Maternity, Adoption and Paternity Leave Policy and Procedure

Policy Number: 128
Supersedes: All previous policies relating to maternity, adoption and paternity leave
Standards For Healthcare Services No/s 22

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<th>Reviewer Name:</th>
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<td>Policy Review Group</td>
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<td>W&amp; OD</td>
<td>December 2011</td>
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Brief Summary of Document: Outlines the rules and regulations governing periods of leave under the above conditions

To be read in conjunction with:
127 - All Wales Special Leave Policy
110 - Sickness Policy
126 - Work/Life Balance - Flexible Working Policy

Classification: Employment Category: Policy Freedom Of Information Status: Open

Authorised by: Lisa Gostling Job Title: Director of Workforce and OD Signature: A signed copy of this document is stored with Corporate Services
**Scope**

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**CONSULTATION**

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**RATIFYING AUTHORITY**

(in accordance with the Schedule of Delegation)

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**Date Equality Impact Assessment Undertaken**

14th July 2011
Reviewed 5-11-15

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<td>Sub group of Policy review group</td>
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<tr>
<td>Ceri Williams</td>
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<td>Bob Mander</td>
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<td>Jackie Hooper</td>
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**Please enter any keywords to be used in the policy search system to enable staff to locate this policy**

Maternity, Paternity, Adoption, Surrogacy
### Document Implementation Plan

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## CONTENTS

1. POLICY STATEMENT .......................................................................................................................... 6
2. PURPOSE ......................................................................................................................................... 6
3. SCOPE ............................................................................................................................................. 6
4. MATERNITY LEAVE AND PAY .................................................................................................... 6
   4.1. Ante-Natal Care ......................................................................................................................... 6
   4.2. Health and Safety Considerations Pre and Post Birth ............................................................. 6
   4.3. Eligibility .................................................................................................................................... 7
   4.4. Notification ............................................................................................................................... 7
   4.5. Commencement of Leave .......................................................................................................... 7
   4.6. Keeping in Touch ....................................................................................................................... 8
   4.7. Maternity Pay ........................................................................................................................... 9
   4.8. Terms and Conditions during Maternity Leave Period ............................................................ 10
   4.9. Rotational Training Contracts ................................................................................................. 11
   4.10. Right to Return to Work ......................................................................................................... 11
   4.11. Sickness Following the End of Maternity Leave ..................................................................... 11
   4.12. Requests for Flexible Working ............................................................................................... 12
   4.13. Post-natal Care and Breastfeeding Mothers ......................................................................... 12
5. ADOPTION LEAVE ....................................................................................................................... 12
   5.1. Eligibility .................................................................................................................................... 12
   5.2. Adoption Leave Entitlement ...................................................................................................... 12
   5.3. Notification .................................................................................................................................. 12
   5.4. Return to Work .......................................................................................................................... 13
   5.5. Requests for Flexible Working ................................................................................................. 13
   6. Surrogacy Entitlements ................................................................................................................. 13
7. PATERNITY LEAVE ........................................................................................................................ 14
   7.1. Ordinary paternity leave ........................................................................................................... 14
   7.2. Notification of ordinary paternity leave .................................................................................... 14
   7.3. Ordinary statutory paternity pay ............................................................................................... 15
   7.4. Additional paternity leave ........................................................................................................ 15
   7.5. Eligibility for additional paternity leave .................................................................................. 16
   7.6. Notification of additional paternity leave ................................................................................ 16
   7.7. Additional statutory paternity pay ............................................................................................ 17
   7.8. Keeping-in-touch days during additional paternity leave ......................................................... 18
   7.9. Returning to work after additional paternity leave ................................................................. 18
   7.10. Rights on and after return to work ......................................................................................... 18
8. TRAINING AND AWARENESS RAISING .................................................................................. 19
9. EQUALITY ........................................................................................................................................ 19
10. DATA PROTECTION ACT 1998 .................................................................................................. 19
11. FREEDOM OF INFORMATION ACT 2000 .............................................................................. 19
12. RECORDS MANAGEMENT .......................................................................................................... 19
13. REVIEW ......................................................................................................................................... 19
14. MONITORING ............................................................................................................................. 19
15. DISCIPLINE .................................................................................................................................... 19
16. APPENDIX 1 – APPLICATION FOR MATERNITY LEAVE/PAY .................................................. 21
17. APPENDIX 2 – MATERNITY LEAVE SCHEME OPTIONS .................................................24
18. APPENDIX 3 - APPLICATION FOR PATERNITY/ADDITIONAL PATERNITY LEAVE ..............................................................................................................................................26
19. APPENDIX 4 - TRANSFER OF ADDITIONAL PATERNITY LEAVE TO PARTNER ...27
20. APPENDIX 5 – ADOPTION LEAVE APPLICATION FORM........................................28
21. APPENDIX 6 - SURROGACY APPLICATION FORM.................................................28
22. APPENDIX 6A - APPLICATION FOR ADOPTION LEAVE AND PAY IN CONNECTION WITH APPLICATION FOR SURROGACY........................................................................30
1. **POLICY STATEMENT**
Hywel Dda University 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 provision of flexible forms of working plays an important part in making it possible to attract and retain the best possible staff.

The Health Board recognises the need for employees to be able to take time away from the workplace when they become parents. The Health Board is committed to implementing this policy in a way which meets the requirements of the Equality Act 2010. It is the responsibility of managers and staff to ensure that they implement this policy/procedure in a manner that meets the needs of people with “protected characteristics” as defines in the Equality Act 2010. Managers must check with individual staff what their needs are. It is recognised that the provision of maternity, adoption and paternity leave is key to the Local Health Board being able to demonstrate this commitment.

2. **PURPOSE**
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 those rights and the nature and period of leave, paid and unpaid, that will apply in particular circumstances.

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

4. **MATERNITY LEAVE AND PAY**
4.1. **Ante-Natal Care**
All pregnant employees are entitled to 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 parentcraft classes. Employees must provide evidence (record card or certificate of pregnancy) 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.

4.2. **Health and Safety Considerations Pre and Post Birth**
Managers are responsible once they become aware an employee is pregnant, has recently given birth or is breastfeeding to identify potential health and safety risks. A risk assessment should be carried out at as early as possible to assess the risks arising from the employee’s work. Where a manager identifies a health risk or where a medical practitioner considers that an employee or her child would be at risk were she to continue with her normal duties the employer should either:

- Remove the cause of the health risk or change the employee’s duties so the risk does not arise;
- Discuss and agree with the employee concerned, suitable alternative work (for which the employee will receive her normal rate of pay) that may be undertaken for a specified period of time;

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1 Race, Disability, Gender, Transgender, age, sexual orientation, religion and belief, marriage and civil partnerships and pregnancy and maternity. Consideration should also be given to language needs and Human Rights Act 2000.
• Suspend the employee from work on maternity grounds where there is no other reasonable or practicable alternative. Maternity suspension will be on normal pay and will not be counted as maternity leave or sickness leave.

• The health and safety of a pregnant employee inside the workplace is an ongoing responsibility for the manager and employee and the above considerations will apply throughout the pregnancy and breast-feeding period. Any particular arrangements introduced as a result of a risk assessment should be reviewed on a regular basis to take account of changes affecting the employee’s personal circumstances or changes in work activity.

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

4.4. Notification
All pregnant employees are required to notify the Local Health Board in writing of their intention to take maternity leave before the end of the fifteenth week before the expected week of childbirth (or if this is not possible, as soon as is reasonably practicable thereafter). The employee must advise:

• Of her intention to take maternity leave;
• The date she wishes her maternity leave to start;
• Whether she intends to return to work with the same or another NHS employer for a minimum period of three months after her maternity leave has ended.

Further to this the employee is required to provide a MATB1 form from her midwife or GP giving the week the baby is expected to be born and complete an application for Maternity Leave form attached. (Appendix 1)

Following receipt of all documentation the County Workforce Team will confirm in writing:

• The employee’s paid and unpaid leave entitlements under this policy (or statutory entitlements if the employee does not qualify under this agreement);
• The employee’s expected return date based on her 52 weeks paid and unpaid leave entitlement, or an earlier return date where this has been provided by the employee;
• The length of any period of accrued annual leave which it has been agreed may be taken prior to or following the end of the formal maternity leave period.
• The need if the employee wishes to change her mind about her start date for her maternity leave to give at least 28 days notice before she intends to start her maternity leave (or if this is not possible, as soon as is reasonably practicable).

Employees who fail to meet this requirement may forfeit their right to statutory maternity benefit. Only in exceptional circumstances can the organisation extend the notification of maternity leave beyond 28 days;

The need for the employee to give at least 28 days notice (or if this is not possible, as soon as is reasonably practicable) if she wishes to return to work before the expected return date.

4.5. Commencement of Leave
Maternity leave can commence at any time between the eleven weeks before the expected week of childbirth and the expected week of childbirth provided the required notice is received. Scheme Options are outlined in Appendix 2
If an employee is off sick, or becomes ill, with a pregnancy related illness during the last four weeks before the expected week of childbirth, maternity leave will normally commence at the beginning of the fourth week before the expected week of childbirth or the beginning of the next week after the employee last worked, whichever is the later. Odd days of pregnancy related illness during this period may be disregarded if the employee wishes to continue working till the maternity leave start date previously notified to the employer.

Absence prior to the last four weeks before the expected week of childbirth and for a reason unrelated to pregnancy, shall be treated, where supported by a medical certificate or self certificate as sick leave in accordance with normal sick leave provisions. In the event of a still birth after the 24th week of pregnancy, the employee will be entitled to the same amount of maternity leave and pay as if the circumstances had not changed.

Where an employee’s baby is born prematurely the employee will be entitled to the same amount of maternity leave and pay as if the baby was born at full term. Where the birth occurs before the eleventh week before the expected week of childbirth, and the employee has worked during the actual week of childbirth, maternity leave will start on the first day of the employee’s absence.

Where the birth occurs before the eleventh week before the expected week of childbirth and the employee has been absent from work on certified sickness absence during the actual week of childbirth, maternity leave will start at the beginning of the actual week of childbirth.

Where the birth occurs before the eleventh week before the expected week of childbirth and the baby is in hospital the employee may split her maternity leave entitlement, taking a minimum period of two weeks leave immediately after childbirth and the rest of her leave following the baby’s discharge from hospital.

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

4.6  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 her 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 for example news of changes at the workplace that might affect the employee on her return.

The contact between employer or 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, involving the employee making a visit to the workplace, or in other ways.

Employers should note that they must, in any event, keep the employee informed of promotion opportunities and other information relating to her job that she would normally be made aware of if she was working. Failure to communicate changes at work which might affect the employees long term career objectives or which can be shown to have adversely impacted on the employees opportunity for career progression whilst on maternity leave could impact on the Health Board and all managers must ensure that such information is provided to their employees in writing.
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.

If the work carried out during one shift straddles midnight it may be counted as one day for the purposes of Keeping in Touch days, if the employee’s normal working pattern is such that this would fall within a normal working day.

Any work done on any day during the maternity pay or maternity leave period will count as a whole Keeping in Touch day, up to the 10-day maximum. In other words, if an employee comes in for a one-hour training session and does no other work that day, she will have used one of her Keeping in Touch days.

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 employees contract, for which she would be paid, but could be particularly useful in enabling the employee to attend a conference, undertake a training activity or attend for a team meeting for example.

Payment for keeping in touch days will be offset against SMP and each day will be calculated as normal pay as 1/31st or pro rata to the actual hours worked.

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

4.7. Maternity Pay
Pregnant employees who satisfy the following criteria working either full time or part time and who intend to return to work following a period of maternity leave will be entitled to contractual maternity pay:

- Twelve months of continuous service with one or more NHS Employer at the beginning of the 11th week before the expected week of child birth. (NHS Employer means Local Health Boards, NHS Boards, NHS Trusts, NHS Health Authorities, Primary Care Trusts and the Northern Ireland Health Service. For the purposes of calculating whether the employee meets the twelve month continuous service see Section 15.8 of the Agenda for Change Terms and Conditions Handbook.)
- Continue to be employed and pregnant (or to have given birth) by the eleventh week before the expected week of childbirth;
- Receive average weekly earnings over an eight week period prior to the fifteenth week before the expected week of childbirth of not less than the lower earning limit for the payment of National Insurance contributions.

If an employee’s earnings are too low to qualify for Statutory Maternity Pay, or if they do not qualify for another reason, they should be advised to claim Maternity Allowance from their local Job Centre Plus or social security office. Details of such benefits are available from the payroll department. Please access HMRC website (www.hmrc.gov.uk) for further details.

Employees who satisfy the criteria set out above will receive

- eight weeks maternity pay based on normal earnings including Statutory Maternity Pay or Maternity Allowance in addition to:
Eighteen weeks maternity pay based on half of full pay plus statutory maternity Pay or Maternity Allowance provided the employee returns to work after the maternity leave for a minimum period of three months and the total pay does not exceed full pay, followed by;

Thirteen weeks statutory maternity pay or maternity allowance.

By prior agreement with the Local Health Board and if the local payroll provider allows, this entitlement may be paid in a different way, for example, a combination of full pay and half pay or a fixed amount spread equally over the maternity leave period.

Employees not intending to return to work with the same or another NHS employer or those with less than 12 months service with sufficient earnings will be entitled to Statutory Maternity Pay. Statutory Maternity Pay is paid at 90% of an employee’s average weekly earnings for the first 6 weeks of the maternity leave and at a flat rate sum for the following 33 weeks. Those who have not earned enough will receive an SMP1 form from the Payroll Department explaining why SMP cannot be paid and the employee can then take this form to the Benefits Agency where maternity allowance may be payable.

Where an employee indicates that they intend to return to work for the same or a different NHS employer and received maternity pay on that basis but fails to return to work within 15 months of the beginning of her maternity leave will be liable to refund the whole of her maternity pay, less Statutory Maternity Pay received. In cases where the employer considers that to enforce this provision would cause undue hardship or distress the Local Health Board will have the discretion to waive the rights to recovery.

4.7.1. Fixed-Term, Temporary or Training Contracts
Employees subject to fixed-term, temporary or training contracts which expire after the eleventh week before the expected week of childbirth and who satisfy the conditions in paragraph 4.7 above shall have their contracts extended so as to allow them to receive the 39 weeks paid contractual maternity leave.

If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred the repayment provisions set out above will not apply.

Employees on fixed term contracts who do not meet the criteria set out above may still be entitled to receive Statutory Maternity Pay.

Absence on maternity leave (paid and unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service.

4.7.2. Unpaid Contractual Maternity Leave
All pregnant employees (with the exception of those covered by paragraph 4.7.1 above) will be entitled to a further 13 weeks unpaid leave in addition to the 39 weeks paid entitlement.

4.8. Terms and Conditions during Maternity Leave Period
During the period of maternity leave (both paid and unpaid) an employee retains all contractual terms with the exception of pay which is determined in accordance with the above criteria.

4.8.1. Annual Leave:
Annual leave including bank holidays will continue to accrue during maternity leave, whether paid or unpaid. Periods of paid and unpaid maternity leave shall also count as service for the purpose of calculating entitlement to additional annual leave for long service.
Where the amount of accrued annual leave exceeds the normal carry over provisions, it may be mutually beneficial to both the organisation and the employee for the annual leave to be taken 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, will be discussed and agreed between the Local Health Board and the employee.

4.8.2. **Lease Cars:**
All terms and conditions remain in respect of Crown Cars. This includes subsidy, contributions, conditions of use and penalties. Employees should contact the Crown Cars Department to confirm details of their lease and possible changes affecting their tax and other lease issues.

4.8.3. **Incremental credit:**
Maternity leave, whether paid or unpaid, shall count as service for annual increments and for the purposes of any service qualification period for additional annual leave.

4.8.4. **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.

4.9. **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, she 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.

4.10. **Right to Return to Work**
With the exception of staff 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 her full maternity leave will not be required to give any further notification to the Local Health Board, although if she wishes to return early she 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 job, the Local Health Board will provide the employee with suitable alternative employment in accordance with the Local Health Board’s redeployment procedure.

4.11. **Sickness Following the End of Maternity Leave**
In the event of illness following the date the employee was due to return to work normal sick leave provisions will apply as necessary.
4.12. Requests for Flexible Working
If at the end of maternity leave an employee wished to return to work on different hours the organisation has a duty to facilitate this wherever possible, with the employee returning to work on different hours in the same job. If this is not possible the line manager must provide written, objectively justifiable reasons for this and employee should return to the same Band and work of a similar nature and status to that which they held prior to maternity absence.

The Local Health Board provides a policy for dealing with requests for flexible working and the employee’s line manager will be responsible for ensuring that each stage of the process is completed within any prescribed time limits.

Where 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 her job under her original contract at the end of the agreed period.

4.13. Post-natal Care and Breastfeeding Mothers
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.

If there is a request the Local Health Board will provide breast-feeding women with suitable rest facilities which include:
- A private and comfortable area where staff may be allowed time away from normal duties to express and store breast milk in order to maintain supply;
- Provision of dedicated fridge space for safe storage of expressed milk;
- Hand washing facilities.

5. ADOPTION LEAVE
Adoption leave, paid and unpaid, will be available to employees wishing to adopt a child and who have primary care responsibilities for that child. Where a couple adopt jointly, the couple may choose which partner takes adoption leave. The partner of an individual who adopts, or the other member of a couple who are adopting jointly may be entitled to paternity leave and pay.

5.1. Eligibility
To qualify for adoption leave, an employee must: be ‘newly matched’ with a child for adoption by an approved adoption agency. If there is an established relationship with the child, such as fostering prior to adoption, time off for official meetings only will be considered.

5.2. Adoption Leave Entitlement
Where the child is below the age of 18, adoption leave and pay will be in accordance with the maternity leave and pay provisions of this policy.

5.3. Notification
All employees who wish to take adoption leave must write to their manager as soon as practicably possible but by no later than 7 days of being notified by their adoption agency that they have been matched with a child for adoption, unless this is not reasonably practicable. Employees must tell their manager:
- when the child is expected to be placed with them;
- when they want their adoption leave to start;
- if they intend to return to work for a minimum of three months after adoption leave.
5.4. **Return to Work**
The provisions for returning to work after a period of adoption leave will mirror those for maternity leave.

5.5. **Requests for Flexible Working**
Adoptive parents may apply for flexible working arrangements in the same way as an employee commencing or returning from a period of maternity leave. The same process for dealing with such requests will apply.

6. **SURROGACY ENTITLEMENTS**
A woman 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 her service as normal maternity leave.

There are 2 potential surrogacy scenarios:
- where the birth mother is not genetically related to the baby (gestational or host IVF):
- where one parent is genetically related (usually the father) (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.

6.1 **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.

Employees who elect to apply for adoption leave and pay should complete appendix 6a in addition to appendix 6.

6.2 **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 the maternity leave and pay provisions of the policy.

6.3 **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 (appendix 6). 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.

Where a couple has a parental order in relation to a child or is applying for one, one of the parents can be eligible for adoption leave and pay and the other can be eligible for paternity leave and pay. The couple must elect which of them will take adoption leave.

6.4 **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 mother to up to two ante natal appointments.
6.5 **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.

6.6 **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.

7. **PATERNITY LEAVE**

7.1. **Ordinary paternity leave**
An employee whose wife, civil partner or partner gives birth to a child, or who is the biological father of the child, is entitled to two weeks’ ordinary 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.

Ordinary paternity leave is also available to adoptive parents where a child is matched or newly placed with them for adoption. Either the adoptive father or the adoptive mother may take ordinary paternity leave where the other adoptive parent has elected to take adoption leave (see section 5) 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.

To qualify for ordinary paternity leave, the employee must also have, or expect to have, responsibility for the upbringing of the child and be making the request to help care for the child or to support the other parent.

Ordinary paternity leave is granted in addition to an employee’s normal annual leave and bank holiday entitlement. Ordinary paternity leave must be taken in a single block of one or two weeks within eight weeks of the birth or adoption of the child. If the child is born early, it must be taken from the time of the birth but within eight weeks of the expected date of childbirth.

Ordinary paternity leave can start either from the date the child is born or placed for adoption or from a chosen number of days or weeks after that date.

Leave may start on any day of the week following the child’s birth but must be completed within 56 days of the expected date of birth of the child or if the child is born early, within the period from the actual date of birth up to 56 days after the expected week of birth.

In exceptional circumstances, the period of leave may be taken beyond the 56 days time limit. Any decision to allow this will depend on the circumstances in each case and will be subject to the discretion of the Local Health Board.

Only one period of leave will be available to employees irrespective of whether more than one child is born as the result of the same pregnancy.

7.2. **Notification of ordinary paternity leave**
Where an employee wishes to request ordinary paternity leave in respect of a birth child, they must give their line manager 15 weeks’ written notice of the date on which their partner’s baby
is due, the length of ordinary paternity leave they wish to take and the date on which they wish the leave to commence. (See appendix 3)

In the case of an adopted child, the employee must give written notice of their intention to take ordinary paternity leave no later than seven days after the date on which notification of the match with the child was given by the adoption agency. The notice must specify the date the child is expected to be placed for adoption, the date the employee intends to start ordinary paternity leave, the length of the intended ordinary paternity leave period and the date on which the adopter was notified of having been matched with the child.

If an employee subsequently wishes to change the timing of the ordinary paternity leave, they must give 28 days’ written notice of the new dates. The employee must also, if so requested, complete and sign a self-certificate declaring that they are entitled to ordinary paternity leave and ordinary statutory paternity pay.

7.3. **Ordinary statutory paternity pay**
Pay during ordinary paternity leave will be at a standard rate or at a rate equivalent to 90% of the employee’s average weekly earnings if this figure is less than the standard rate (currently £128.73 per week). However, employees whose average weekly earnings are below the lower earnings limit for national insurance contributions will not be eligible for ordinary statutory paternity pay.

Statutory paternity pay is treated as earnings and is therefore subject to PAYE and national insurance deductions.

Statutory paternity pay can start from any day of the week in accordance with the date the employee starts their paternity leave.

7.4. **Additional paternity leave**
Eligible employees may take up to 26 weeks’ additional paternity leave within the first year of their child’s life provided that the other parent has returned to work.

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.

The earliest that additional paternity leave can commence is 20 weeks after the date on which the child is born, or 20 weeks after the date of placement of the child for adoption, and it must end no later than 12 months after that date. 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.

Pension contributions will continue to be made during any period of additional paternity leave.

Employees are encouraged to take any outstanding annual leave or bank holiday entitlement due to them before the commencement of additional paternity leave. Employees are reminded that their annual leave and bank holiday entitlement must be taken in the year that it is earned and therefore if the holiday year is due to end during additional paternity leave, any outstanding entitlement must be taken before the start of additional paternity leave.
7.5. **Eligibility for additional paternity leave**
In order to be eligible for additional paternity leave, an employee must satisfy each of the following criteria:

- They must be the father of the child or married to, the civil partner of, or the partner of, the child’s mother, or 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, they must have been matched with the child for adoption. In both cases, they must be taking the leave to care for the child.
- They 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 they were notified of having been matched with the child.
- They 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 the following: 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 and/or statutory adoption pay. The mother or primary adopter must have returned to work.

7.6. **Notification of additional paternity leave**
Where an employee wishes to request additional paternity leave and pay, they must give their line manager eight weeks’ written notice of the date on which they wish to take the leave and, if applicable, additional statutory paternity pay to commence.

The request form must be in writing (see appendix 3) and specify, in the case of a birth child, the date on which the child was expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption. In both cases, the notice must also specify the employee’s name and intended start date and end date of additional paternity leave and statutory paternity pay.

The employee must also submit a written and signed self-certification form not less than eight weeks before the proposed start date of additional paternity leave and pay stating that the purpose of the additional paternity leave/statutory paternity pay period is to care for the child and that they satisfy the relationship eligibility conditions for additional paternity leave and pay.

At the same time, the mother or primary adopter must submit a written and signed declaration form stating: (see appendix 4)

- Their name, address and national insurance number;
- the date that they intend to return to work;
- that they have given notice to their employer of the date they intend to return to work;
- that they are entitled to statutory maternity pay, maternity allowance or statutory adoption pay with supporting evidence
- the start date of their maternity or adoption pay period;
- confirmation that the employee satisfies the relationship eligibility conditions;
- that they consent to the Health Board processing the information contained in the declaration form; and
- that the employee is to their knowledge the sole applicant for additional statutory paternity pay and, in the case of a birth child, also that the employee is to their knowledge the only person exercising the entitlement to additional paternity leave in respect of the child.
The employee must produce the name and business address of the mother’s or primary adopter’s employer and a copy of the child’s birth certificate or, in the case of an adopted child, evidence of the name and address of the adoption agency, the date on which they were notified of having been matched with the child and the date on which the agency expects to place the child for adoption. The employee must supply this information within 28 days of it being requested.

The employee is permitted to bring forward their additional paternity leave start date, provided that they advise the Health Board in writing at least six weeks before the new start date or, if that is not possible, as soon as reasonably practicable. The employee may also postpone their additional paternity leave start date, or cancel their additional paternity leave altogether, provided that they advise the Health Board in writing at least six weeks before the original proposed start date or, if that is not possible, as soon as reasonably practicable.

The Health Board will formally respond in writing to the employee’s notification of their additional paternity leave plans within 28 days, confirming the relevant start and end dates of additional paternity leave and pay.

### 7.7. **Additional statutory paternity pay**

Additional statutory paternity pay may be payable during some or all of additional paternity leave, depending on the length and timing of the leave. Additional Statutory Paternity Pay is only payable during the period of the partner’s 39 week Maternity Allowance, Statutory Maternity or Statutory Adoption Pay period.

An employee is entitled to additional statutory paternity pay if:

- They 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 mother’s 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; and must intend to care for the child during your Additional Statutory Paternity Pay Period
- they 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 they were notified of having been matched with the child (the “relevant week”);
- they remain in continuous employment until the week before the additional statutory paternity pay period begins;
- their 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;
- the mother or primary adopter has stopped claiming any relevant pay, with at least two weeks of unexpired Statutory Pay period remaining; and
- proper notification is given in accordance with the rules set out above.

Any statutory paternity pay due during additional paternity leave will be paid at the standard rate which is currently or at a rate equivalent to 90% of the employee’s average weekly earnings if this figure is less than the current standard rate.
Statutory paternity pay is payable whether or not the employee intends to return to work after their additional paternity leave.

A mother and father or two adoptive parents cannot take maternity/adoption leave and additional paternity leave at the same time.

7.7.1. Employees who do not qualify for additional Paternity Leave or Pay
Employees who do not qualify for Additional Paternity Leave or Pay may be able to take annual leave or unpaid leave.

7.8. Keeping-in-touch days during additional paternity leave
An employee can agree to work for the Health Board (or to attend training) for up to 10 days during additional paternity leave without that work bringing the period of their additional paternity leave and pay to an end. These are known as “keeping-in-touch” days. Any work carried out on a day shall constitute a day’s work for these purposes.

Payment for keeping in touch days will be offset against additional paternity pay and each day will be calculated as normal pay as 1/31st or pro rata to the actual hours worked.

The Health Board has no right to require the employee to carry out any work, and the employee has no right to undertake any work, during their additional paternity leave. Any work undertaken, on keeping-in-touch days, is entirely a matter for agreement between the Health Board and the employee. Any keeping-in-touch days worked do not extend the period of additional paternity leave.

7.9. Returning to work after additional paternity leave
The employee will have been formally advised in writing by the Health Board of the end date of their additional paternity leave. The employee is expected to return on the next working day after this date, unless they notify the Health Board otherwise. If they are unable to attend work at the end of additional paternity leave due to sickness or injury, the Health Board’s normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date, they must give the Health Board at least six weeks’ notice of their date of early return, in writing. If they fail to do so, the Health Board may postpone the date of return for the six week notice period, provided that this is not later than the expected return date.

If the employee decides not to return to work after additional paternity leave, they must give notice of resignation as soon as possible and in accordance with the terms of their contract of employment. If the notice period would expire after additional paternity leave has ended, the Health Board may require the employee to return to work for the remainder of the notice period.

7.10. Rights on and after return to work
On resuming work after both ordinary and additional paternity leave (in the latter case where it was an isolated period of leave or taken with certain other types of statutory leave), the employee is entitled to return to the same job as they occupied before commencing paternity leave on the same terms and conditions of employment as if they had not been absent.
8. TRAINING AND AWARENESS RAISING
All staff will be made aware of this policy upon commencement with the Health Board at either the Corporate or Departmental induction. Copies can also be viewed on the Health Board’s Intranet or obtained via the department. Training will be provided as appropriate depending on the complexity of the policy. Training may be provided at training sessions which all staff will be informed of via internal communication channels or their line manager in advance or via newsletters.

9. EQUALITY
The Health Board recognises the diversity of the local community and those in its employ. Our aim is therefore to provide a safe environment free from discrimination and a place where all individuals are treated fairly, with dignity and appropriately to their need. The Health Board recognises that equality impacts on all aspects of its day to day operations and has produced an Equality Policy Statement to reflect this. All policies and procedures will be assessed using the NHS Centre for Equality and Human Rights Equality Impact Assessment Tool. When policies have been impact assessed the results will be monitored centrally.

10. DATA PROTECTION ACT 1998
All documents generated under this policy, including applications, and formal notes and documents generated by managers and any review panel, that relate to identifiable individuals are to be treated as confidential documents, in accordance with the Health Board’s Data Protection Policy. It is recommended that all parties familiarise themselves with the relevant parts of this Policy.

11. FREEDOM OF INFORMATION ACT 2000
All Health Board records and documents, apart from certain limited exemptions, can be subject to disclosure under the Freedom of Information Act 2000. Records and documents exempt from disclosure would, under most circumstances, include those relating to identifiable individuals arising in a personnel or staff development context. Details of the application of the Freedom of Information Act within the Health Board may be found in the Freedom of Information Act 2000 Policy. It is recommended that all parties familiarise themselves with the relevant parts of this Policy.

12. RECORDS MANAGEMENT
All documents generated under this policy, including applications, and formal notes and documents generated by managers and any review panel, are official records of the Health Board and will be managed and stored and utilised in accordance with the Health Board’s Records Management Policy.

13. REVIEW
This policy will be reviewed in three years time. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.

14. MONITORING
Details of Maternity, Adoption and Paternity Leave applications will be recorded in a database and reported on periodically to the Partnership Forum and the Executive Board. The database will include equality monitoring data, which will be reviewed and presented to the Health Board’s Equality and Human Rights Steering Group.
15. **DISCIPLINE**
Breaches of this policy will be investigated and may result in the matter being treated as a disciplinary offence under the Health Board’s disciplinary procedure.
16. **APPENDIX 1 – APPLICATION FOR MATERNITY LEAVE/PAY**

Before you complete this application form please read fully the Maternity Policy *(available on the intranet)*

**Part A – TO BE COMPLETED BY APPLICANT**

I wish to apply for maternity leave/pay in accordance with Hywel Dda University Health Board’s Conditions of Service

**FULL NAME (MRS/MISS/MS).................................................................................................................................**

**HOME ADDRESS..................................................................................................................................................**

**DEPARTMENT/WARD..................................................STAFF NUMBER..................................................**

**BAND/JOB TITLE.................................................................................................................................................**

**NUMBER OF HOURS WORKED PER WEEK.................................................................**

Date of commencement of continuous service within the NHS..............................................................

Date of appointment with Hywel Dda University Health Board..............................................................

**Expected date of confinement ......................... (Mat B 1 to be attached with this form)**

**A. Have you had a period of maternity leave in the last year? If so, please enter the dates.................................................................................................................................................................................................**

**B. I understand that the Health Board can only make payment of Maternity Pay if I fully comply with eligibility criteria as set out in the Maternity Policy.**

I intend to return to work ( see Scheme A, B, D) and expect to be absent from :-

26 weeks Ordinary Maternity Leave From ..................to .............

I would also like to take 13 weeks Statutory Maternity Pay
from ..................to ..................= 39 weeks

13 weeks unpaid Maternity Leave from .............to ..........= 52 weeks

I apply for Scheme .................. ( Refer to notes attached)

I understand and agree that, if I decide not to return to work for **at least three months** after the birth of my child, I must repay to the Local Health Board the whole of the Maternity Pay I have received, less any Statutory Maternity Pay I am entitled to.

I do not intend to return to work ( See Scheme C)

and my last working day before terminating my employment will be ..............................................

I enclose my maternity certificate (Form MAT B1). *(This should be your original certificate. Copies are not acceptable for administrative purposes).*

**I have read the Maternity Policy including Appendix 2 which is a summary of the options within the Conditions of Service and the above information is true to the best of my knowledge.**
PART B – TO BE COMPLETED BY MANAGER

Received on behalf of Hywel Dda University Health Board………………………………………………

(Manager – Block Capitals)

Department/Designation……………………………………………………………………………………………………

Signed…………………………………………………..Date………………………………………………………………

Completed forms to be forwarded immediately to the appropriate County Workforce Team with original MatB1

Date submitted to the County workforce Team………………………………………………………………………………

PART C – TO BE COMPLETED BY County Workforce Team

Date Received by County Workforce Team………………………………………………………………………………………

Based on the information provided in Section A, you are/are* not eligible for maternity leave in accordance with Scheme……

Your expected dates of absence are……………………to………………… 26 Weeks OML

…………………………to……………………13 Weeks SMP

…………………………to……………………13 Weeks unpaid

The maternity leave and maternity pay is as per current regulations. Payroll and Pensions will confirm eligibility for SMP. Reference should be made to the HMRC website which sets out statutory eligibility criteria. For those intending to return, you should give notice to your Manager in writing of your date of return if it is different from that indicated on this form. You will be required to give 28 days notice of the revised date of return. Failure to return to work will render you liable to refund the whole or part of the maternity pay in excess of your entitlement. Any further enquiries should be made to your Manager. Your manager will complete a Change of Circumstance form to confirm your return to work date.

Signed ……………………………………………….. Date…………………………………………………………

(For County Workforce Team)

This document will now be sent to Payroll & Pensions who will check your eligibility to quality for Maternity payments. If Payroll confirm that you do not meet the criteria you will be notified and advised accordingly.

Date Actioned by Payroll………………………………….
## 17. APPENDIX 2 – MATERNITY LEAVE SCHEME OPTIONS

<table>
<thead>
<tr>
<th>OPTIONS</th>
<th>SERVICE</th>
<th>INTENTION</th>
<th>ENTITLEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Less than 26 weeks service at the 15th week before the expected week of childbirth</td>
<td>You wish to return to work</td>
<td>13 weeks unpaid leave with the benefit of contractual terms plus the option to extend for up to a further 39 weeks together with possible maternity benefit from the DWP</td>
</tr>
<tr>
<td>B</td>
<td>Minimum of 26 weeks service at the 15th week before the expected week of childbirth*</td>
<td>You may wish to return to work</td>
<td>SMP ie.90% of full pay for the first 6 weeks and SMP at the standard rate for the remaining 33 weeks. Also a maximum of 13 weeks unpaid extended maternity leave</td>
</tr>
<tr>
<td>C</td>
<td>Minimum of 26 weeks service at the 15th week before the expected week of childbirth*</td>
<td>You do not wish to return to work</td>
<td>SMP ie 90% of full pay for the first 6 weeks and SMP at the standard rate for the remaining 33 weeks</td>
</tr>
<tr>
<td>D</td>
<td>Minimum of 12 months service at the beginning of the 11th week prior to the expected week of childbirth*</td>
<td>You wish to return to work</td>
<td>8 weeks full pay less any SMP or MA, 18 weeks at half pay, plus SMP or Maternity Allowance providing the total does not exceed full pay. 13 weeks SMP*. Also a maximum of 13 weeks unpaid maternity leave</td>
</tr>
</tbody>
</table>

*N.B. Statutory Maternity Pay (SMP) is payable for a period of 39 weeks and is dependent on your level of National Insurance contributions within a specified qualifying period. To qualify you must receive average weekly earnings over an eight week period prior to the fifteenth week before the expected week of childbirth of not less than the lower earning limit for the payment of National Insurance contributions.*
(Full pay means the average weekly wage calculated over the 8–week period preceding the qualifying week, i.e. 15th week before the expected week of childbirth) and this will be used to calculate your entitlement

- This amount will not exceed an individual's normal full pay.

Further details are available on the HMRC website. – www.hmrc.gov.uk
HYWEL DDA UNIVERSITY HEALTH BOARD

18. APPENDIX 3 - APPLICATION FOR PATERNITY/ADDITIONAL PATERNITY LEAVE

FULL NAME……………………………………………………………………………………………………………………………
JOB TITLE……………………………………………………………………………………………………………………………………
STAFF NUMBER……………………..DEPARTMENT…………………………………………………………………………………
DATE OF COMMENCEMENT WITH NHS………………………………………………………………………………………
DATE OF COMMENCEMENT WITH LOCAL HEALTH BOARD ……………………………………………………………
EXPECTED OR ACTUAL DATE OF CONFINEMENT…………………………………………………………………………
OR ADOPTION PLACEMENT……………………………………………………………………………………………………
PATERNITY LEAVE COMMENCES………………………………………………………………………………………………
PATERNITY LEAVE ENDS…………………………………………………………………………………………………………

I confirm that I am eligible to apply for Paternity Leave/Adoption leave and agree to abide by the regulations outlined in Hywel Dda University Health Board’s procedure. I further understand that any adjustments to my salary will be made retrospectively.

SIGNATURES
APPLICANT………………………………………………………………DATE……………………
MANAGER………………………………………………………………..DATE……………………

Please forward this form together with the MAT B1 or adoption certificate to the County Workforce Team who will inform Payroll and Pensions to make the necessary payments. Due to the inability to predict actual dates of paternity leave, it may be necessary to make retrospective adjustments to your salary/wage. Employees applying for paternity leave who expect to become a surrogate parent to a child must also attach Appendix 6.

PROCESSED BY WORKFORCE&OD DEPARTMENT……………………………………………………………………..DATE………………To qualify for additional paternity leave and pay, the employee must return this form to the Workforce & OD Department not less than eight weeks before the start date chosen for additional paternity leave and pay.

A partner is a person, whether of a different sex or the same sex, who lives with the mother or primary adopter and the child in an enduring family relationship but is not a relative of the mother or primary adopter. A "relative" for these purposes includes the mother’s parents, grandparents, sisters, brothers, aunts and uncles.
## Mothers declaration form for additional paternity leave

<table>
<thead>
<tr>
<th>Name of employee:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Job title:</td>
<td></td>
</tr>
<tr>
<td>Name of child’s mother:</td>
<td></td>
</tr>
<tr>
<td>Address of mother:</td>
<td></td>
</tr>
<tr>
<td>Mother’s national insurance number:</td>
<td></td>
</tr>
</tbody>
</table>

I, the child’s mother, have now given notice to my employer that I am returning to work from my maternity leave and the relevant details are as follows:

I became entitled, by reference to becoming pregnant with my child, to either statutory maternity pay or a maternity allowance.

The start date of my statutory maternity pay period, or my maternity allowance period, in respect of my child was:

I intend to return to work from my maternity leave on:

I confirm that the employee named above is (please tick one box):

- My child’s father
- Not my child’s father, but my spouse, partner or civil partner

In addition, I confirm that (please tick each box):

- He/she has, or expects to have, the main responsibility (apart from my responsibility) for the upbringing of my child
- The employee is, to my knowledge, the only person exercising the entitlement to additional paternity leave, and is the sole applicant for additional statutory paternity pay, in respect of my child

I consent to the Health Board processing my information as contained in this form and contacting my employer.

Signed:  
Dated:  

This form must be attached to the Additional Paternity application.
20. **APPENDIX 5 – ADOPTION LEAVE APPLICATION FORM**

**PART A – TO BE COMPLETED BY APPLICANT**

I wish to apply for adoption leave in accordance with Hywel Dda University Health Board’s Conditions of Service

**FULL NAME (MRS/MISS/MS/MR)**

**HOME ADDRESS**

**DEPARTMENT/WARD**

**BAND/JOB TITLE**

**NUMBER OF HOURS WORKED PER WEEK**

Date of commencement of continuous service within the NHS

Date of appointment with Hywel Dda University Health Board

I intend to take adoption leave commencing on

The date on which my child is expected to be placed with me for adoption is

The date that I was notified by the adoption agency of having been matched with a child was

I intend to return to work on or about (please specify a date)

I do not intend to return to work and my last working day before terminating my employment will be

**Signature of applicant**

**Date**

---

**PART B – TO BE COMPLETED BY MANAGER**

Received on behalf of Hywel Dda Local Health Board

(Manager – Block Capitals)

**Department/Designation**

Signed...Date...

Completed forms to be forwarded immediately to the appropriate County Workforce Team
Based on the information provided, you are/are* not eligible for adoption leave/pay

Your expected dates of absence are……………………...to…………………….
The adoption leave and pay is in line with current regulations. For those intending to return to work you should give notice to your Manager in writing of your date of return if it is different from that indicated on this form. You will be required to give 28 days notice of the revised date of return. Failure to return to work will render you liable to refund the whole the adoption pay in excess of your entitlement. Any further enquiries should be made to your Manager.

Signed ……………………………………………….. Date…………………………………..
21. APPENDIX 6 – SURROGACY APPLICATION FORM
Before you complete this application form please read fully the Maternity, Adoption and Paternity Leave Policy and Procedure (available on the intranet)

PART A – TO BE COMPLETED BY EMPLOYEE WHO EXPECTS TO BECOME SURROGATE PARENT – AT LEAST 15 WEEKS BEFORE THE EXPECTED WEEK OF THE CHILD’S BIRTH

FULL NAME (MR/MRS/MISS/MS) ........................................................................................................

HOME ADDRESS ......................................................................................................................................

DEPARTMENT/WARD ..........................................................STAFF NUMBER ..................................

BAND/JOB TITLE ......................................................................................................................................

NUMBER OF HOURS WORKED PER WEEK ........................................................................................

Date of commencement of continuous service within the NHS ..........................................................

Date of appointment with Hywel Dda University Health Board ..........................................................

Permanent/Fixed Term * please delete as applicable. If fixed term, expiry of contract date ..................

Expected date when child is due* ........................................................................................................
(please complete this form at least 15 weeks before this date)

I will be providing a statutory declaration to confirm that I have/or will be applying for a Parental Order in the 6 months after the child’s birth.

(This document must be signed in the presence of a legal professional)

I wish to apply for either:-
*adoption leave and pay OR
**paternity leave and pay

*Employees who wish to apply for adoption leave and pay must also complete appendix 5
**Employees who wish to apply for paternity leave and pay must also complete appendix 3

Signature of applicant ..........................................................

Date ..............................................................
PART B – TO BE COMPLETED BY MANAGER

Received on behalf of Hywel Dda University Health Board .................................................................

(Manager – Block Capitals)

Department/Designation

Signed ........................................................................ Date ..............................................

Completed forms to be forwarded immediately to the appropriate County HR and OD Team.
22. APPENDIX 6A – APPLICATION FOR ADOPTION LEAVE AND PAY IN CONNECTION WITH APPLICATION FOR SURROGACY

Before you complete this application form please read fully the Maternity, Adoption and Paternity Leave Policy and Procedure (available on the intranet)

FULL NAME (MR/MRS/MISS/MS) ...............................................................................................................

HOME ADDRESS ........................................................................................................................................

DEPARTMENT/WARD ..........................................................STAFF NUMBER ..........................

BAND/JOB TITLE .......................................................................................................................................

NUMBER OF HOURS WORKED PER WEEK ..............................................................................................

Date of commencement of continuous service within the NHS .............................................................

Date of appointment with Hywel Dda University Health Board or predecessor ..........................................

Permanent/Fixed Term * please delete as applicable. If fixed term, expiry of contract date ...........

Expected date when child is due* ..............................................................................................................

(please complete this form at least 15 weeks before this date)

I will be providing a statutory declaration to confirm that I have/or will be

applying for a Parental Order in the 6 months after the child’s birth.

(This document must be signed in the presence of a legal professional)

For a child under the age of 18 years, adoption leave and pay will be in accordance with

maternity leave and pay.

Have you had a period of maternity leave in the last year? If so, please enter the
dates ........................................................................................................................................................

Signature of applicant ...................................................... Date ..................................................
PART B – TO BE COMPLETED BY MANAGER

Received on behalf of Hywel Dda University Health Board ..........................................................

(Manager – Block Capitals)

Department/Designation

Signed ............................................................... Date ..................................................

Completed forms, together with surrogacy application should be forwarded immediately to the appropriate County HR and OD