

Livewell Southwest

## **Paternity Policy**

Version No 1.6

Review: January 2022

**Notice to staff using a paper copy of this guidance.**

**The policies and procedures page of LSW intranet holds the most recent version of this document and staff must ensure that they are using the most recent guidance.**

**Author: Human Resources Department**

**Asset Number: 916**

## Reader Information

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## Document review history

| Version no. | Type of Change | Date         | Originator of Change                    | Description of Change                                 |
|-------------|----------------|--------------|---|---|
| 1.0         | New Document   | June 2016    | HR Policy Group                         | Development of new policy                             |
| 1.1         | Minor Update   | October 2017 | HR Policy Group                         | Minor update to wording.                              |
| 1.2         | Minor update   | June 2018    | HR Team                                 | Minor update to application form for paternity leave. |
| 1.3         | Extended       | July 2018    | Head of HR & Staff Wellbeing            | Extended  |
| 1.4         | Extended       | March 2020   | Associate Director of HR and Engagement | Extended  |
| 1.5         | Extended       | January 2021 | HR Admin                                | Extended  |
| 1.6         | Extended       | July 2021    | HR Admin                                | Extended  |

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## **Paternity Policy**

### **1 Equality and Diversity Statement**

- 1.1 Livewell Southwest is committed to fairness and equity and values diversity in all aspects of its work as a provider of health and social care services and as an employer of people. We constantly strive to build a workforce that is representative of the community it serves.
- 1.2 Livewell Southwest is committed to eliminating all forms of discrimination on the grounds of age, disability, gender reassignment, marriage / civil partnership, pregnancy maternity, race, religion or belief, sex and sexual orientation in the provision of our services and in recruitment and employment. This enables an environment that is characterised by dignity and respect which is free from harassment, bullying and victimisation.

### **2. Introduction**

- 2.1 Paternity leave is provided to allow employees time away from work following the birth or adoption of a child. This policy details the arrangements within Livewell Southwest in relation to paternity leave and pay.
- 2.2 This policy does not form part of any employee's contract of employment and Livewell Southwest may amend it from time to time.
- 2.3 Employees may be entitled to alternative forms of absence for care of children; full details are available in the relevant policy or guidance documents.
- 2.4 In some cases the employee and the employees spouse or partner may be eligible to opt into the shared parental leave (SPL) scheme which gives the employee greater flexibility to share the leave and pay available in the first year. Shared Parental Leave replaces the right to take additional paternity leave (APL) (see Section 7 below). This does not affect the right to take two weeks' ordinary paternity leave (OPL) around the time of birth or placement. For information about Shared Parental Leave, see the Shared Parental Leave Policy documents (birth and adoption).

### **3. Purpose**

This policy applies to employees of Livewell Southwest within Agenda for Change terms and conditions. It is important to ensure the application of the most appropriate policy given the historical employment record of the employee requesting paternity, particularly as specific contractual policy arrangements may apply following transfer processes

(known as TUPE). In particular Occupational Paternity Pay is only applicable for staff who are under the AFC Terms and Conditions of employment, additional service areas (such as **Adult Social Care**) have alternative arrangements.

## **4. Definitions**

4.1 Paternity will apply to biological and adoptive fathers, spouses, civil partners or cohabiting partners and the intended parent (through surrogacy arrangements).

4.2 Key terminology includes:

OPL = Ordinary Paternity Leave, the time absent from work for paternity.

SPP = Statutory Paternity Pay, the set statutory entitlement to pay for OPL.

OPP = Occupational Paternity Pay, the enhanced entitlement to pay for OPL.

## **5. Duties and Responsibilities**

5.1 The Chief Executive is ultimately responsible for the content of all policies, implementation and review.

5.2 Line Managers are responsible for:

- Ensuring that this policy is adhered to within their specified area, and should take consideration of it when undertaking relevant processes.
- Ensuring that employees are made aware of this policy and understand the potential implications of processes in relation to it.

5.3 Employees must:

- Ensure that they participate and engage in any processes and in line with this policy.
- Make their Manager aware if they require any additional support to participate in processes within this policy.
- Complete their relevant application information (Appendix A) and provide a copy of the Mat B1 certificate for the records. The Mat B1 certificate is the medical certificate provided by the midwife to the expectant person.

## **6. Ordinary Paternity Leave**

6.1 Employees are entitled to up to two weeks ordinary paternity leave, during which time their employment rights are protected, however they must:

6.1.1 Be the biological father of the child and have some responsibility for the child's upbringing; or

6.1.2 Be the mother's or adopter's spouse, cohabiting partner or civil partner but not the father of the child, and have the main responsibility (with the mother) for the child's upbringing; and

6.1.3 Have worked for Livewell Southwest continuously for at least 26 weeks by the end of the 'Qualifying Week' (the end of the 15th week before the week in which the child is expected) or 'Matching Week' (for adoption this is either: the end of the week an employee is matched with the child in UK adoptions or the week in which the official notification was received in overseas adoptions).

6.1.4 Provide the correct notice as detailed in Section 8.

- 6.2 Ordinary paternity leave must be taken in a single block of one or two weeks (a week is the same amount of hours that the employee would normally work in a week - e.g. if the employee only worked on Mondays and Tuesdays a week is 2 days). 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. Dependant on an employees shift pattern, if paternity leaves falls on a statutory public holiday your entitlement will remain the same.
- 6.3 Paternity leave cannot commence before the baby is born, or the date of adoption, and must be taken within 56 days afterwards. If the baby is born early, staff members can take the leave up to 56 days after the date the baby had been expected.
- 6.4 The period of Ordinary Paternity Leave is processed as either Ordinary Paternity Pay or Occupational Paternity Pay.

## **7. Ordinary Paternity Pay**

- 7.1 Employees are entitled to up to two weeks Statutory Paternity Pay (SPP) during the ordinary paternity leave period however they must meet the eligibility criteria in Section 2.1 for ordinary paternity leave and:
  - 7.1.1 Also have an average earning at or above the lower earnings limit for the payment of National Insurance contributions.
  - 7.1.2 Also continue to be employed up to the date of birth or placement of a child.
- 7.2 SPP is paid for up to two weeks at a rate set by the Government for the relevant tax year, or 90% of the employees average weekly earnings if this is lower than the Government's set weekly rate. The HR department can provide confirmation of the current standard rate.
- 7.3 SPP will begin at the same time as the ordinary paternity leave period commences and will be processed within the normal monthly payroll run; it is therefore subject to Pay As You Earn (PAYE) and statutory deductions.
- 7.4 Employees should discuss their options for continuing contributions or 'buying back' contributions with their specific pension provider (NHS Pensions or Scottish Widows).

## **8. Occupational Paternity Pay**

- 8.1 To qualify for up to two weeks ordinary paternity leave and occupational paternity pay, an employee must:
  - 8.1.1 Satisfy qualifying criteria detailed above, and
  - 8.1.2 Have worked for Livewell Southwest, or an NHS organisation, continuously for at least 12 months at the beginning of the week in which the baby is due, and
  - 8.1.3 Also continue to be employed up to the end of the paternity period.
- 8.2 Occupational paternity pay (OPP) will be at full pay and will be calculated on the basis of the average weekly earnings rules (as per the rules used for calculating occupational

maternity pay entitlements). The employee will receive full pay which will include any statutory paternity pay receivable.

- 8.3 Only one period of OPP is available when there is a multiple birth or more than one child is placed together for adoption.
- 8.4 OPP will begin at the same time as the ordinary paternity leave period commences and will be processed within the normal monthly payroll run; it is therefore subject to Pay As You Earn (PAYE) and statutory deductions.
- 8.5 Employees should discuss their options for continuing contributions or 'buying back' contributions with their specific pension provider (NHS Pensions or Scottish Widows).

## **9. Notification**

- 9.1 Employees must give notification of their intention to take paternity leave and pay (both statutory and occupational) by completing the Notice of Intention to Take Paternity form (Appendix A) and submitting it to their line manager. Upon completion by the line manager this is then submitted to the HR department for processing. Along with this paperwork, the employee should provide a copy of the Mat B1 certificate.
- 9.2 The initial notification of intention must be submitted to the line manager by the 15<sup>th</sup> week before the week the baby is expected or no more than seven days after you were notified of having been matched with the child and include written confirmation of:
  - The week the baby is due or the child is expected to be placed;
  - Whether one week or two consecutive weeks is requested;
  - The date ordinary paternity leave is anticipated start;
  - The employee's confirmation of eligibility.
- 9.3 The initial notification does not have to provide a precise date when the paternity period is to commence however must give an anticipated start date, e.g. the day of the birth or one week after the date of birth.
- 9.4 The Notice of Intention to Take Paternity Leave form is evidence that the employee meets the eligibility conditions.
- 9.5 Employees should be mindful to ensure their line manager is updated with any changes to the anticipated start date and provide at least 28 days' notice of their intention to change paternity period start or end dates.
- 9.6 The line manager will be responsible for preparing and submitting a change form with the details of the paternity leave and pay arrangements. Within which the line manager will be responsible for confirming the employee is eligible for the type of paternity pay identified on the change form, in accordance with the criteria detailed within this policy.
- 9.7 The notification form shall be securely stored on the personnel file of the employee with the HR department in accordance with document control parameters for the retention and destruction of personal sensitive data.

## **10. General Principles**

- 10.1 Employees who do not qualify for Occupational Paternity Pay and/or Statutory Paternity Pay will be notified within 28 days of submitting their notification form and provided with a SPP1 form explaining why.
- 10.2 During paternity period the employee will continue to accrue annual leave as though they were in work. Annual leave cannot be taken during paternity leave however employees may choose to use their annual leave (as per the Leave Policy) prior to commencement of paternity leave or to facilitate a phased return to work after completion of paternity leave.
- 10.3 In exceptional circumstances (i.e. if there are difficulties at the time of the birth) additional special paid/other leave may be granted at the discretion of the Locality Manager.
- 10.4 If the baby is stillborn after the 24th week of pregnancy, or if the baby is born alive at any stage but subsequently dies, the employee is entitled to their full period of paternity leave. Their entitlement to Statutory Paternity Pay or Occupational Paternity Pay is not affected.
- 10.5 During the period of paternity leave the employee and line manager will remain in reasonable contact such as confirmation of return to work arrangements.

## 11. Time Off to Attend Appointments

- 11.1 Employees and agency workers in a "qualifying relationship" with a pregnant woman or her expected child are entitled to take time off during their working hours to accompany the woman to antenatal appointments.
- 11.1.1 There is no qualifying period of employment for this right; it is available to relevant employees from the start of their employment. Agency workers must fulfil certain criteria to have the right to accompany and must discuss this directly with their employer.
- 11.1.2 The organisation is committed to providing reasonable paid time off for attending appointments. The statutory amount of time off that an employee or agency worker may take off during working hours to accompany a pregnant woman to antenatal appointments is limited to **two** occasions lasting **no more than six and a half hours each**. The BIS Guidance suggests that this amount of time will cover travelling time, waiting time and attendance at the appointment. Additional reasonable requests shall be sympathetically considered by the line manager and further advice is available from HR.
- 11.1.3 An employee or agency worker has a qualifying relationship with a woman or her expected child if they meet any of the following criteria:
- They are the pregnant woman's husband or civil partner.
  - They live with the woman (whether in a heterosexual or same-sex relationship) in an enduring family relationship and are not a relative of the woman.
  - They are the expected child's father.
  - They are one of a same-sex couple who is to be treated as the child's other parent under the assisted reproduction provisions in either section 42 or 43 of the Human Fertilisation and Embryology Act 2008 (HFEA 2008).

- They are the potential applicant for a parental order under section 54 of the HFEA 2008 in relation to a child who is expected to be born to a surrogate mother.

11.1.4 Employees must provide reasonable advance application to their line manager of their intention to take time off to attend appointments and ensure confirmation of authorisation prior to the absence occurring.

11.2 Employees and agency workers are entitled to take unpaid time off during their working hours to attend adoption appointments if they are the spouse/partner or co-adopter for up to two appointments.

11.2.1 There is no qualifying period of employment for this right; it is available to relevant employees from the start of their employment. Agency workers must fulfil certain criteria to have the right to accompany and must discuss this directly with their employer.

11.2.2 The organisation is committed to providing reasonable time off for attending appointments. Additional reasonable requests shall be sympathetically considered by the manager and further advice is available from HR.

11.2.3 Employees must provide reasonable advance application to their line manager of their intention to take time off to attend appointments and ensure confirmation of authorisation prior to the absence occurring.

## **12. Additional Paternity Leave**

Additional paternity leave (APL) is not available after 5 April 2015, however employees may be entitled to SPL. Please see the Shared Parental Leave policy.

## **13. Returning to Work**

13.1 On resuming work after paternity 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.

13.2 Upon return to work staff members may consider requesting flexible working arrangements in accordance with the Flexible Working Policy.

## **14. Training Implications**

Training will be provided to Managers, as required, on their duties in relation to this Policy.

## **15. Monitoring Compliance**

Failure to comply with the contents of this policy may result in disciplinary action. Please refer to the Disciplinary Policy for further details. The effectiveness of this policy will be monitored through the HR Policy Group.

**All policies are required to be electronically signed by the Lead Director. Proof of the electronic signature is stored in the policies database.**

The Lead Director approves this document and any attached appendices. For operational policies this will be the Locality Manager.

The Executive signature is subject to the understanding that the policy owner has followed the organisation process for policy Ratification.

Signed: Michelle Thomas, Director of Operations.

Date: 29<sup>th</sup> July 2016

## APPENDIX A

| Notice of Intention to Take Paternity Form                   |  |           |  |
|--|--|-----------|--|
| Name   |  |           |  |
| Job Title  |  | Pay Band  |  |
| Locality/Department  |  | Work base |  |
| Line Manager   |  |           |  |
| Date of Initial Notification                                 |  |           |  |
| Date of Change Notification<br><i>(if applicable)</i>        |  |           |  |
| What is the expected date of birth of the child? OR          |  |           |  |
| What is the expected date of placement of the child?         |  |           |  |
| When do you want to take your paternity leave?               |  |           |  |
| Duration of Paternity Leave:<br><i>(please indicate)</i>     | One Week / Two Weeks   |           |  |
| Start date of paternity leave:<br><i>(if known)</i>          |  |           |  |
| End date of paternity leave:<br><i>(if known)</i>            |  |           |  |
| Paternity Pay Type:<br><i>(please indicate eligible pay)</i> | Statutory Paternity Pay / Occupational Paternity Pay / Other |           |  |
| Have you attached a copy of your partners Mat B1 form?       |  |           |  |

By authorising and submitting this Notice of Intention to Take Paternity, I confirm that:

- I have, or expect to have, responsibility for the child's upbringing **AND**
- I am taking time off work to support the mother/adopter or to care for the child **AND**
- I am the biological father of the child or the mother's/adopter's spouse, partner or civil partner **AND**
- I have 26 weeks continuous service with Livewell Southwest ending with the 15<sup>th</sup> week before the week the baby is due or the week the adopted child is due to be placed **AND**
- I meet the Ordinary Paternity Leave criteria as detailed within the Paternity Policy **OR**
- I meet the Statutory Paternity Pay and/or Occupational Paternity Pay criteria as detailed within the Paternity policy.

Further information and advice is available from the HR Department.

Please ensure you also attach a copy of the MAT B1 certificate.

| <b>Authorisation</b>          |  |
|-------------------------------|--|
| <b>Employee Name</b>          |  |
| <b>Employee Signature</b>     |  |
| <b>Date</b>                   |  |
| <b>Line Manager Name</b>      |  |
| <b>Line Manager Signature</b> |  |
| <b>Date</b>                   |  |

Once completed please return to the HR department at: [Livewell.HR-Livewell@nhs.net](mailto:Livewell.HR-Livewell@nhs.net) or Livewell Southwest CIC, HR Department, Level 1, Windsor House, Tavistock Road, Plymouth.

Please also ensure your change form is completed to reflect the details of the paternity arrangements for payroll processing.