Parental Leave Policy

# Document Control:

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| Target Audience | Refer to Section 3, Scope in Policy |
| Stakeholders engaged in development of Policy (internal and external) | * Trade Unions |
| Impact Assessments Undertaken  *(Delete if non-applicable)* | * Equality Impact Assessment |

# Version History

| Version | Date | Author (Name and Title) | Summary of amendments made |
| --- | --- | --- | --- |
| 0.1 | May 2022 | Senior HR Business Partner | First draft ICB Policy |
| 0.1 | June 2022 | Senior HR Business Partner | Final draft for ICB approval |
| 1.0 | 01/07/22 | Senior HR Business Partner | Final approved version. |
| 1.0 | 09/08/22 | Corporate Governance Support Officer/Senior HR Business Partner | Final review of version 1.0 against policy checklist. |
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## Introduction

Parental Leave offers parents the right to take time off to look after a child or make arrangements for the child’s welfare. Parents can use it to spend more time with their children and strike a better balance between their work and family commitments. The time should not be used for other purposes.

Examples of reasons for taking parental leave may include:

* + Spending more time with children in their early years/
  + Being with a child during a hospital visit or stay.
  + Visiting new schools.
  + Setting a child into new childcare arrangements.
  + After a period of maternity/adoption leave or paternity leave.

This policy document complies with this legislation and also with the Agenda for Change Terms and Conditions handbook.

Parental Leave is unpaid.

## Purpose / Policy Statement

The purpose of this policy is to provide a separate unpaid provision from either maternity or maternity support (paternity) leave, adoption leave, and Shared Parental Leave (SPL),

Leave arrangements need to be as flexible as possible, so that the leave may be taken in a variety of ways, by agreement with the line manager.

Parental leave can be added to periods of maternity support (paternity) leave, maternity leave, adoption leave, and Shared Parental Leave.

Employees may wish to refer to the Integrated Care Board’s (ICB) separate [Maternity and Adoption Policy](https://www.midandsouthessex.ics.nhs.uk/publications/?publications_category=icb-policies&page_no=2) and [Shared Parental Leave Policy](https://www.midandsouthessex.ics.nhs.uk/publications/?publications_category=icb-policies&page_no=2) for details of entitlement and procedure.

Frequently Asked Questions are to be found in Appendix B.

## Scope

This policy applies to all ICB employees engaged on Agenda for Change Terms and Conditions of Service.

It does not apply to the following:

* + Those who are self employed eg contractors.
  + ‘Workers’ e.g. an agency worker or bank worker.
  + Foster parents unless they have secured parental responsibility through the courts (refer to separate [Fostering Policy](https://www.midandsouthessex.ics.nhs.uk/publications/?publications_category=icb-policies&page_no=2)).
  + Work experience staff, students and volunteers.

## Definitions

* **Parental Leave** – Time off to look after a child or make arrangements for a child’s welfare, for employees who have nominated caring responsibility for a child who is under 18 years of age.
* **Parental Responsibility** - means the legal rights, duties, powers, responsibilities and authority a parent has for a child and the child’s property. A person who has parental responsibility for a child has the right to make decisions about their care and upbringing.
* **Weeks Leave** - Where the same hours are worked each week, one week’s Parental Leave is equal to the hours normally worked. Where the working week varies one week’s Parental Leave is calculated by dividing the total hours normally required to work in a year by 52.

## Roles and Responsibilities

### Integrated Care Board

* + 1. The ICB Board is accountable and responsible for ensuring that the ICB has effective processes for the management of family friendly policies in accordance with relevant legislation and best practice guidance.

### Chief Executive

* + 1. The Chief Executive is accountable for the policy and procedure being in place to ensure fair and equitable approach to family friendly policies for employees.

### Policy Authors

* + 1. Policy authors are responsible for ensuring that this document is updated when any changes are made to legislation or the NHS Agenda for Change Terms and Conditions for Service.

### Executive Chief People Officer

* + 1. The Executive Chief People Officer oversees the implementation of this policy and is responsible for ensuring that managers take action to meet the organisation’s obligations to ensure equity and consistency.

### Line Managers

* + 1. Managers have a responsibility to:
  + Approve/reject parental leave requests ensuring consistency and equity in the application of this policy.
  + Ensure qualifying conditions are met.
  + Ensure that the appropriate documentation is given to payroll in a timely manner.
  + Monitor periods of Parental Leave.
  + Consider staffing levels and delivery of service provision before approving parental leave requests.
  + Follow this policy and to act on concerns or issues raised in a sympathetic, sensitive and supportive manner.

### All Staff

* + 1. Employees have a responsibility to:
  + Comply with the notification requirements and provide the necessary documentary evidence to support their request for Parental leave.
  + Use Parental leave to care for or spend time with their children as it should not be used for other purposes.

## Policy Detail

### Eligibility

* + 1. Unpaid Parental leave is applicable to any employee in the NHS who has nominated caring responsibility for a child under the age of 18.
    2. Examples of parental responsibility are:
  + Being named on the child’s birth or adoption certificate.
  + Having or expecting to have parental responsibility formally awarded from a court.
    1. Where there is a multiple birth the right exists for each child.
    2. Leave applies to both parents if they meet the eligibility criteria.

### Amount of Leave

* + 1. A maximum of eighteen weeks’ unpaid leave is available for each parent of each eligible child.
    2. One week’s Parental leave is the equivalent of an employee’s working week.
    3. Where a working week varies leave entitlement is calculated by dividing the total hours normally required to work in a year by 52.
    4. Parental Leave must be taken in blocks of between one week and a maximum of four weeks in any calendar year from the date of eligibility. The [Special Leave Policy](https://www.midandsouthessex.ics.nhs.uk/publications/?publications_category=icb-policies&page_no=2) may be applicable in some situations and should be referred to by employees and line managers.
    5. Employees may not take parental leave in blocks of less than one week (except in relation to a child who is disabled whereby leave can be taken one day at a time).
    6. Leave has to be taken by the child’s 18th birthday.

### Documentary Evidence

* + 1. Employees must provide documentary evidence, e.g. birth certificate, court order to confirm the following:
  + that they are the parent or person legally responsible for the child.
  + the child’s name.
  + the child’s date of birth.
  + the date of placement for an adopted child.
  + correspondence to evidence/support legal parental responsibility

any entitlement to a disability living allowance.

* + MATB1 form stating expected week of confinement where Leave is to follow the birth of a child and, in the case of male employees.
    1. Employees are only required to provide documentation on the first application for parental leave for each individual child.

### Notice of Leave

* + 1. Applications for parental leave should:
  + Specify the start and end dates for the leave.
  + Specify the amount of leave to be taken.
  + Be requested using the Parental Leave Application Form (available on the intranet [HR Forms](https://nhs.sharepoint.com/sites/99F_Connect/SitePages/HR-Forms-&-Documents.aspx)).
  + Preferably be made at least 21 days prior to the start of the leave. If the leave is to begin on the date a child is born applications should specify the expected date of childbirth (Expected Week of Confinement).
    1. If the leave is to begin from the date of adoption placement applications should specify the date this is expected to occur.
    2. Notice periods should at least reflect the period of leave required. Whilst 21 days’ notice is preferrable, if this is not possible (e.g. care after hospital admission) in these circumstances as much notice should be given as is practicable.

### Postponement of Leave

* + 1. Unless the period of leave is immediately following the birth or adoption of a child, a line manager can postpone a period of parental leave. Managers should only postpone leave in exceptional circumstances and any such postponements should be discussed with HR prior to confirmation.
    2. Any postponement must be confirmed in writing, confirming the reasons for the postponement and the suggested dates for leave (which must be no more than six months ahead). The notice must be given to the employee no later than seven days after receipt of the request for Parental Leave. The employee can take postponed leave in full, even if the age limits are then exceeded.
    3. Employees may also postpone or cancel leave that has been booked with local agreement.

### Return to Work

* + 1. Employees are entitled to return to their existing job after a period of Parental Leave.
    2. If an employee is unable to return to work the day after their Parental Leave ends, normal absence reporting procedures should be followed.
    3. Employees who do not wish to return to work after a period of Parental Leave must give the required written notice to terminate their contract.

### Carrying leave over from a Previous Job

* + 1. Parental Leave applies to each child not to an individual’s job.
    2. Example – an employee is entitled to 18 weeks. They have used 10 with a previous employer. They can use up to 8 weeks with their new employer.

### Terms and Conditions during Parental Leave

* + 1. **CONTRACTUAL STATUS** - During unpaid Parental Leave the employee’s contract will remain in force and you will continue to be bound by current policies and the duty of Trust and Confidentiality. The terms and conditions of employment applicable to the employee’s job will still apply.
    2. **ANNUAL LEAVE** – An employee’s holiday entitlement will not be reduced as a result of taking Parental Leave.
    3. **PENSION** - Pension contributions (where applicable) will continue to be paid by the ICB and accrue for the employee whilst on Parental Leave and a deduction for pension will be made from salary after return to work. The period over which the arrears deductions will be made will be agreed between the employee and payroll on their return.
    4. During parental leave the employee retains all of their contractual rights, except remuneration and should return to the same job after it.
    5. Periods of parental leave should be regarded as continuous service.

## Monitoring Compliance

The HR Team will be responsible for monitoring that this procedure is followed and may be consulted at any stage through the process to offer advice to those involved.

Monitoring information will be published and reported as appropriate.

Should the monitoring uncover any shortfalls in the implementation of the policy, the HR team will work with the relevant management team to draw up an action plan for improvement. This action plan may include, for example:

* + - Training for line managers.
    - A risk assessment.

It is also anticipated that any issues in respect of the implementation of the policy may be identified as a result of staff exercising their right under the [Grievance Policy](https://www.midandsouthessex.ics.nhs.uk/publications/?publications_category=icb-policies&page_no=2).

## Staff Training

No essential (including mandatory) learning and development requirements have been identified for any staff groups, in order to fulfil the requirements stated within this policy.

Guidance can be sought from Human Resources team.

## Arrangements For Review

This policy will be reviewed no less frequently than every two years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed.

If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the Integrated Care Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the Integrated Care Board.

## Associated Policies, Guidance And Documents

#### [Associated Policies](https://www.midandsouthessex.ics.nhs.uk/publications/?publications_category=icb-policies&page_no=2)

* Maternity and Adoption Leave.
* Shared Parental Leave.
* Fostering Policy.
* Grievance Policy.
* Special Leave Policy.

## References

* NHS Terms and Conditions of Service - any reference is to the latest edition.

## Equality Impact Assessment

The EIA has identified no equality issues with this policy.

The EIA has been included as Appendix A.

## Appendix A - Equality Impact Assessment

**INITIAL INFORMATION**

|  |  |
| --- | --- |
| **Name of policy:**  Parental Leave  **Version number (if relevant):**  1.0 | **Directorate/Service**:  People Services |
| **Assessor’s Name and Job Title:**  Carolyn Druce, HR Business Partner | **Date:**  3 May 2022 |

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| **OUTCOMES** |
| *Briefly describe the aim of the policy and state the intended outcomes for staff* |
| Parental Leave offers parents the right to take time off to look after a child or make arrangements for the child’s welfare. Parents can use it to spend more time with their children and strike a better balance between their work and family commitments. |
| **EVIDENCE** |
| *What data / information have you used to assess how this policy might impact on protected groups?* |
| The ICB monitors the composition of its workforce under the nine protected equality characteristics and reports on this annually. This information helps the ICB to assess the potential impact of its policies upon staff. |
| *Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why?* |
| Relevant Trade Unions have been consulted on the policy and any comments will be taken into consideration when the policy is published. |

**ANALYSIS OF IMPACT ON EQUALITY**

The Public Sector Equality Duty requires us to **eliminate** discrimination, **advance** equality of opportunity and **foster** good relations with protected groups. Consider how this policy / service will achieve these aims.

N.B. In some cases it is legal to treat people differently (objective justification).

* ***Positive outcome*** *– the policy/service eliminates discrimination, advances equality of opportunity and fosters good relations with protected groups*
* ***Negative outcome*** *–**protected group(s) could be disadvantaged or discriminated against*
* ***Neutral outcome***  *–**there is no effect currently on protected groups*

Please tick to show if outcome is likely to be positive, negative or neutral. Consider direct and indirect discrimination, harassment and victimisation.

| Protected  Group | Positive  outcome | Negative  outcome | Neutral  outcome | Reason(s) for outcome |
| --- | --- | --- | --- | --- |
| Age |  |  | x | The policy has been amended to refer to anyone who has parental responsibility regardless of their protected characteristics. |
| Disability  (Physical and Mental/Learning) |  |  | x | As above |
| Religion or belief |  |  | x | As above |
| Sex (Gender) |  |  | x | As above |
| Sexual  Orientation |  |  | x | As above |
| Transgender / Gender Reassignment |  |  | x | As above |
| Race and ethnicity |  |  | x | As above |
| Pregnancy and maternity (including breastfeeding mothers) |  |  | x | As above |
| Marriage or Civil Partnership |  |  | x | As above |

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| **MONITORING OUTCOMES** |
| Monitoring is an ongoing process to check outcomes. It is different from a formal review which takes place at pre-agreed intervals. |
| *What methods will you use to monitor outcomes on protected groups?* |
| It is anticipated that any issues in respect of the implementation of the policy will be identified as a result of staff exercising their right via the ICB’s  Grievance Procedure. |

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| **REVIEW** |
| *How often will you review this policy / service?* |
| Every 2 years as a minimum and earlier if there are any significant changes in legislation, policy or good practice. |
| *If a review process is not in place, what plans do you have to establish one?* |
| N/A |

## Appendix B – Frequently Asked Questions

**Q1. Can both parents take Parental Leave?**

Parental Leave is an individual right and assuming they meet the eligibility criteria both parents are entitled to take Parental Leave. The right cannot be transferred to each other.

**Q2. Can requests for Parental Leave be refused?**

All requests should be granted if they are requested under the terms of this Policy and all criteria have been met.

However, leave can be postponed, for up to 6 months if it is considered the delivery of service would be substantially disrupted.

Parental Leave requested to follow the birth or adoption of a child cannot be postponed, if the appropriate notice to take the leave has been given.

**Q3. What happens if there is more than one application at the same time?**

Wherever possible all requests should be granted. Where this is not possible managers should take all factors into account e.g. whether the request is to follow a birth or adoption, who put in the request first and make a decision based on reasonableness. Advice should be sought from HR where necessary.

**Q4. How is the entitlement calculated for part timers?**

Parental Leave is calculated using a normal working week. Where you work different hours each week the Leave is calculated using your annual hours/52.

**Q5. What happens if I am taken ill whilst on Parental Leave?**

If you are taken ill whilst on Parental Leave for more than 7 days, you should provide a Doctors Certificate. We will then arrange to give back the days “lost” due to the sickness. The absence will be recorded as ‘sickness’ and paid as appropriate under Agenda for Change terms and conditions.

**Q6. Is Parental Leave different to Dependents Leave?**

Yes, Parental Leave is planned leave whereas Dependents Leave is to cope with emergency care.

**Q7. My wife is expecting a baby and I would like to take Parental Leave after the birth – is this possible?**

Yes, you can request Parental Leave to follow the birth of a baby or to coincide with the return home. You should request the leave at least 21 days prior to the expected date of childbirth and provide a copy of the MATB1 for your manager’s information. Some degree of flexibility will be provided as to the exact date the leave commences. (Parental leave can be taken in addition to paternity leave).