



GIG
CYMRU
NHS
WALES

Bwrdd Iechyd Prifysgol
Betsi Cadwaladr
University Health Board

**Version &
Reference
Number**

**WP14f
V1**

WP14f MATERNITY AND PATERNITY LEAVE AND PAY PROCEDURE

Author & Title	People and Organisational Development				
Responsible Dept. / director:	Executive Director of People and Organisational Development				
Approved by:	Deputy Director of People				
Date approved:	Workforce Policy Group – 21 st October 2022 Executive Director of People and Organisational Development – DATE RemCom - DATE				
Date activated (live):					
Documents to be read alongside this document:	<ul style="list-style-type: none"> • NHS Terms and Conditions of Service Handbook Wales • Employer Helpbook for Statutory Maternity Pay E15 • WP14b All Wales Special Leave Policy • WP11 NHS Wales Managing Attendance at Work Policy • WP5 All Wales Respect and Resolution Policy • MAT74 Breastfeeding Policy • Form SC3 - Statutory Paternity Pay/Paternity Leave • Form SC7 - Additional Statutory Paternity Pay/Paternity Leave - becoming a parent • Form MA1 Maternity Allowance Claim Form • What is Hyperemesis Gravidarum? • WP71 Pregnancy Loss Policy 				
Date of next review:	January 2027				
Date EqlA completed:	June 2022				
First operational:	April 2010 (WP14 Leave Procedures Legacy Document)				
Previously reviewed: Changes made y/n:					
Previously reviewed: Changes made y/n:					
Previously reviewed: Changes made y/n:					

N.B. Staff should be discouraged from printing this document. This is to avoid the risk of out of date printed versions of the document. The Intranet should be referred to for the current version of the document.

Contents:

<u>1</u>	STATEMENT.....	3
<u>2</u>	AIM.....	3
<u>3</u>	OBJECTIVES.....	3
<u>4</u>	SCOPE.....	3
<u>5</u>	PRINCIPLES.....	3
<u>6</u>	MATERNITY LEAVE AND PAY.....	4
	<u>6.1</u> Eligibility.....	4
	<u>6.2</u> Entitlements.....	4
	<u>6.3</u> Notification.....	7
	<u>6.4</u> Ante-Natal Care.....	7
	<u>6.5</u> Health and Safety Considerations Pre and Post Birth.....	8
	<u>6.6</u> Commencement of Leave.....	8
	<u>6.7</u> Keeping in Touch.....	9
	<u>6.8</u> Terms and Conditions during Maternity Leave Period.....	10
	<u>6.9</u> Rotational Training Contracts.....	12
	<u>6.10</u> Right to Return to Work.....	12
	<u>6.11</u> Still Births / Miscarriage and Sickness	13
	<u>6.12</u> Flexible Working Requests.....	13
	<u>6.13</u> Post-Natal Care and Chest/Breastfeeding Mothers.....	14
<u>7</u>	SURROGACY ENTITLEMENTS.....	15
	<u>7.1</u> Eligibility.....	15
	<u>7.2</u> Entitlement to Adoption Leave.....	15
	<u>7.3</u> Notification.....	15
	<u>7.4</u> Time off to Attend Ante-Natal Appointments.....	15
	<u>7.5</u> Flexible Working Requests.....	16
	<u>7.6</u> Return to Work.....	16
<u>8</u>	PATERNITY LEAVE AND PAY.....	16
	<u>8.1</u> Statutory Paternity Leave (SPL).....	16
	<u>8.2</u> Provisions.....	16
	<u>8.3</u> Additional Paternity Leave (APL).....	17
<u>9</u>	ROLES AND RESPONSIBILITIES.....	18
<u>10</u>	RECORD MANAGEMENT.....	19
<u>11</u>	MONITORING.....	19
<u>12</u>	RESOURCES.....	19
<u>13</u>	CONTACTS.....	20

1. STATEMENT

Betsi Cadwaladr University Health Board (the Health Board) is committed to achieving the highest standards of health care services for its people. This can be achieved through a highly trained, skilled and motivated workforce.

The Health Board recognises the need for employees to be able to take time away from the workplace when they become parents and is committed to promoting fair and equal treatment. It is recognised that the provision of maternity and paternity leave is key to the Health Board being able to demonstrate this commitment.

2. AIM

The Health Board recognises that employees who become parents have particular rights and needs. The purpose of this document is to provide the basis for a clear understanding of the nature and period of leave, paid and unpaid, that will apply in relation to Maternity and Paternity Leave.

To ensure a fair, consistent and equitable process is followed taking all circumstances into consideration.

3. OBJECTIVES

- To provide information on eligibility for maternity and paternity leave.
- To provide information on entitlements and pay during leave periods.
- To provide guidance and support to employees/workers and managers

4. SCOPE

The policy applies to all employees subject to any service requirements that may apply and are set out below.

5. PRINCIPLES

- Managers will have the discretion to respond appropriately to individual circumstances taking into account the statutory rights of employees to maternity and paternity leave and pay.
- Managers must seek the advice of the appropriate Director/Head of Service when considering an extension to the normal conditions of leave to assist in securing an appropriate level of consistency and fairness whilst treating each case on its individual merits
- Employees/Workers and Managers have a mutual responsibility to apply the provisions appropriately.
- Individuals should always seek the appropriate authorisation prior to taking any type of leave.
- Under normal circumstances, any appeals arising from the application of these procedures will be for resolution through the WP5 All Wales Respect and Resolution Policy. The local people services team may be approached by either the manager or the employee to facilitate a speedier resolution of the issue.

6. MATERNITY LEAVE AND PAY

This section is fully compliant with existing statutory regulations relating to maternity provision. Furthermore NHS maternity entitlements are more generous than statutory entitlements detailed within relevant Government legislation.

Full details of NHS maternity entitlements are detailed within Section 15 [Maternity Leave and Pay] of the Agenda for Change NHS Wales Terms and Conditions of Service Handbook at

<https://www.nhsemployers.org/publications/tchandbook>

6.1 Eligibility

All pregnant employees irrespective of length of service or type of employment contract (with the exception of fixed term or temporary employees/bank workers) are entitled to take up to 52 weeks maternity leave.

6.1.1 Qualifying Periods

6.1.1.1 Occupational Maternity Pay (OMP)

To qualify for Occupational Maternity Pay the employee must have been:

- continuously employed for a period of not less than 12 months (bank workers are not eligible) at the beginning of the 11th week before the expected week of childbirth with one or more employers
- must have confirmed in writing their intention to return to work within the NHS for a minimum period of three months

Continuous employment in this context includes periods of service with any NHS employer which includes Health Authorities, NHS Boards, NHS Trusts, Primary Care Trusts and the Northern Ireland Health Services, provided that there are no breaks in service of three calendar months or more.

A break of three months or less will be disregarded (but not counted as service) for the purpose of eligibility for Occupational Maternity Pay.

6.1.1.2 Statutory Maternity Pay (SMP)

To qualify for Statutory Maternity Pay the employee must have been employed:

- within the Health Board (including bank workers)
- for a continuous period of 26 weeks as at the end of the 15th week prior to the expected week of childbirth
- their average pay within the relevant period prior to the 15th week must be above the lower earning level for National Insurance (NI) purposes

Where the employee does not meet these criteria, Maternity Allowance may be payable by the Benefits Agency. [Maternity Allowance claim form - GOV.UK \(www.gov.uk\)](#)

6.2 Entitlements

6.2.1 For those employees who have confirmed their intention to return to work after a period of maternity leave (bank workers, please see 6.2.3) (see chart):

	QUALIFYING PERIOD	ENTITLEMENT
A	Less than 26 weeks service with NHS as at 15 th week before expected week of childbirth	52 weeks unpaid leave with benefit of contractual terms e.g. accrual of annual leave No entitlement to statutory or occupational maternity pay. Possible Maternity Allowance payable by the benefits agency See section 6.8.3 Pensions
B	Less than 1 year NHS service at 11 th week before expected week of childbirth But More than 26 weeks NHS service as at 15 th week before expected week of childbirth	SMP* at 90% of full pay for first 6 weeks and then SMP* at standard rate or at 90% of full pay (whichever is the lower) for next 33 weeks. A further 13 weeks unpaid leave is also available.
C	More than 1 year NHS service as at 11 th week before expected week of childbirth But Less than 26 weeks Health Board service as at 15 th week before expected week of childbirth	8 weeks full pay less Maternity Allowance and then 18 weeks half pay Maximum 26 weeks additional unpaid maternity leave.
D	More than 1 year NHS service as at 11 th week before expected week of childbirth And More than 26 weeks with the Health Board as at 15 th week before expected week of childbirth	8 weeks full pay and then 18 week at half pay plus SMP*/Maternity Allowance (but not to exceed full pay) + 13 weeks SMP* at standard rate. Maximum 13 weeks additional unpaid maternity leave

6.2.2 For those employees who do not intend to return to work with the NHS after Maternity Leave (bank workers, please see 6.2.3)

	QUALIFYING PERIOD	ENTITLEMENT
A	Less than 26 weeks service with NHS as at 15 th week before expected week of childbirth.	52 weeks unpaid leave with benefit of contractual terms e.g. accrual of annual leave No entitlement to statutory or occupational maternity pay. Possible Maternity Allowance payable by the benefits agency.
B	More than 1 years' service with NHS as at 11 th week before expected week of childbirth But Less than 26 weeks with the Health Board as at 15 th week before expected week of childbirth	6 weeks Occupational Maternity Pay at 90% average earnings (less Maternity Allowance)
C	More than 26 weeks service with the Health Board as at 15 th week before expected week of childbirth But Less than 12 months NHS Service	6 weeks SMP* at 90% of full pay plus 33 weeks at standard rate SMP* (or 90% whichever is the lower)
D	More than 1 years NHS service as at expected week of childbirth And More than 26 weeks with the Health Board as at expected week of childbirth	90% of your average weekly earnings for the first 6 weeks SMP or 90% of your average weekly earnings (whichever is lower) for the next 33 weeks

6.2.3 Bank Workers

	QUALIFYING PERIOD	ENTITLEMENT
A	Less than 26 weeks service with NHS as at 15 th week before expected week of childbirth	Nil pay due. May be entitled to Maternity Allowance payable by the Benefits Agency

B	More than 26 weeks service with the Health Board as at 15 th week before expected week of childbirth	6 weeks SMP* at 90% of full pay plus 33 weeks at standard rate SMP* (or 90% whichever is the lower), if eligible, please see paragraph 6.1.1.2
----------	---	--

6.2.4 Equal Payments

Prior to commencing maternity leave, you may choose to have your occupational maternity leave pay calculated over the whole period in the format of equal payments to you. The minimum period you can choose is 26 weeks, usually other options available are 39 or 52 weeks.

e.g. If you earn £1000 Gross per month during the qualifying periods, your OMP would be calculated at £230.76 Gross per week ($£1000 \times 12 \div 52$)

For your	8 weeks @ full pay =	£1846.08	(8x £230.76)
	18 weeks @ ½ pay =	<u>£2076.84</u>	(18x £230.76 ÷ 2)
		£3992.92	

If you decided to have the equal payments split over 39 weeks then the weekly figure would be £100.58 gross per week ($£3922.92 \div 39$)

If you decided to have the equal payments split over 52 weeks then the weekly figure would be £75.44 gross per week ($£3922.92 \div 52$)

For the first 8 weeks of your Maternity Leave when you would have received Full Pay, you will only receive the equal payments amount, then from weeks 9 to 39 you would receive the equal payments figure plus Statutory Maternity Pay (SMP, if entitled) at the relevant rate.

If you are taking the extended Maternity Leave up to 52 weeks and you have requested your equal payments over the 52 weeks, then you will get the equal payments figure only for weeks 40 to 52.

6.3 Notification

All pregnant employees are required to notify their line manager in writing of their intention to take maternity leave using the Maternity Leave Application (WP14d-ML1) Form, before the end of the fifteenth week before the expected week of child birth (or if this is not possible, as soon as is reasonably practicable thereafter). The employee must advise:

- Of their intention to take maternity leave;
- The date the employee wishes their maternity leave to begin (**Sunday date, unless baby is born early**)
- Whether or not there is an intention to return to work with the NHS for a minimum period of 13 weeks, which must be confirmed by completion of the ML1 form included within this procedure

Further to this the employee is required to provide an original Maternity Certificate (MATB1) giving the expected date of childbirth signed by either a Registered Medical Practitioner or Registered Midwife.

The employees line manager will upon receipt of the completed Maternity Leave Application form respond in writing using the Confirmation of Entitlement Letter (ML2)

If the employee subsequently wants to change the date from which they wish the leave to start, they should notify their manager, the manager will complete the ESR Exception form and submit to Shared Services Payroll department in writing at least 28 days beforehand (or if this is not possible as soon as is reasonably practicable).

6.4 Ante-Natal Care

All pregnant employees are entitled to reasonable paid time off to attend ante-natal clinic on the advice of a registered midwife, health visitor or doctor. Ante-natal care may include relaxation and parent craft classes. Employees must provide evidence (record card or MATB1) of ante-natal appointment if requested. Where evidence is requested but not provided by the employee, time off without pay will be approved. The employee should provide as much notice as practicably possible. Non-pregnant partners who feel they need to attend appointments with their pregnant partners to provide support (due to disabling conditions/as paid or unpaid carers), may attend ante-natal appointments where evidence of the appointment is provided and must be requested under the WP14b All Wales Special Leave Policy.

6.4.1 Hyperemesis Gravidarum (HG)

What is Hyperemesis Gravidarum? (pregnancysicknesssupport.org.uk)

Hyperemesis Gravidarum (HG) is a condition at the extreme end of the pregnancy sickness spectrum. It affects 1% of Mothers/Birthing Parents with pregnancy sickness and is very debilitating for sufferers. It is important that medical advice is sought if they are unable to keep any food or fluids down as they become dehydrated very quickly when suffering with HG. Below are some basic tips for surviving hyperemesis gravidarum, however, the list is by no means exhaustive and many Mothers/Birthing Parents develop their own individual coping strategies.

- Rest
- Avoiding Nausea Triggers
- Avoid Dehydration

Managers are advised to have a discussion with the pregnant employee to better understand what support they may require, support may include; changes to working hours or patterns, or alternative tasks to accommodate when periods of sickness are likely to occur. Managers should also undertake a risk assessment (see section 6.4) to identify workplace hazards

and solutions to them.

6.5 Health and Safety Considerations Pre and Post Birth

The Health Board has a statutory duty to assess any health and safety risks to pregnant or chest/breast feeding workers. A risk assessment ([HS05a Individual New and Expectant Mothers Risk Assessment](#)) should be undertaken by the manager and consideration given to transferring the employee (in line with NHS Wales Terms & Conditions of Service Handbook section 15.34 & 15.35) from any workplace where it is agreed they or their unborn child is at an unacceptable risk of illness/injury. The employee will continue to receive their normal rate of pay during redeployment.

6.6 Commencement of Leave

Maternity leave may begin at any time between the 11th week before the expected week of childbirth and the beginning of the expected week of childbirth provided the required notice has been given.

Any sickness, which occurs prior to the fourth week before the expected week of childbirth, will be managed in accordance with the Health Board's NHS Wales Managing Attendance at Work Policy.

Absence prior to the last four weeks before the expected week of childbirth, when supported by a medical certificate or self-certificate shall be treated as sick leave in accordance with normal sick leave provisions.

However, sickness absence due to a pregnancy related illness on or after the fourth week before the expected week of childbirth will mean that maternity leave will commence the day after the first complete day of sickness absence. The employee or manager must contact the [Shared Services Payroll](#) to let them know if this occurs (see contact details in section 13). Odd single days of pregnancy related illness during this period, may be disregarded if the employee wishes to continue working until the maternity leave start date previously notified to the manager.

It should be noted that a statutory minimum period of two weeks maternity leave after childbirth must be taken.

Before going on leave, the employee and their line manager should discuss and agree arrangements for maintaining contact during the maternity leave, including:

- a) Any arrangements that the employee may find helpful to keep in touch with development at work and nearer the time of return, to help facilitate the return to work.
- b) Keeping the manager in touch with any developments that may affect the intended date of return

- c) In accordance with the legislation in this area, there is an assumption that an employee will take the full amount of their maternity leave entitlement (both paid and unpaid) i.e. 52 weeks. If this is not the case, the employee must give at least 8 weeks' notice of their intention to return to work at an earlier date.

6.7 Keeping in Touch

During the maternity leave period an employer may make reasonable contact with an employee, and in the same way an employee may make contact with their employer. The frequency and nature of the contact will depend on a number of factors, such as: the nature of the work and the employee's post, any agreement that the employer and employee might have reached before maternity leave began as to contact; and whether either party needs to communicate important information to the other, such as news of changes at the workplace that might affect the employee on their return.

The contact between employer and employee can be made in any way that best suits either or both of them. For example, it could be by telephone, by email, by letter, the employee making a visit to the workplace, or in other ways.

Employees may, by agreement with their employer, do up to ten days' work – known as "Keeping in Touch days" – under their contract of employment during the maternity leave period but not extending it. Such days are different to the reasonable contact that employers and employees may make with one another – described in the section above – as during Keeping in Touch days employees can actually carry out work for the employer or attend training for which they will be paid at their basic daily rate.

The type of work that the employee undertakes on Keeping in Touch days is a matter for agreement between the two parties. They may be used for any activity which would ordinarily be classed as work under the employee's contract, for which they would be paid, but could be particularly useful in enabling the employee to attend a conference, undertake a training activity or attend a team meeting for example.

Managers must ensure that a record of the keeping in touch days/hours worked is kept and payroll are advised accordingly via the KIT days claim form.

6.8 Terms and Conditions during Maternity Leave Period:

6.8.1 Annual Leave

This is accrued during paid and unpaid maternity leave. Every effort should be made to take all annual leave in the leave year in which it accrues. Bank holidays do accrue during paid and unpaid maternity leave. Unpaid maternity leave is classed as service for purposes of entitlement to long service. Where the amount of accrued annual leave would exceed any Health Board I carry over provisions, it may be mutually beneficial to both

the employer and employee for the employee to take annual leave before and/or after the formal (paid and unpaid) maternity leave period. The amount of annual leave to be taken in this way, or carried over, must be discussed and agreed between the employee and employer.

6.8.2 Continuous and Break in Service

Service with any NHS organisation without a break of three months or more is classed as continuous service. Continuous service is calculated at the 29th week of pregnancy for NHS maternity pay or the 25th week of pregnancy for SMP. Paid/unpaid maternity leave is classed as continuous service. Should an employee apply for NHS maternity pay and cease working for the Health Board before the qualifying 29th week of pregnancy they will be eligible for SMP only.

Any break in NHS service of over 3 months is classed as a formal break in service and does not under normal circumstances count towards entitlement for maternity leave.

6.8.3 Pension Scheme

As maternity leave is counted as continuous service, contributions to the scheme must be maintained. Contributions are due as follows:-

- During full pay and half pay – contributions are deducted on pay actually received. Where SMP only is being paid, contributions are due on SMP only.
- During unpaid maternity leave contributions are based on the rate of pay immediately before any period of unpaid leave begins (this could be SMP only).
- Where there is no entitlement to SMP or OMP, contributions are based on the rate of pay immediately before any period of unpaid leave begins i.e. full pay.
- KIT days – Contributions are due on the pay received for KIT day(s). After the KIT days, contributions are once more payable based on the amount immediately before the KIT day(s). For any period of unpaid leave contributions will normally be collected on return to work and will be spread over the same period of time as the unpaid maternity leave.
- Superannuation - Where an employee is a member of the NHS Pension Scheme, the conditions which apply during the period of paid and unpaid maternity leave are determined by the NHS Pension Scheme regulations. Information relating to individuals can be obtained from the payroll department.

6.8.4 Increments and Pay Awards

Incremental pay progression/dates will not be affected by paid or unpaid maternity leave.

In the event of a Pay Award or Annual Increment being implemented during the Maternity Leave period, the Occupational Maternity Pay due from the date of the Pay Award/Annual Increment will be increased accordingly.

6.8.5 Lease Car

- **Lease Car Users:** may continue to use their lease car privately for the duration of their maternity leave and payments will continue through deductions from pay, where sufficient non-statutory pay is available to cover this. During any periods of insufficient non-statutory pay, or no pay, employees must make payment directly to the Health Board. Employees should contact the Lease Cars Department as early as possible, and prior to starting their maternity leave, to discuss the options available to them. If the employee chooses to return the car to the lease company instead, there will be a financial penalty on account of early termination of the contract, and the employee will be liable for this charge. Employees should contact Knowles Fleet in the first instance should they wish to discuss early termination of their lease car agreement. Similarly, employees not returning to work must relinquish the car at the end of paid maternity leave and any early termination penalty due to the lease company will still apply. Employees should also contact Knowles Fleet to discuss other options such as transfer and purchase of the lease vehicle.
- **Regular Car Users:** Agenda for Change employees are not entitled to Regular User Allowance. Medical and Dental employees that qualify, can claim full lump sum payments for the month in which maternity leave commences and for the next 3 months. 50% of the lump sum amount can be claimed for the following 3 months or until the end of the maternity leave, whichever is less. No payment will be made if the car is out of use for 6 months or longer. Employees not returning to work will receive lump sum payment for the duration of paid maternity leave only. Regular User Allowance will only be re-instated on confirmation from Employee's manager when they actually returned to work.

6.8.6 Subscriptions

If an employee has any subscriptions deducted directly from pay, such as Union subscription, they must inform your Union representative if intending to take any unpaid maternity leave.

6.9 Rotational Training Contracts

Where an employee is on a planned rotation of appointments with one or more NHS employer 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 irrespective of whether the contract would otherwise have ended if pregnancy and childbirth had not occurred. In such circumstances the employee's contract will be extended to enable the practitioner to complete the agreed programme of training.

6.10 Right to Return to Work

With the exception of employees on fixed term or temporary contracts of employment which have expired during maternity leave all employees have the right to return to work.

No employee has the right to return to work until two weeks after the birth of their child.

An employee who intends to return to work at the end of their full maternity leave will not be required to give any further notification to the Health Board, although if they wish to return early, they must give at least 28 days' notice.

An employee has the right to return to the job they left on the same terms and conditions of employment they received prior to the commencement of the maternity leave period. Where, during the maternity leave period, there are organisational changes which have implications for the continuation of the employee's post, the Health Board will consult with the employee and provide the employee with suitable alternative employment in accordance with the Health Board's redeployment procedure (WP64).

If the employee has completed the maternity leave application form and stated that they will not be returning to work, but subsequently wish to do so, then they should notify the Health Board within 8 weeks after the birth and every consideration will be given to the request. There can be no guarantee of either the same job or indeed any other job being available, but the Health Board will do all it can to assist.

6.10.1 Manager:

- Employee Returning to Work - On employee's return to work, manager completes Staff Changes Form electronically, prints, authorises and sends to the Payroll Department immediately, detailing return to work date and any contract changes (remember: annual leave is a return to work). Late forms will result in employees not receiving their salary on time
- Employee Not Returning to Work - When resignation received from employee that they are not returning to work following Maternity Leave, employee Terminations process in ESR should be followed and completed as soon as possible [to avoid overpayment] or no later than the end of paid maternity leave. Liaises with Local People Services team & Shared Services Payroll if unsure. Manager responds to employee with best wishes and thanks for service. The manager should also complete the IG 14 Employee Leavers / Movers Checklist.

6.11 Still Births / Miscarriage and Sickness

- Where an employee has a miscarriage before the 24th completed week of pregnancy – see Pregnancy Loss Policy.

- Should a still birth occur after the 24th week of pregnancy the employee will be entitled to maternity leave and pay as if the birth had been live.
- In the event of illness following the date the employee was due to return to work normal sick leave provisions will apply as necessary.

6.12 Flexible Working Requests

It is recognised that the birth or legal adoption of a child is one reason for an individual re-considering their working hours, and therefore a point when employees might be considering making requests for more flexible arrangements in line with the policy.

The key points to note are:

- All employees, regardless of length of service, have the right to return to their existing job on the same terms and conditions after a period of 39 weeks paid or unpaid maternity leave.
- Following maternity leave the employee may wish to return to work on different hours. The Health Board has a duty to accommodate this where at all possible.
- 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 employee's right to return to their job under their original contract at the end of the agreed period.
- If, in the event of organisational change, the original job is no longer available, the Health Board will make every effort to provide an alternative job on similar terms and conditions, i.e. same Payband, and status.

Common types of flexible working are:

- part-time: working less than the normal hours, perhaps by working fewer days per week
- flexi-time: choosing when to work (there is usually a core period to be worked)
- annualised hours: hours are worked out over a year (often set shifts with the employee deciding when to work the other hours)
- compressed hours: working agreed hours over fewer days
- staggered hours: different starting, break and finishing times for employees in the same workplace
- job sharing: sharing a job designed for one person with someone else
- home working: working from home if the role allows
- hybrid: a combination of office and home working if the role allows
- term time working: working when the children are at school

For further information please discuss with your manager and obtain a copy of (WP13 Flexible Working Policy & Procedures) and complete the Flexible Working Application.

6.13 Post-Natal Care and Chest/Breastfeeding Mother/Birthing Parent

Women who have recently returned to work following child birth are allowed paid time off for post-natal care e.g. attendance at health clinics.

6.13.1 Supporting employees to continue chest/breastfeeding on return from maternity leave

Employees commencing maternity leave will be given a copy of the chest/breastfeeding policy (MAT74 Breastfeeding Policy) and if chest/breastfeeding upon returning to work, will be supported to enable chest/breastfeeding to continue. The Health Board recognises that Health and Safety and anti-discrimination legislation protect a mother/birth parent's right to be supported in continuing chest/breastfeeding on return to work and will make every effort to accommodate their needs.

The Health Board will provide chest/breast-feeding mothers/birthing parent with suitable rest facilities which include:

- A private and comfortable area where employees may be allowed time away from normal duties to express and store chest/breast milk in order to maintain supply;
- Provision of dedicated fridge space for safe storage of expressed milk;
- Hand washing facilities.
- Comfortable seating with access to an electric supply for a chest/breast pump.

Employees returning from maternity leave should inform their manager in writing of their intention to continue chest/breastfeeding on return to work and are encouraged to discuss their needs with their manager prior to return. Options to be considered include:

- Flexible working hours
- Agreement on feeding the baby in workplace or in a local crèche/childminders
- Facilities and reasonable time to express milk in private
- Storage of expressing equipment and expressed milk

7. SURROGACY ENTITLEMENTS

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

There are two potential surrogacy scenarios:

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

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

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

7.1 Eligibility

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

7.2 Entitlement to Adoption Leave

Where a child is below the age of 18 and one parent elects to take adoption leave and pay, this will be in accordance with is the WP14e Adoption leave policy.

7.3 Notification

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

7.4 Time off to attend Ante-Natal appointments

Employees who intend to apply for a parental order and expect to become the child's legal parents in a surrogacy situation have the right to unpaid time off work to accompany the birth parent to up to two ante natal appointments.

7.5 Requests for Flexible Working

Application may be made for flexible working arrangements in the same way as for an employee commencing or returning from a period of maternity or adoption leave.

7.6 Return to Work

Employees must return to work for a minimum of 3 months following time off in connection with surrogacy application and maternity/adoption leave. The only exception is where the employee is on a fixed term contract which would be extended to cover the period of paid leave which is due.

8 PATERNITY (MATERNITY SUPPORT) LEAVE AND PAY AND ANTENATAL LEAVE

8.1 Statutory Paternity Leave (SPL)

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

Statutory paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. The adoptive parent may take statutory paternity leave where the other adoptive parent has elected to take adoption leave. In respect of an adopted child the employee

must have 26 weeks' continuous service by the week in which the child's adopter is notified of having been matched with the child for adoption.

This will apply to biological and adoptive fathers, nominated carers and same sex partners, and in exceptional circumstances may be granted to estranged husband's/partners where a need or support is identified (This benefit reflects the provision outlined in NHS Wales Terms & Conditions of Service and is in addition to that outlined in Form SC7 which does *not* include 'nominated carers' for taxation purposes).

8.1.1 An individual seeking such leave must ensure that:

- their line manager is advised of the expected week of the birth at the earliest opportunity and that they provide a copy of the certificate (MatB1)
- Written request is submitted by the 25th week of pregnancy or as soon as is reasonably practicable. Form SC3 'Statutory Paternity Pay/Leave' on the Direct.Gov website
[\[https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-a-birth-parent-sc3\]](https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-a-birth-parent-sc3) must also be completed
- their line manager is advised at the earliest opportunity on the day of confinement

8.2 Provisions

The provisions allow for qualifying employees with over 26 weeks service to receive two weeks Statutory Paternity Leave with Statutory Paternity Pay (SPP). Those with over 52 weeks service, with one or more NHS Employers, at the beginning of the week the baby is due/or child placement start date, are entitled to two week's paternity leave at full pay. Full pay will be calculated on the basis of the average weekly earnings rules used for calculating Occupational Maternity Pay entitlements. The employee will receive full pay less any statutory paternity pay receivable. Only one period of occupational paternity pay is ordinarily available when there is a multiple birth.

	QUALIFYING PERIOD	ENTITLEMENT
A	Less than 26 weeks service with the NHS	No entitlement
B	More than 26 weeks service, but less than 52 weeks service with the NHS	Up to 2 weeks Statutory Paternity Leave with 2 weeks SPP taken consecutively
C	Over 52 weeks service with the NHS	Up to 2 weeks Statutory Paternity Leave at full pay taken consecutively.

8.2.1 This will include time to attend the birth, when it is recognised that the normal provisions of notice for taking leave may not be possible.

8.2.3 Reasonable paid time off to attend ante natal classes will also be given.

8.2.4 The provisions of paternity leave should normally be taken within 8 weeks following the birth.

8.2.5 This allowance is additional to any annual leave that may be taken. Applications for unpaid leave of absence will, subject to the requirements of the service, also be considered (please refer to the Parental Leave policy WP14f).

8.3 **Additional Paternity Leave (APL)**

8.3.1 Additional paternity leave (APL) can be taken when the partner returns to work from a period of statutory maternity leave or statutory adoption leave without taking their full entitlement. The outstanding entitlement transfers to the other partner. If the partner has not taken their full SMP or SAP this will also transfer to the other partner when they commence APL.

8.3.2 The employee must be the father of the baby, or be married to or the common law partner of the mother or adopter of the baby, or expect to have responsibility for the child, to qualify for APL. This includes same sex partners. The employee must give eight weeks' notice of their intention to take APL.

8.3.3 In addition, to qualify for APL the employee (in the case of birth) must have worked for BCUHB for at least 26 continuous weeks by the 14th week before the baby is due and still be employed by BCUHB in the week before APL is due to start. Or, (in the case of adoption), they must have worked for the Health Board for at least 26 continuous weeks by the week in which they are notified that you are being matched with a child, and still be in employment with the Health Board in the week before APL is due to start.

8.3.4 APL must be for a minimum of two weeks, and a maximum of 26 weeks. It must not start until 20 weeks have passed since the birth or placement of the child. It must not end later than 12 months after the birth/placement. APL must be taken in multiples of complete weeks.

8.3.5 If an employee wishes to take APL you must inform your line manager. They will be required to complete self-certification forms (SC3) to confirm entitlement to take the leave and BCUHB will have the right to check the accuracy of any information supplied.

9 **ROLES AND RESPONSIBILITIES**

9.1 **Chief executive**

The Chief Executive has overall responsibility for the effective management of organisational policies.

9.2 **Director of Workforce & Organisational Development**

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

9.3 **Managers**

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

Managers must:

- a) Keep a record of any leave requested, approved or denied in the individual's personal file and ensure leave is recorded as appropriate on the relevant forms and the Employee Staff Record (ESR).
- b) If any leave has been turned down the reasons should be made clear to the individual and documented as appropriate on the relevant forms and the Employee Staff Record (ESR).
- c) If unpaid leave has been granted managers must ensure that an employee change form is processed, clearly indicating the reasons for the unpaid absence and the period of unpaid leave agreed.

9.4 **People Services Team**

On request the people services representative will ensure that all applications are processed in an appropriate timescale and that employees are informed of their eligibility and pay entitlements.

9.5 **Employees**

It is the responsibility of the employee to notify the employer that they wish to take Maternity or Paternity Leave and to complete the appropriate application and provide any documentary evidence as required.

10 **RECORD MANAGEMENT**

Managers must:

- d) Keep a record of leave requested, approved or denied in the individual's personal file and ensure leave is recorded as appropriate on the relevant forms and the Employee Staff Record.
- e) If parental leave has been turned down the reasons should be made clear to the individual and documented as appropriate on the relevant forms and the Employee Staff Record. If unpaid leave has been granted managers must ensure that a staff change form is processed, clearly indicating the reasons for the unpaid absence and the period of unpaid leave agreed.

11 **MONITORING AND REVIEW**

- 11.1 Each Directorate/Division will establish a mechanism in partnership with the Trade Unions to monitor the application of these procedures, including analysis by protected characteristic, ensuring as far as possible a fair and consistent approach to the granting of any discretionary leave.

Results of this monitoring to be shared with the Health Board Workforce Partnership Forum with the aim of ensuring a consistent approach across the Health Board.

- 11.2 This procedure will be reviewed at 3-yearly intervals in partnership with the People Services Team, Trade Unions and Management or more frequently if monitoring suggests amendments are required and/or there are changes in legislation which impact upon its contents.

12 RESOURCES

- NHS Terms and Conditions of Service Handbook Wales
- Employer Helpbook for Statutory Maternity Pay E15
- WP14b All Wales Special Leave Policy
- WP11 NHS Wales Managing Attendance at Work Policy
- WP5 All Wales Respect and Resolution Policy
- MAT74 Breastfeeding Policy
- What is Hyperemesis Gravidarum? (pregnancysicknesssupport.org.uk)
- Form SC3 - Statutory Paternity Pay/Paternity Leave
- Form SC7 - Additional Statutory Paternity Pay/Paternity Leave - becoming a parent
- Form MA1 Maternity Allowance Claim Form
- All Wales Staff Covid-19 Risk Assessment
- **WP71 Pregnancy Loss Policy**

13 CONTACTS

Shared Services Payroll Team

e-bost /email: NWSSP.PayrollEmploymentServicesBCULHB@wales.nhs.uk

Tel: 02920 903908