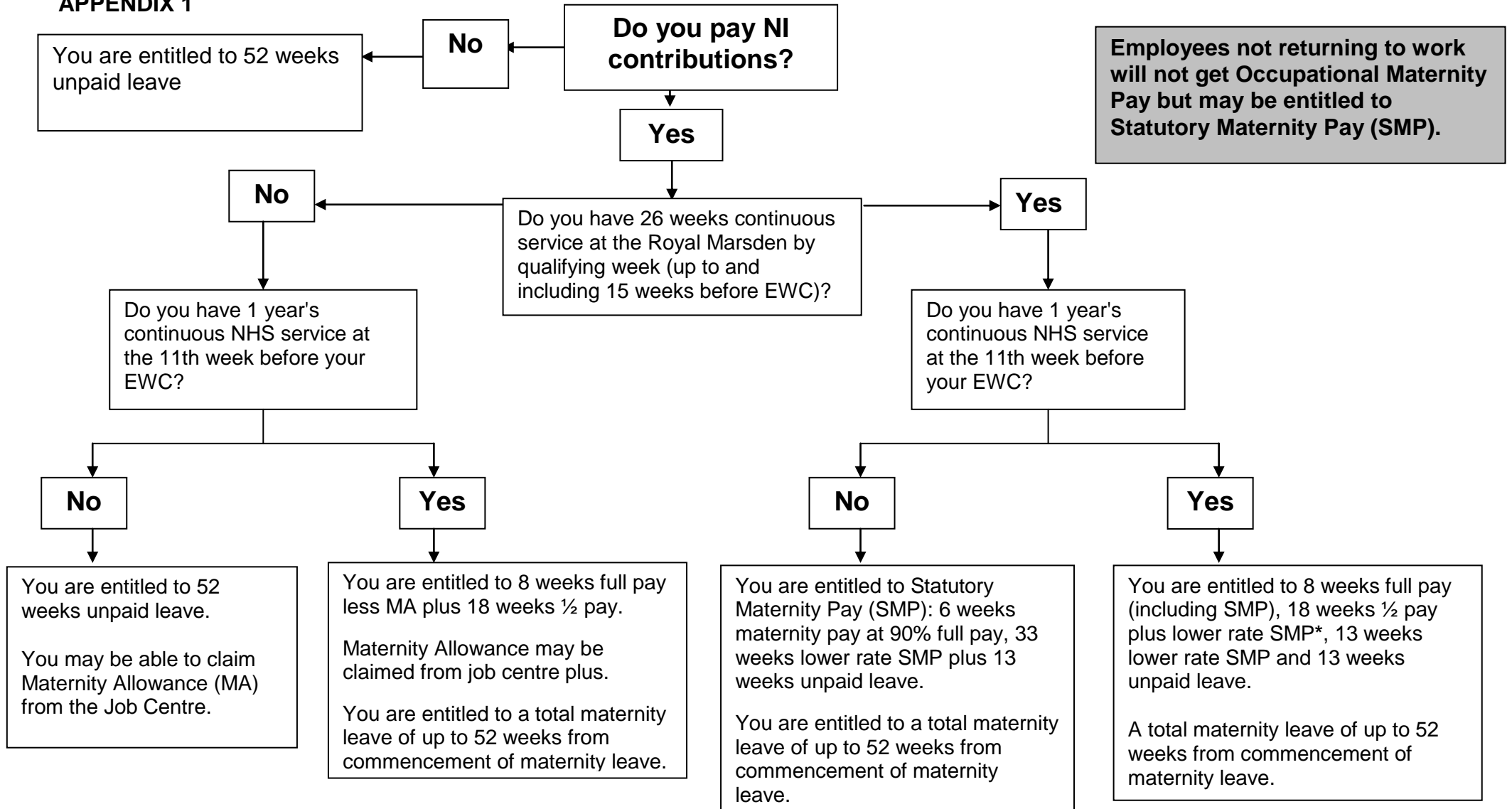
10.6.2 ASPP is only payable during the mother's maternity pay period, or primary adopter's adoption pay period. That is the 39 consecutive weeks in which SMP, SAP or MA would be payable if the mother/primary adopter had not returned to work.

10.6.3 Any statutory paternity pay due during additional paternity leave will be paid at the standard statutory rate (see www.gov.uk), or at a rate equivalent to 90% of your average weekly earnings if this figure is less than the current statutory rate.

10.6.4 The Trust will confirm the amount of Statutory Paternity Pay you are eligible to receive once confirmation from the mother, or primary adopters, employer is received in regards to the amount of statutory pay paid by them. It is your responsibility to provide written evidence from your partner's employer that confirms the amount of Statutory Maternity, or Adoption pay that has been received by your partner. Once this confirmation is received, the amount of additional paternity pay you are eligible for will be calculated, confirmed to you in writing and paid as appropriate by the Payroll team.

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APPENDIX 1



Employees not returning to work will not get Occupational Maternity Pay but may be entitled to Statutory Maternity Pay (SMP).

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APPENDIX 2

NOTIFICATION OF MATERNITY / ADOPTION LEAVE

Name (please print)			
Department		Payroll No. (if unknown leave blank)	

Complete this form and have it authorised no later than the 15th week before your baby is due. Send form to HR Department once you have your MAT B1 form. Attach it to this form.

1. My baby is due on (date on MAT B1/matching form) Date: _____
1. I wish my maternity/adoption leave to start on: Date: _____
2. I will be stopping work to take annual leave on: Date: _____
3. I intend to return to work: YES – Complete Section A
NO – Complete Section B

Section A - <u>After</u> I return to work from my maternity leave:-	
I plan to take accrued annual leave from:	Date: _____
I plan to physically return to work on:	Date: _____
I agree that if I do <u>not</u> return to the NHS for a minimum period of three months following maternity leave, I will refund my occupational maternity pay.	
Signed: _____	

Section B
I do not wish to return after the birth of my baby.
I have attached a letter of resignation confirming my last day as a Trust employee. I understand I am not entitled to occupational maternity pay.
Signed: _____

Once you have completed either section A or B please give this form to your manager.

Manager Name: _____
I have approved the above information.
Signed _____ Date: _____

If MAT B1 is **not** attached return to employee to attach MAT B1 and forward to HR Department.
If MAT B1 is attached please take a copy for your records forward to the HR Department.

FOR HR/PAYROLL USE		
Maternity Pay Entitlement: OMP <input type="checkbox"/>	SMP <input type="checkbox"/>	No Maternity entitlement <input type="checkbox"/>
HR Administrator Name: _____	Signature _____	Date _____

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APPENDIX 3

MATERNITY LEAVE - KEEPING IN TOUCH (KIT) DAY RECORD

Details of KIT days worked must be recorded on this form and signed off by your manager.

- If you would like to receive payment for KIT days as they are worked, please complete the form and send it to HRAdminandPay@rmh.nhs.uk. Payment will be processed in accordance with payroll deadlines.
- Alternatively, you can wait until you have taken all your KIT days and then submit the form near the end of your maternity leave period in order to receive a lump sum payment for KIT days worked.

Employee Name		
Job Title		
Department		
Managers Name		
Maternity Leave	Start date:	End date:

DATE KIT DAY WORKED	HOURS WORKED (Not including lunch)	MANAGERS SIGNATURE & DATE (Authorisation for Payment)	HR ADVISER COMMENTS/ACTION

Total No. KIT Days Worked To Date:

Employee signature: **Date:**

Please return this completed form to HR before your maternity leave ends (i.e. before you are reinstated back onto payroll so HR can ensure you are paid correctly).

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APPENDIX 4

RETURN TO WORK FROM MATERNITY / ADOPTION LEAVE FORM

Name (please print)			
Department		Payroll No. (if unknown leave blank)	

Please complete this form with your agreed return to work date and **send it to your manager** at least 8 weeks before your return to work date.

If this date is different from the one originally discussed and agreed with your manager please complete the form with your new dates ensuring you discuss this with your manager and give at least 8 weeks notice.

I will be taking accrued annual leave from: _____ Date: _____

(If you are not taking any annual leave before your return please put in N/A)

I will physically return to the Trust on: _____ Date: _____

I have attached my KIT record sheet for payment (please✓): Yes No

Signed _____ Date: _____

Please send this to your manager to authorise agreement on your annual leave and return date.

Manager (please ✓ statement that applies):

I agree to the annual leave date and return to the Trust date as stated above

OR

I disagree with the dates out lined above. I have contacted my employee and have agreed she will take:-

Accrued annual leave from: _____ Date: _____

Return to the Trust on: _____ Date: _____

Signed: _____ Name: _____ Date: _____

Please note: To ensure employee is put back on the payroll at the correct time this form must be sent to the HR Admin and Pay Team no later than the 5th of the month she is due to return to work in.

FOR HR/PAYROLL USE			
Return from Maternity Leave Date: _____	ESR Updated <input type="checkbox"/> (please ✓)		
ESR Admin Name: _____	Signature _____ Date _____		

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