Maternity, paternity and adoption leave for junior doctors

Including Less than Full Time Working

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1) Introduction

It is recognised by the Wessex Deanery that the birth or adoption of a child is one of the most important events in the lives of our trainee Junior Doctors. The Wessex Deanery would therefore wish to encourage a culture where the needs of both new and established parents are understood and, wherever possible, addressed by establishing “child friendly” working arrangements and policies with local employers.

Maternity arrangements can be complex and the purpose of this guidance is to provide Junior Doctors with an understanding of the statutory requirements and the NHS Contractual Maternity Pay Scheme.

It is important to note that this is a guidance document issued by the Wessex Deanery. Junior Doctors should contact their employer for further information on maternity leave and pay entitlements.

This guidance has been written to comply with requirements of the Work & Families Act 2006.

2) Maternity Leave

Pay and Entitlements

Once a Wessex Deanery trainee Junior Doctor is aware of her pregnancy and has been given an Expected Week of Childbirth (EWC) she should inform the following in writing:

- Appropriate Programme Manager at the Wessex Deanery
- Line Manager
- Human Resource Team at current Trust

The current Trust Human Resource Team will be able to provide details on entitlements, pay and child care if appropriate. The Wessex Deanery is not the employer therefore cannot advise on pay and entitlements to individuals. However the Wessex Deanery recognises that maternity leave may affect the programme rotation and therefore the Deanery needs to be aware of all periods of leave.

All Junior Doctors, regardless of their length of service, qualify to receive 52 weeks’ maternity leave. If a Junior Doctor has had at least twelve months service with the Trust, she may request for unpaid parental leave of up to four weeks to be added on to the end of her maternity leave as she so wishes.

A Junior Doctor must be absent from work on maternity leave for two weeks immediately following the birth of her baby. During this period she may not carry out any form of work, including working from home, agency or private practice.
Entitlement to Maternity Pay is based upon length of service and is calculated from the 15th week before the EWC. Where this is not representative of the Junior Doctor's average weekly earnings, a period that is representative will be used.

If, at the 15th week before EWC, the Junior Doctor has less that 26 weeks’ continuous service with the Trust, she will have no entitlement to paid leave: the entitlement is to 52 weeks unpaid leave only.

If, at the 15th week before EWC, the Junior Doctor has 26 weeks (or more) continuous service with the Trust she will be entitled to Statutory Maternity Pay for 39 weeks: 6 weeks at the higher rate (90% of full pay) and the remainder at the lower rate (a fixed rate determined annually by the DSS).

If, at the 11th week before EWC, the employee has 52 weeks’ continuous service or more with the NHS, she will be entitled to paid leave under the NHS Occupational Scheme. She will receive 8 weeks full pay, 18 weeks half pay plus lower rate Statutory Maternity Pay and a further 13 weeks of lower rate Statutory Maternity Pay only. She will not receive maternity pay in excess of average weekly earnings.

If the Junior Doctor has the required length of service but is employed on a fixed term or training contract, which expires after the eleventh week before the expected week of confinement, her contract must be extended to allow her to receive the 39 weeks paid maternity leave entitlement.

Junior Doctors must provide written notification to the relevant Programme Manager at the Wessex Deanery of the EWC and the date she intends to commence her leave. The Trust Human Resources department will then confirm her entitlement to leave, pay and the date of her return from maternity leave.

A Junior Doctor may begin her maternity leave at any time between eleven weeks before the EWC and the EWC, providing that the required notice has been given.

Prior to commencing leave, the Wessex Deanery and the Junior Doctor should discuss and agree arrangements for keeping in touch during the maternity leave period. This should include:

- Any arrangements that the employee may find helpful to keep in touch with specialty news and developments, for example newsletters, programme events, Deanery news and RITA/ARCP dates.
- Ensuring the Deanery is aware of any development that may affect the intended start date of her return to work.

It is important for Junior Doctors to note that when they commence maternity leave their record on the Wessex Deanery database Intrepid will be updated. The Junior Doctor’s
current post will remain as their current employer until they return from leave.

Illness and Risk Assessment

It is advised by the Wessex Deanery that all pregnant Junior Doctors should have a pregnancy health risk assessment performed by their Line Manager. If there are particular issues, for example requests to avoid night duty, reduce on-call or medical complications caused by the pregnancy, then the Junior Doctor should be referred to the Trust Occupational Health Physician. A decision to remove from night duty, reduce on call or other changes to working patterns will not be made by the Wessex Deanery.

If a Junior Doctor is absent from work for a pregnancy related reason after the beginning of the 4th week before EWC, her maternity leave will start automatically, except in exceptional circumstances as agreed with the Line Manager and the Trust Occupational Health Department.

In the majority of cases the Junior Doctor will be able to remain in her current post for the duration of her pregnancy. Each Trust has a statutory duty to provide a safe system of work.

If the Junior Doctor does not intend to return to work following maternity leave, she will be required to resign from her post and relinquish her training number in the normal manner.

Workplace Risks

- Radiation Exposure
  
Pregnant Junior Doctors should consult the Trust Radiation Protection Advisor for advice. There should also be a set of Standard Operating Procedures for each area. The Wessex Deanery advises that where Junior Doctors work with radiation as part of their duties, they must (as soon as they are aware) declare the fact to the Trust Radiation Protection Supervisor and Line Manager. An individual risk assessment should be completed.

- Manual Handling

  The Manual Handling Regulations 1992 and Trust policy should be used when conducting a risk assessment for a pregnant Junior Doctor. Specific advice should be provided by the employing Trust to all new and expectant mothers regarding manual handling during pregnancy. Throughout the pregnancy the following principles apply:
  
  - When carrying or handling, keep loads close to the body
When picking things up, bend knees to move to the floor
- Keep the spine in line when lifting or moving objects
- Avoid top heavy bending
- Keep a stable base of support with the feet apart and leading leg forward
- Keep loads light and do not strain to lift or move heavy objects

- Work related Violence

Those pregnant Junior Doctors working in areas known to be at high risk of violence towards staff may need to be considered for alternative duties during pregnancy. The employing Trust will be able to advise on this.

Returning to the Programme

Once a Junior Doctor commences her maternity leave, it will be assumed that the return date from leave will be at the end of the 52 week maternity leave period and this will be the given return date. If however the Junior Doctor wishes to return before the 52 week maternity leave period, she must provide the relevant Programme Manager at the Wessex Deanery with at least 8 weeks notice of the date of return in writing. The Programme Director has the right in liaison with the Programme Manager to delay the return should notice not have been given, although this is in extreme circumstances.

The Junior Doctor has the right to return to the post in which she was employed before her absence.

On returning to work the Junior Doctor should notify the relevant Programme Manager of the actual date of return so the training file can be updated accordingly. Should the Junior Doctor be taking annual leave prior to actually attending work on her return, the date of return will be classed as the first day of annual leave.

Responsibilities

Junior Doctors are responsible for:

- Notifying the relevant Programme Manager of their pregnancy
• Compliance with their current Trust policy and procedures regarding Maternity Leave.
• Providing the correct amount of notice
• Returning from any leave on the agreed date

The Wessex Deanery is responsible for:

• Maintaining reasonable contact with the Junior Doctor and employing Trust.
• Maintaining accurate records

The Employing Trust is responsible for:

• Providing advice and guidance to Junior Doctors on the interpretation of their policies
• Providing Junior Doctors with pay and entitlements information
• Organising pay entitlements

3) General Practitioners

GP trainee junior doctors who are in the hospital part of their General Practice training programme will be subject to the same rules as specialty junior doctors. The rules and guidance are set out above.

For GP trainee junior doctors who are in the GP Practice training the entitlements are set by the contract of employment. The entitlements are similar to those included in the hospital junior doctors terms and conditions (Terms and Conditions of Service for Hospital Medical and Dental Staff and Doctors in Public Health Medicine and the community Health Service (England and Wales)).

4) Paternity Leave

Paternity Leave entitlement will apply to the following categories of Junior Doctors:

• Biological and Adoptive Fathers
• Nominated Carers (however, this cannot be a blood relative of either parent)
• Same sex partners of the child’s mother

Provided that Junior Doctors fall into any of the above categories and have the right amount of qualifying service, they will be invited to take paid paternity leave as follows:

If the Junior Doctor has 26 weeks continuous service with the Trust at the 15th week before the EWC they will be entitled to two weeks paternity leave for each pregnancy during the period of 56 days following the birth or the first day of the expected week of the birth. They will receive Statutory Paternity Pay for this period in lieu of normal pay.

If the Junior Doctor has 52 weeks continuous NHS service at the 11th week before the EWC, they will be entitled to two weeks paternity leave for each pregnancy as above. However they will receive full pay for this period of leave.

Junior Doctors may take one or two weeks of the leave as detailed above, however if they choose to take two weeks, it must be taken as two consecutive weeks, it cannot be taken as odd days or split weeks.

Junior Doctors must ensure they inform the Trust Human Resources Department, Line Manager and the appropriate Programme Manager at the Wessex Deanery of their intention to take Paternity Leave. Junior Doctors must provide at least 28 days notice of the intended leave.

5) Adoption Leave

There is an entitlement to paid Occupational Adoption Leave for Junior Doctors wishing to adopt a child who is newly placed for adoption. It will be available to Junior Doctors wishing to adopt a child, who will have primary carer responsibilities for that child.

Where the child is below the age of 18, adoption leave and pay will be granted in accordance with the Trust maternity leave and pay provisions policy.

Junior Doctors can expect reasonable time off with pay to allow for attending official meetings relating to the adoption process. Other time may be given at Trust discretion.

If both adoptive parents are employed by the same Trust, the period of adoption leave and pay may be shared as follows. One parent should be identified as the primary carer and be entitled to the majority of the leave. The partner of the primary carer will be entitled to Occupational Paternity Leave and Pay.
6) Less than Full Time Working

For Junior Doctors who wish to continue their training on a less than full time basis please refer to the Deanery guidance for less than full time working which can be located:

http://www.nesc.nhs.uk/about_nesc/medical_policies__procedures/faqs/flexible_training.aspx