

TO:	Governance Sub-Committee
PREPARED BY:	Linda Sichi (Deputy CEO)
SUBJECT:	MATERNITY, PATERNITY, ADOPTION & SHARED PARENTAL LEAVE POLICY
DATE OF MEETING:	20 May 2024
APPROVED BY:	Paul Martin (CEO)

MATERNITY, PATERNITY, ADOPTION & SHARED PARENTAL LEAVE POLICY

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MATERNITY

1. GENERAL

- 1.1 If you are pregnant, you are entitled to 52 weeks of continuous maternity leave (26 weeks' continuous Ordinary Maternity Leave and 26 weeks' continuous Additional Maternity Leave).
- 1.2 If you have completed one year of service by the beginning of the 28th week of pregnancy, you will be given the additional benefits associated with the occupational maternity pay (depending on the conditions explained below).
- 1.3 You are also entitled to paid time off during working hours to receive antenatal care if you can produce an appointment card for all antenatal visits (after the first one).
- 1.4 The benefits of leave and pay as outlined in this section will not apply if a pregnancy ends before the 24th week of pregnancy unless you give birth, and the baby survives. However, if there is a stillbirth after the 24th week of pregnancy, we will provide the benefits of pay and leave as noted in the terms and conditions below.

2. NOTICE

- 2.1 You should tell your line manager as soon as possible if you plan to take maternity leave. You must do so in writing no later than by the end of the 15th week (24th week of pregnancy) before the expected week of confinement (EWC) (or as soon as is reasonably possible). This should state:
 - a) the fact you are pregnant.
 - b) your EWC (or actual date of birth if it has already happened); and
 - c) the date you want your leave to begin.

You should also enclose a copy of your maternity certificate (MAT B1) as soon as your midwife/doctor gives you it.

- 2.2 You can change your mind about the start date of your maternity leave (if this is no sooner than 28th week of pregnancy). If you do, let your line manager know in writing, at least 28 days before the new date.

Our notice - Your line manager will give you notice in writing about the date your maternity leave will end. This will be the first day after the 52 weeks from the start date of your maternity leave. We will do this within 28 days from receiving your notice about the date you plan to start your leave (or, if you change that date, 28 days before the new date or as soon as reasonably possible).

3. MATERNITY LEAVE

- a) Maternity leave can begin at any time you want from the 28th week of pregnancy. It will however automatically begin when you give birth, and you need to let MHA know as soon as you can about this. If you are off work for any reason totally or partly related to your pregnancy or childbirth within four weeks of the EWC, this will automatically trigger the start of your Ordinary Maternity Leave.
- b) The Ordinary Maternity Leave continues for 26 weeks. You are not allowed to work during the first two weeks starting from the date you give birth.
- c) Your statutory right to Additional Maternity Leave will begin immediately after the Ordinary Maternity Leave and can continue for a further 26 weeks.

4. RETURNING TO WORK

- 4.1 You will return to work at the end of your maternity leave. MHA will have given you this date in writing as mentioned above. If you want to return sooner, you must give at least eight weeks' written notice. If you don't, it may delay your return date and you will not be paid during the period you do not work. You cannot return to work later than the end of the 52-week leave period. If you do not automatically return at the end of the 52-week leave period, we will treat this as an unauthorised absence.
- 4.2 If you return at the end of your ordinary leave, you will return to the same job. If you decide to take additional leave, you will return to the same kind of job you had before your maternity leave, at the same place and in the same capacity. If this is no longer available, we will offer you a suitable alternative job. Your T&Cs will be no less favourable than would have applied had you not been away, including the quality of working environment, and the job must also be suitable and appropriate for you.
- 4.3 If you are on Additional Maternity Leave, you can apply to make a phased return to work on reduced hours and pro-rata pay. You should apply to your line manager at least eight weeks before the proposed date of return. If you request a phased return to work this will be discussed and agreed with your line manager. During your phased return you can make a request to your line manager to use annual leave to cover your non-working days during this period. If you work full time and you request to change your working pattern you should make a flexible working request in line with our flexible working policy.

5. CONTACT DURING MATERNITY LEAVE

- 5.1 During your maternity leave MHA may contact you (if this is reasonable) and you can contact us. Before your maternity leave begins, we will agree with you the frequency and form of contact and what subjects should be discussed. In all cases, we will keep in touch with you about any promotion opportunities, vacancies and important changes to the workplace that may affect you when you return.

6. KEEPING-IN-TOUCH DAYS (KIT)

- 6.1 If MHA agree, you may work up to 10 days under your contract of employment during your maternity leave, without losing your right to the maternity leave or pay. The 10-days limit stands no matter how long your maternity leave is and can be worked at any time during your maternity leave apart from the first two weeks after you give birth.
- 6.2 You do not have to work these days and MHA does not have to agree to you working them. Before you start your maternity leave, we will discuss with you the type of work that may be done during the KIT days. We will pay you your normal daily rate for working a KIT Day which can either be processed in the month in which you work or alternatively be paid as a lump sum during your period of maternity leave.

7. MATERNITY PAY

7.1 STATUTORY MATERNITY PAY (SMP)

7.1.1 GENERAL

Statutory Maternity Pay (SMP) is paid for up to 39 weeks. The first six weeks equals 90% of your average earnings over a set period, and the rest is paid at the lower rate, or 90% of your average earnings, whichever is lower. The government sets this lower rate each year.

SMP is paid via payroll in the normal way (tax and NI deductible) – even if you have resigned and will not be returning after the baby's birth. However, you will not be entitled to SMP if you resign before the 24th week of pregnancy.

The maternity pay period cannot start earlier than the 28th week of pregnancy. It can only start when you are on maternity leave. Your entitlement will end when you return to work even if this is before the end of the 39-week period.

MHA will start to pay you the SMP on the first day of your maternity leave.

Whilst you are in receipt of Statutory Maternity Pay annual leave cannot be processed.

7.1.2 Eligibility

To qualify for SMP, you must:

- a) have been continuously employed for at least 26 weeks continuing into the qualifying week (QW) (the 24th week of pregnancy).
- b) be on our payroll in the “qualifying week” – the 15th week before the expected week of childbirth.
- c) have average weekly earnings which are above the minimum for paying National Insurance contributions.
- d) still be pregnant at the 24th week of pregnancy or have given birth by then; and
- e) have given us notice as explained in section 2 above.

If you do not meet the eligibility criteria, MHA will tell you in writing (form SMP1) and refer you to the local benefits agency office where you can claim any State Maternity Allowance you may be entitled to.

7.2 OCCUPATIONAL MATERNITY PAY (OMP)

If you have worked for MHA for one year at the 28th week of your pregnancy, you will also be eligible to receive our occupational maternity pay. This is equal to:

- a) seven weeks at full pay (including any SMP paid at the higher rate for six weeks and lower rate for one week);
- b) 16 weeks at half pay (plus SMP at the lower rate, or 90% of your normal pay - whichever is lower); and
- c) 16 weeks at SMP lower rate (or 90% of your normal pay, whichever is lower).

A week's pay refers to the basic pay given in your current contract of employment. In relation to the above SMP is calculated based on the number of Sundays within the calendar month from when your maternity leave starts. In relation to point B above the staff member should never be in receipt of more than their normal pay.

You can choose to receive occupational maternity pay, either with your SMP on normal pay dates, or as a lump sum when you return to work. We will claim this amount back from you if:

- you fail to return to work; or
- you return but leave within three months.

If you fail to return, you will also have to repay us for any annual leave we prepaid at the start of your maternity leave.

If you resign, are dismissed or your fixed term contract comes to an end before or during your maternity leave OMP will cease on the date of termination. However, you may still be

entitled to SMP if you are eligible.

8. GENERAL CONDITIONS

8.1 Contractual benefits - All terms and conditions shown in your contract (apart from pay) continue to apply during your maternity leave, whether ordinary or additional. MHA will continue to pay all contractual allowances if you receive any maternity pay. We may withdraw non-contractual benefits but only in line with the procedures which apply to all periods of prolonged absence.

8.2 Holidays - You are entitled to 40 days (pro rata) of combined annual and public holiday leave during both your Ordinary and Additional Maternity Leave. Before you start your maternity leave, you should agree with us the dates of your annual leave. If it is not possible to take the leave within the annual leave year, we will transfer the rest to the next year's entitlement. You cannot be paid instead of taking the leave accrued during maternity leave.

If you plan to take annual leave before you return from maternity leave, you must notify us in writing:

- the date you want your maternity leave to end.
- the period you then want to take as annual leave; and
- the date you will come back to work.

You must do this eight weeks before the end of your maternity leave.

8.3 Pension membership and contributions - The following rights apply to an employee on maternity leave.

- The period of Ordinary Maternity Leave and paid maternity leave (when you are receiving either occupational maternity pays or SMP), will count towards pensionable service. The benefits you build up during this time are based on your pay when you were working normally, before taking maternity leave.
- Your contributions during this time are based on the amount of maternity pay you receive. Our contributions will continue on the basis agreed by the administrators of the pension scheme.
- We will tell you in writing (after consulting the administrators of the relevant pension scheme) of the options available to you during any unpaid period of maternity leave.

Note: These rights apply whether or not you plan to return to work.

8.4 Information and training - If you are on maternity leave, you will still receive relevant items of information sent to all staff. We will also invite you to staff training days, as part of the keeping-in-touch (KIT) days.

8.5 Union payments - We will take your TU payments, as appropriate, throughout the period of maternity leave at the reduced rate. We will send the Union Finance Officer written confirmation of your EWC and the date your leave begins.

8.6 Dismissal and resignation during the maternity leave – If we end your contract during the maternity period, you will be entitled to whatever period of notice shown in your contract.

If you resign, you must also give us notice as shown in your contract. The termination date may be the end of your 52-week maternity leave or any date before then.

If you resign or are dismissed before the date you have given us for starting your maternity leave, you will lose your right to maternity leave but will still be eligible for SM if you are employed after the 24th week of pregnancy.

8.7 Health and safety - MHA must protect the health and safety at work of all employees, including new and expectant mothers and mothers who are breastfeeding.

Once you tell us about your pregnancy, recent childbirth, or breastfeeding, MHA will carry out a specific risk assessment to identify any risks to your health and safety. If we identify any risks; we will do our best to avoid them. If this is not possible, we will take a series of steps to make sure you are not exposed to those risks. If you ask for time off for breastfeeding or expressing milk, we will discuss with you how we can accommodate your request.

PATERNITY

1. GENERAL

1.1 You are entitled to paternity leave if your partner is due to give birth, and you have at least 26 weeks' continuous service by the 'qualifying week' (15th week before EWC), or in the circumstances of adoption or surrogacy you have been continuously employed for at least 26 weeks by:

- the end of the week you are matched with the child (UK adoptions)
- the date the child enters the UK or when you want your pay to start (overseas adoptions) and

You are taking time off to look after the child, and be one of the following:

- the father
- the husband or partner of the mother (or adopter) - this includes same-sex partners.
- the child's adopter
- the intended parent (if you're having a baby through a surrogacy arrangement)

1.2 Paternity Leave is available for all live births and, where a baby is still born from the 24th week of pregnancy onwards.

2. PATERNITY LEAVE

2.1 If you are eligible, you can take up to 2 weeks' leave which can be taken in separate blocks of 1 week. The leave cannot start before the birth, and it must be taken within 52 weeks of the birth. If there is an adoption and/or surrogacy the leave can commence:

- on the date of placement
- an agreed number of days after the date of placement
- on the date the child arrives in the UK or an agreed number of days after this (overseas adoptions only)
- the day the child's born or the day after if you're working that day (surrogate parents)

Leave must be taken within 52 weeks of the date of placement or the child's arrival in the UK (overseas adoptions).

2.2 To apply, you should write to your line manager at least four weeks before you want the leave to start. You do not have to give a precise date when you wish to take your leave (e.g. 1st February). Instead, you can give a general timeframe such as, 'the day of the birth' or, 2 weeks following the birth. You must give your employer 28 days' notice if you want to change your start date.

3. PATERNITY PAY

3.1 If you are eligible for paternity leave you are also eligible for paternity pay. Our paternity pay is equal to two weeks full pay inclusive of Statutory Paternity Pay (SSP)

4. ANTENATAL APPOINTMENTS

4.1 You also have a right to attend up to two unpaid antenatal appointments with your partner/surrogate mother or meetings with a child to be adopted.

ADOPTION

1. GENERAL

1.1 If you are adopting a child or are a surrogate parent and meet the statutory requirements, you have the right to 52 continuous weeks off so long as you can satisfy certain conditions. This is split into 26 weeks of "Ordinary Adoption Leave" and a further 26 weeks "Additional Adoption Leave".

1.2 If a couple are jointly adopting a child, one person may be eligible to adoption leave and pay and the other to paternity leave and pay. Both of you may be able to use Shared Parental Leave. The same rule applies to surrogate parents.

1.3 If you have completed one year's service at the date of adopting a child, you will be entitled to the additional benefits under our occupational adoption pay if you meet the conditions set out below.

1.4 The benefits of leave and pay are outlined in this section.

1.5 You are also entitled to up to five periods of paid time off before the adoption to deal with the necessary formalities. You will need to agree this with your line manager based on the requirements in your case. If you are a surrogate parent, you are entitled to take unpaid time off to attend two antenatal appointments with the woman carrying the child.

2. NOTICE

2.1 MHA ask that you tell your line manager as soon as possible if you embark on the adoption process, this will help us to support you and make sure you have all the information regarding your entitlements and the required periods of notice. However, you must as a minimum notify us within 7 days of being matched with a child, you need to tell us:

- how much leave they you wish to take.
- the date you wish the leave to start.
- the 'date of placement' - the expected or actual date the child is placed with you, along with your official notification.

2.2 For overseas adoptions, you must provide us with your notice to take leave within 28 days of receiving your 'official notification', you must also tell us the date of the notification and when you expect the child to arrive in the UK. In addition, we also require:

- the actual date the child arrives in the UK - within 28 days of this date.
- how much leave you want to take and when you want it to start - giving us 28 days' notice.

2.3 If the employee uses a surrogate, they must tell us the due date of the baby and when they want to start their leave at least 15 weeks before the EWC.

2.4 If you have worked for us for less than 26 weeks, you can tell us within 28 days of the Sunday which commences the 26th week of employment with us instead.

Our Notice

Whether you are adopting from within the UK or overseas, your line manager will give you notice in writing about the date your adoption leave will start and end. Your leave will end, first day after the 52 weeks from the start date of your adoption leave. We will do this within 28 days from receiving your notice about the date you plan to start your leave (or, if you change that date, 28 days before the new date or as soon as reasonably possible). When you notify

us about the date you want your leave to start, we will write you a formal letter back within 28 days. In this we will set out the date we see the 52 weeks leave coming to an end.

3. ADOPTION LEAVE & PAY

3.1 Adoption Leave - Statutory Adoption Leave is 52 weeks and made up of 26 weeks of Ordinary Adoption Leave followed by 26 weeks of Additional Adoption Leave. If you are eligible for Adoption Leave, you are also entitled to get paid time off work to attend 5 adoption appointments after you have been matched with a child. Adoption leave can start:

- Up to 14 days in advance of the child being placed with the employee (UK adoptions)
- When the child arrives in the UK or within 28 days of this date (Overseas adoptions)
- The day the child is born or the day after (if the employee has used a surrogate to have a child).

3.2 Antenatal Appointments - Employees can get time off to accompany the surrogate mother to 2 antenatal appointments.

3.3 Statutory Adoption Pay - is paid for up to 39 weeks, (the remaining 13 weeks of your statutory leave is unpaid). The first six weeks equals 90% of your average earnings over a set period, and the rest is paid at the lower rate, or 90% of your average earnings, whichever is lower. The government sets this lower rate each year. SAP is paid via payroll in the normal way (tax and NI deductible).

3.4 You must provide MHA with a minimum of 28 days' notice of when you wish to your statutory adoption pay to commence (unless the time between the child being matched and placed is less than that). It can only start when you are on maternity leave. Your entitlement will end when you return to work even if this is before the end of the 39-week period. Whilst you are in receipt of Statutory Adoption Pay annual leave cannot be processed.

3.5 Eligibility - To qualify for SAP, you must:

- a) have been continuously employed for at least 26 weeks leading into the week in which you are notified that you have been matched with a child by a UK approved adoption agency.
- b) If adopting from overseas; you must have been continuously employed by your employer for at least 26 weeks when you start receiving adoption pay.
- c) have average weekly earnings which are above the minimum for paying National Insurance contributions; and
- d) have given us notice as explained in section 2 above.

If you do not meet the eligibility criteria, MHA will tell you in writing (form SAP1) and refer you to the local benefits agency office where you can claim any alternative benefits set by the Government you may be entitled to.

3.6 Occupational Adoption Pay - If you have worked with us for one year by the week you are told that you have been matched with a child, you are eligible to receive our enhanced adoption pay (OAP). The occupational pay is as follows:

- a) seven weeks at full pay (including SAP)
- b) 16 weeks at half pay (plus SAP or 90% of the normal pay, whichever is lower)
- c) 16 weeks at SAP rate or 90% of the normal pay, whichever is lower.

A week's pay refers to the basic pay given in your current contract of employment. In relation to the above, SAP is calculated based on the number of Sundays within the calendar month from when your adoption leave starts. In relation to point B above you should never be in receipt of more than your normal pay.

You can choose to receive occupational adoption pay, either with your SAP on normal pay dates, or as a lump sum when you return to work. We will claim this amount back from you if:

- you fail to return to work; or
- you return but leave within three months.

If you fail to return, you will also have to repay us for any annual leave we prepaid at the start of your adoption leave.

If you resign, are dismissed or your fixed term contract comes to an end before or during your adoption leave occupational adoption pay will cease on the date of termination. However, you may still be entitled to Statutory Adoption Pay if you are eligible.

- 4. Contact during Adoption Leave** - During the adoption leave period, we may make reasonable contact with you, and you may do the same. Before the adoption leave begins, we will agree with you how often this contact will be, how it will take place and what subjects should be discussed. In all cases, we will keep in touch with you about any promotion opportunities and important changes to the workplace that may affect you when you return.
- 5. Keeping in Touch Days (KIT)** - If we agree, you may work up to 10 days under your contract of employment during your adoption leave, without losing your right to the adoption leave or pay. The 10-day limit applies no matter how long the adoption leave is. You can work the 10 days at any time during the adoption leave. You do not have to work these days and we do not have to agree to you working them if you ask.

Before you start your adoption leave, we will discuss with you the type of work that may be done during the KIT days.

We will pay you your normal daily rate for working the KITs. This does not affect your right to Statutory Adoption Pay. The pay for your KIT days can either be processed in the month in which you work or alternatively be paid as a lump sum during your period of adoption leave.

- 6. Returning to Work** - You will return to work at the end of your adoption leave. Your line manager will have given you notice of this date as explained above. If you want to return sooner, you must give at least eight weeks' written notice. If you don't, your return date will be delayed, and you will not be paid during the period you do not work. You cannot postpone your return beyond the end of the 52 weeks leave period.

With Ordinary Adoption Leave, you will return to the same job. If you take additional leave, you are guaranteed the same kind of job as you had before your adoption leave, at the same place and in the same capacity. If this is no longer available, we will offer you a suitable alternative job. Your terms and conditions will be no less favourable than would have applied had you not been absent, including the quality of working environment, and the job must also be suitable and appropriate for you.

- 6.1 Discretionary Leave** - We realise that some adopted children of any age may require emotional or medical support. We may grant you further leave at the discretion of your senior officer or nominated deputy to allow you to deal with this.

7 GENERAL CONDITIONS

- 7.1 Contractual benefits** - All terms and conditions in your contract, apart from salary, continue to apply during the entire adoption leave period, whether ordinary or additional.

All your contractual allowances will continue to be paid if you receive either form of adoption pay. We may withdraw non-contractual benefits but only in line with the procedures which apply to all periods of prolonged absence.

7.2 Holidays - You are entitled to 40 days (pro rata) of combined annual and public holiday leave during both your Ordinary and Additional Adoption Leave. Before you start your adoption leave, you should agree with us the dates of your annual leave. If it is not possible to take the leave within the annual leave year, we will transfer the remaining balance to the next year's entitlement. You cannot be paid instead of taking any of the leave you have built up during adoption leave. If you plan to take annual leave before you return from adoption leave, you must confirm in writing:

- the date you want your adoption leave to end;
- the period to be taken as annual leave; and
- the date you will return to work.

You must do this eight weeks before the end of the adoption leave period.

7.3 Pension membership and contributions - The following rights apply when you are on adoption leave.

- The period of paid adoption leave will count towards pensionable service. The benefits built up during this time are based on the remuneration paid when you were working normally, before taking adoption leave.
- Your contributions during this time are based on the amount of adoption pay you have received. Our contributions will continue on the basis as agreed by the administrators of the pension scheme.
- We will tell you in writing (after consulting the administrators of the relevant pension scheme) the options available during any unpaid period of adoption leave.

Note: These rights apply whether or not you plan to return to work.

7.4 Information and training - If you are on Adoption Leave, you will still receive items of information sent to all staff. We will also invite you to attend staff training days as part of the keeping in touch days.

7.5 Union payments - We will take your TU payments, as appropriate, throughout the period of adoption leave at the reduced rate. We will send the TU Finance Officer written confirmation of when your adoption leave begins.

8. Dismissal and resignation during adoption leave - If we end your contract during the adoption period, you are entitled to whatever period of notice your contract provides for in the circumstances. If you resign, you must also give us notice as provided for in your contract. The termination date may be the end of your 52 week adoption leave or any date before then. If you resign or are dismissed before the date you have given us for your intended adoption leave to start, you lose your right to adoption leave but will still be eligible for SAP as long as you have been continuously employed for 26 weeks at the time you are matched with a child.

SHARED PARENTAL LEAVE

1.1 Shared parental leave (SPL) allows eligible employees to take up to 50 weeks leave during the first year after their child's birth/adoption. This includes surrogate parents. It can be taken by both parents separately or at the same time. You may be able to apply if you are one of the following: a mother, adopter, surrogate parent, or father/spouse/civil partner/partner of the mother/adopter/surrogate mother.

The **mother/adopter** must meet the following criteria:

- have a partner,
- be entitled to statutory maternity/adoption leave and/or statutory maternity/adoption pay/allowance.
- still be working for us at the start of the SPL.
- have worked for us for at least 26 weeks at the 24th week of pregnancy or when the adoption is confirmed.

The **father or spouse/civil partner/partner** of the mother/adopter must meet the following criteria:

- share the primary care of the child at the time of birth/adoption.
- have notified us of his/her entitlement providing any necessary evidence.
- have worked for us for at least 26 weeks in the 66 weeks leading up to the date the baby is born/expected to be born/matched and have earned at least £30 per week in any 13 weeks during that period.

1.2 Entitlement to statutory shared parental pay - You may be entitled to receive up to 37 weeks of statutory shared parental pay (ShPP) and the amount depends on how many weeks of maternity/adoption pay has been taken.

1.3 Occupational shared parental pay (OShPP) - If you have worked for MHA for one year at the 28th week of you (your partners) pregnancy/the week that you have been told you will be adopting a child, you will also be eligible to receive our occupational shared parental pay. This is equal to:

- a) The first 2 weeks following the birth of a child / placement of an adopted child must be taken as maternity leave by the mother / adoption leave by the person claiming adoption pay.
- b) 5 weeks at full pay (including any ShPP)
- c) 16 weeks at half pay (plus ShPP at the lower rate, or 90% of your average weekly earnings, whichever is lower)
- d) 16 weeks at ShPP (or 90% of your average weekly earnings, whichever is lower)

The maximum joint entitlement will reduce proportionate to the amount of maternity / adoption pay that is used. In total a couple cannot receive more than the maximum shared parental pay outlined above, regardless of whether one or both parents / adopters work with us.

A week's pay refers to the basic pay given in your current contract of employment. In relation to point C above the staff member should never be in receipt of more than their normal pay. We will claim this amount back from you if:

- you fail to return to work; or
- you return but leave within three months.

If you fail to return, you will also have to repay us for any annual leave we prepaid at the start of your maternity / adoption leave.

If you resign, are dismissed or your fixed term contract comes to an end before or during your shared parental leave OShPP will cease on the date of termination.

1.4 How to apply - Details on how to apply for the leave and pay can be found in our Shared Parental Leave Policy, which also details criteria for eligibility, options for leave and everything else you need to know.

2. REVIEW OF POLICY

The Maternity, Paternity, Adoption & Shared Parental Leave Policy will be reviewed by the Governance Sub-Committee every two years or sooner if circumstances require it.