

## NHS Education for Scotland

### Parental Leave Policy

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## **1. Introduction**

It is recognised by NHS Education for Scotland (NES) that parents have a joint responsibility for the care and upbringing of their children and that work and parenthood can create conflicting pressures for employees. Parents need time with their children and time to create a supportive home in which their children can thrive. Parental leave is expressly for the purpose of allowing parents to spend quality time with their children and assist in balancing this with work commitments, thus improving their participation in the workplace.

The policy is based on the PIN Guideline on Supporting the Work-life Balance and has been developed taking into consideration the NES Equal Opportunities and Diversity in Employment Policy.

## **2. Values and Principles**

Managers and staff must show responsibility for ensuring transparency and equity in the implementation of this policy, balancing their own needs with due consideration of the needs of NES, colleagues and team members. Consideration should be given to the reasonableness of the duration and timing of leave especially during peak periods of annual leave and the impact this will have on the needs of NES, colleagues and team members.

Flexibility should be demonstrated in circumstances where the normal notice cannot be given such as during adoption or at times of sudden illness.

## **3. Parental Leave and Pay**

The following provisions for parental leave are as set out within Section 35 of the NHS Terms and Conditions of Service Handbook. However, they apply to all individuals employed by NHS Education for Scotland (NES) including the Executive Level and Senior Management cohort and Doctors and Dentists, and General Practice Specialty Registrars. The additional provisions for paid paternity leave are as agreed in partnership in NHSScotland.

## **4. Definition**

Parental Leave is the right to take time off work to look after a child or make arrangements for the child's welfare. Parents can use it to spend more time with their children and strike a better balance between their work and family commitments.

Parental Leave is in addition to flexible working, maternity leave, paternity leave<sup>1</sup> and special leave. (Separate policies regarding these can be found on the policies/HR section of the intranet)

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<sup>1</sup> \*Paternity Leave is a statutory right for fathers to take time off following the birth of a child. Further information can be found in the Paternity policy on the policies/HR section of the intranet.

## 5. Eligibility and amount of leave

Currently all employees will be eligible to take parental leave if:

1. They have 12 months' continuous service with one or more NHS employers;
2. They have a nominated caring responsibility for a child under age 18;
3. They notify their employer in writing (Appendix 1) three weeks (21 days) in advance of the intended leave (or if this is not possible, as soon as is reasonably practicable thereafter):
  - a) Of their intention to take parental leave;
  - b) Of the date they wish to commence and return from parental leave;
  - c) Provide evidence of entitlement
    - I. A birth certificate (or MATB1 form in the case of applications for leave around the time of the birth of the child);
    - II. Papers confirming the adoption of a child (or confirming that a child has been matched for adoption in the case of applications for leave around the time of adoption of the child);
    - III. Papers confirming the award of disability living allowance in the case of a child with a disability.

The amount of parental leave entitlement is **18 weeks for each child** under the age of 18.

The 18-week entitlement is per each child, not per employment. In other words, the balance of the entitlement is not restored to 18 weeks if an individual changes employer. For example, if an employee uses 10 weeks of their entitlement with one employer, and then changes employer, they can only use up to eight weeks with their new employer, assuming that they are eligible. Eligibility for parental leave transfers between employers on a cumulative basis.

Both mothers and fathers can take parental leave.

Part time staff are entitled to parental leave on a pro-rata basis based on the hours they work at the time of taking leave and not to exceed 18 weeks in total. (e.g. a member of staff working 28 hours a week would be entitled to 18 weeks at 28 hours).

## 6. Continuous service

In order to calculate whether the employee meets the qualification set out in paragraph 5.1 to have had 12 months of continuous service with one or more

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NHS employers, reference should be made to the provisions of the NHS Terms and Conditions of Service Handbook sections 15.61 to 15.65.

## **7. Parental Leave Process**

### 7.1 Notification of Intention to take Parental Leave

In addition to 5.3 above and Appendix 1, employees should be encouraged to give as much notice as possible to their line manager when requesting parental leave:

- In order to assist with business needs employees are ideally required to give a minimum of 21 days notice. Employees must include the date on which they intend to commence and return from parental leave.
- If the requested period of leave exceeds four weeks, at any one period, a minimum of two months' notice is required.
- There will be rare occasions where notice cannot be given. On these occasions parents should give the notice as soon as reasonably practicable.

This allows line managers to ensure that appropriate staffing cover is in place so as to facilitate the authorisation of such leave.

In considering requests for parental leave and the authorisation of such leave, line managers may wish to consider other options available e.g. Term Time Working as referenced in the Flexible Working Policy. Parental Leave is planned leave. In cases where emergency leave is required, reference should be made to the Special Leave Policy.

When parental leave has been agreed and the form completed (Appendix 1), it should be forwarded to [HR.Support@nes.scot.nhs.uk](mailto:HR.Support@nes.scot.nhs.uk). Evidence of entitlement to parental leave need only be given once in respect of each child.

### 7.2 Confirming parental leave and pay

The line manager and the employee must discuss the terms on which the employee will exercise their right to parental leave (e.g. is it to be taken as a single block, as annual allowance or under any other individual arrangement). It is good practice for this then to be confirmed in writing by the employee's manager, copied to [HR.Support@nes.scot.nhs.uk](mailto:HR.Support@nes.scot.nhs.uk).

A full record of parental leave taken will be maintained by NES and transferred to any future employer if requested.

### 7.3 Postponement

In exceptional circumstances, due to the business needs of NES, the employee may be asked to postpone their parental leave until a later date. Postponement would only take place after discussion with the employee where a valid/objective operational reason will be provided.

The leave will not be postponed for more than six months from the date on which the employee wanted to start Parental Leave. The line manager and the employee should try to agree a suitable time but, if they cannot, the line manager becomes responsible for guaranteeing that the employee can take the leave at a time, no more than six months ahead, which best fits the needs of NES and the employee. If this means that leave is postponed beyond the 18-year age limit the parent still has a right to take it.

The employee may at this stage opt to withdraw the request for parental leave and re-submit a request at a later date. The manager should confirm the postponement arrangements, in writing, no later than seven days after the employee's notice to take leave is given. The manager should clearly state the reason for the postponement. In addition to this, the new dates when the employee may take parental leave should be given, ensuring that the length and terms of this leave is equivalent to the employee's original request.

Parental leave cannot be postponed when the employee gives notice to take it immediately after the time the child is born or is placed with the family for adoption

#### 7.4 Entitlement to Paid Parental Leave

Employees who meet the eligibility requirements will be entitled to a total of 18 weeks parental leave, for each child. Four weeks of the 18-week entitlement will be paid leave. The paid leave must be taken before the relevant child's 14th birthday (or 18th birthday in the case of adoptive parents or parents of a child with a disability). Any parental leave which is taken after the 14th birthday (but before the 18th birthday) of the relevant child will be unpaid.

Irrespective of the number of children an employee may have, no more than a total of 2 weeks paid parental leave may be taken per year (unless leave is being taken as a block of 18 weeks). The year will be defined as 1<sup>st</sup> April to 31<sup>st</sup> March. The remainder of any parental leave taken in a year will be unpaid.

Full pay will be calculated using the average weekly earnings rules used for calculating Statutory Maternity Pay entitlements, subject to the qualifications set out within section 15.23 of the NHS Terms and Conditions of Service Handbook.

#### 7.5 Commencement and duration of leave

Subject to the notice requirements detailed above, an employee may take parental leave at any point up to the child's 18<sup>th</sup> birthday.

Parental leave may be taken as either:

- a single block of 18 weeks
- an annual allowance of time agreed
- under any other individual arrangements agreed between an employee and their line manager in line with the service needs e.g. single working days, blocks of one week,

Note that parental leave should only be taken in blocks of half days, days or weeks.

Parental leave can be added to periods of maternity support, shared parental leave (from April 2015), adoption or maternity leave (see section 8 below).

A full record of parental leave taken will be maintained by the organisation and transferred to any future employer.

#### 7.6 Changing the parental leave start date

Employees may also postpone or cancel leave that has been booked by giving reasonable notice.

#### 7.7 Contractual rights

During parental leave the employee retains all of his/her contractual rights, except remuneration (during any period of unpaid leave) and should return to the same job on expiry of their parental leave (see section 8).

Absence on parental leave will not break continuity of service. An employee's contract of employment will continue during the whole period of parental leave, unless either party expressly terminates it by dismissal or resignation.

The employee will not be bound by any contractual terms whilst on unpaid leave except terms relating to good faith and confidentiality, which will also bind the employer.

#### 7.8 Increments

Parental leave shall count as service for annual increments and for the purposes of any service qualification period for additional annual leave. The expectation is that an employee on parental leave would progress through a KSF gateway on the due date, if concerns had not been raised about the ability to meet their KSF outline prior to parental leave.

#### 7.9 Accrual of annual leave and public holidays

Annual Leave will accrue as normal during this period in accordance with the employee's current terms and conditions of service as at the time of commencing Parental Leave.

#### 7.10 Sick Leave

Parental leave will not be treated as sick leave and will not therefore be taken into account for the calculation of sick leave entitlement in accordance with the occupational and statutory sick pay schemes.

If an employee fails to return to work on the notified date and submits the appropriate medical certificate, the provisions of the occupational and statutory sick pay schemes will apply.

#### 7.11 Pensions

Pension rights and contributions shall be dealt with in accordance with the provisions of the NHS Superannuation Regulations. It is recommended that staff check with HR and SPPA how their leave will impact upon their own pension contributions; the organisation's contributions and their entitlement under the pension scheme.

If unpaid parental leave is taken, the employee may elect to continue to contribute to the superannuation scheme. If they do so, contributions are based on the pensionable pay received immediately before the period of unpaid parental leave. This must be raised with the local HR representative, who should ensure that this information is detailed on the notification of change form.

It is strongly recommended that the employee raise this matter with the Payroll Department before they commence parental leave since significant underpayments of superannuation can accrue.

#### 7.12 Line Management Contact

It is good practice for employers to maintain contact (within agreed protocols) with employees while they are on parental leave in a period of leave for more than two weeks.

#### 7.13 Employees Who Change Jobs

In some circumstances, employees who commence employment may previously have been entitled to receive and have taken their full entitlement to parental leave with another employer.

In these cases, employees cannot receive any further entitlement to parental leave, unless they have another child for whom they have not previously received parental leave.

If relevant, NES will write to the employee's previous employer to confirm whether or not the employee has received their full entitlement to parental leave. This will be carried out when a request for parental leave is made.

If an employee leaves employment NES will provide, if requested, a record of the employee's parental leave to prospective employers.

### **8. Right to Return**

At the end of parental leave an employee is guaranteed the right to return to the same job as they were doing before they commenced parental leave, provided that the leave was for a period of four weeks or less.

If the leave is greater than four weeks, the employee is entitled to return to the same job, or if that is not reasonably practicable, a similar job which is suitable and appropriate and has the same terms and conditions as the employee's previous job.



When parental leave follows maternity leave, the general rule is that the employee is entitled to return to the same job which the employee had been employed in before the leave. If, at the end of additional maternity leave, this would not have been reasonably practicable, and it is still not practicable at the end of the parental leave, the employee is entitled to return to a similar job which has the same or better status, terms and conditions as the employee's previous job.

## **9. Abuse of Parental Leave**

Parental leave is to look after a child, which includes making arrangements for the good of the child. If the employee uses the leave for some other purpose (e.g. paid employment within the NHS or elsewhere, or leave unrelated to the care of children), then this may be viewed as misconduct and the organisation will deal with this situation in accordance with the Management of Employee Conduct Policy. Alternatively, in certain circumstances, Counter Fraud Services may be notified.

## **10. Dignity at Work**

The organisation is committed to providing all reasonable support to employees who wish to take parental leave. Colleagues should be sensitive to this issue and should adopt a supportive attitude towards such employees. Every employee has the right to be treated with dignity at work and this requirement is particularly relevant and important to employees who are or become parents. It is a requirement of this policy that all employees of the organisation respect this principle.

## **11. Questions or Concerns**

NES recognises that, from time to time, employees may have questions or concerns relating to their parental leave rights. It is the policy of NES to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the parental leave provisions are complex, if an employee is seeking parental leave, they should clarify the relevant procedures with the HR Business Partner to ensure that they are followed correctly.

## **12. Compliance**

Employees who exercise their right to their entitlement to parental leave will be protected against dismissal or any other action, which is in connection with the fact that they have exercised their right to take up their entitlement to parental leave. This does not negate an employee's responsibility for ensuring that they notify their line manager of their intention to take parental leave.

### **13. Resolution of Disagreements**

No request for leave under this policy will be unreasonably withheld. Managers or employees may decide to seek advice on resolving any matters from an appropriate member of the HR Team and a Staff Side Representative. Should a disagreement arise, the individual has the right to raise a formal grievance.

### **14. Monitoring, Review and Evaluation**

Any refused parental leave will be scrutinised by HR in order to ensure there are valid reasons for this. An annual report will be produced to provide detail of parental leave requests and leave taken, by Directorate, pay band and equality groups. This report will be reviewed by the HR Business Partners in order to consider the equity of access to parental leave across the organisation.

This policy will be monitored, reviewed and evaluated every 2 years by the Partnership Forum, taking into consideration legislative changes and developments in good practice to ensure it meets the needs of all employees.

Reviewed and ratified by the Staff Governance Committee on 5<sup>th</sup> May 2016.

**Parental Leave Application Form**

**Section 1:** To be completed by the **employee** requesting parental leave. On completion please forward to your line manager.

Name: \_\_\_\_\_

Department: \_\_\_\_\_

Place of work: \_\_\_\_\_

Tel No: \_\_\_\_\_

Child leave taken for: \_\_\_\_\_

Child date of birth: \_\_\_\_\_ or Date of adoption: \_\_\_\_\_

**No of weeks of entitlement already taken for this child with a previous employer(s):**

_____ (Paid)	_____ (Unpaid)	Employer:
_____ (Paid)	_____ (Unpaid)	Employer:
_____ (Paid)	_____ (Unpaid)	Employer:
_____ (Paid)	_____ (Unpaid)	Employer:

Paid Leave Requested From: \_\_\_\_\_ To: \_\_\_\_\_ Number of Weeks/Days: \_\_\_\_\_

Unpaid Leave Requested From: \_\_\_\_\_ To: \_\_\_\_\_ Number of Weeks/Days: \_\_\_\_\_

**Please note that employees who are contributing to the superannuation scheme should discuss superannuation contributions during unpaid parental leave with local HR Representative, who will complete the notification of change form and liaise with the Payroll department.**

I confirm that I have:

- Read the NES Parental Leave Policy, and, if granted, I will abide by the terms and conditions of the policy.
- Fully disclosed previous paid and unpaid parental leave taken for this child in any other employment.

I understand any failure to fully disclose parental leave may be reported to Counter Fraud Services and that disciplinary action may be considered for any breach of this policy.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**Section 2:** Section a) **OR** b) to be completed by the **line manager**. On completion please return to the employee and the employee should then send the signed copy to [HR.Support@nes.scot.nhs.uk](mailto:HR.Support@nes.scot.nhs.uk).

**a) Parental Leave is granted as requested**

I have viewed an original of the child's birth certificate and/or legal documents stating formal parental responsibility, for whom the parental leave is requested.

Birth Certificate	Yes/No
Legal Letter e.g. Adoption Papers	Yes/No
Other (Please state) _____	Yes/No

Signed: \_\_\_\_\_ (Line manager) Date: \_\_\_\_\_ **(PTO)**

**b) Parental leave has not been granted as requested above\*.**

Reasons

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_ (Line manager) Date: \_\_\_\_\_

Signed: \_\_\_\_\_ (Employee) Date: \_\_\_\_\_

\* The policy recommends that leave can only be deferred for up to a maximum of 6 months – it may be useful to agree when this leave can be granted or reviewed again under the "Reasons" section.

**Section 3: Record of Parental Leave Entitlement: To be completed by the HR department**

Date when all Parental Leave entitlement should be taken by \_\_\_\_\_  
(i.e date of:

- 14<sup>th</sup> birthday for paid leave, 18<sup>th</sup> birthday for unpaid leave
- 18<sup>th</sup> birthday for disabled child – paid and unpaid
- 18<sup>th</sup> birthday for adopted child – paid and unpaid

No of weeks of entitlement due for this child \_\_\_\_\_

No of weeks of entitlement already taken for this child with a previous employer(s)

\_\_\_\_\_ (Paid) \_\_\_\_\_ (Unpaid)

Total No of weeks entitlement taken to date \_\_\_\_\_ (Paid) \_\_\_\_\_ (Unpaid)

Total No of weeks entitlement still to be taken \_\_\_\_\_ (Paid) \_\_\_\_\_ (Unpaid)

**Once this form has been completed and signed the employee should send it to [HR.Support@nes.scot.nhs.uk](mailto:HR.Support@nes.scot.nhs.uk) or HR & OD at NES, Westport 102, West Port, Edinburgh, EH3 9DN Edinburgh**