



Workforce

Maternity Policy: guide for employees

This guide will help employees to understand the Maternity Policy. The policy supports pregnant employees.

The following guide forms part of the standard for workforce policies. These policies apply to all eligible staff within NHSScotland, regardless of the board they are employed by.

NHSScotland wants to create an inclusive workplace where employees can thrive and feel confident about their ability to balance their personal and professional responsibilities.

It is recognised that policies to support this are particularly important in NHSScotland given the predominantly female workforce who largely take on primary caring roles within the family. The guide covers:

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What is the purpose of the Maternity Policy?

The Maternity Policy supports pregnant employees. It makes sure they have adequate time to give birth, recover, care for, and bond with their new baby before returning to work. It also sets out the statutory and contractual rights employees are entitled to.

Employees who are having a baby through surrogacy arrangements should refer to these policies:

- [Adoption, Fostering, and Kinship Policy](#)
- [New Parent Support Policy](#)

Maternity leave

You are eligible for 52 weeks of maternity leave. No minimum length of service is required for you to be eligible for maternity leave. Your manager cannot refuse maternity leave or change the amount of leave you want to take.

You must take at least 2 weeks of maternity leave immediately after giving birth or 4 weeks if you are a factory worker. In the NHS examples of a factory worker include:

- laundry services
- sterile services
- mechanical maintenance

In addition to maternity leave, you may also be entitled to receive a combination of:

- Statutory Maternity Pay (SMP)
- Occupational Maternity Pay (OMP)
- Maternity Allowance (MA)

The eligibility requirements for each of these benefits are dependent on your:

- level of earnings
- length of service with your employing board
- length of service with the NHS

You will be provided with written confirmation of your pregnancy by your doctor or midwife. This will include either:

- a letter
- a maternity certificate, also known as a MAT B1

These confirmation documents will include the child's Expected Week of Childbirth (EWC) or the date on which the birth took place.

A week means a period of 7 days starting on a Sunday and ending on a Saturday. This document is required if you want to claim SMP, OMP or MA.

Along with the EWC, your manager will calculate the qualifying week. This will be the 15th week before the expected week of childbirth.

For example, if an employee's EWC starts on Sunday, 19th June, their qualifying week will start on Sunday, 6th March.

To calculate maternity leave entitlement, use the [maternity leave calculator](#).

If you are currently under UK immigration control, contact the human resources department to discuss how maternity leave may impact your visa conditions.

Statutory Maternity Pay (SMP)

You will be entitled to receive SMP if you have:

- been employed by your current employing board for a minimum of 26 weeks before the qualifying week
- received earnings above the lower earnings limit for National Insurance contributions during the 8 weeks before the qualifying week
- followed the application procedures set out in the Maternity Policy

For example, if your EWC starts on Sunday, 19th June, your qualifying week will start on Sunday, 6th March.

You must also have:

- commenced employment prior to Sunday, 5th September of the previous year

- received earnings above the lower earnings limit for National Insurance contributions between Sunday, 9th January and Sunday, 6th March

If you are eligible for SMP, you will receive the following pay through your payroll department:

- the first 6 weeks of maternity leave will be paid at 90% of the employee's average weekly earnings
- the following 33 weeks are paid at a standard SMP rate set by the UK Government, or 90% of the employee's average weekly earnings if this is lower than SMP

SMP examples

If your weekly earnings are £100, you will receive the following:

- £90 per week for the first 6 weeks
- £90 per week for the following 33 weeks, as the rate of SMP is higher than £90 per week

If your weekly earnings are £500, you will receive the following:

- £450 per week for the first six weeks
- The rate of SMP per week for the following 33 weeks, as the rate of SMP is lower than £500 per week

Visit the UK Government website to find out more about:

- [Statutory Maternity Pay](#)
- [Maternity Leave](#)
- [Lower Earnings Limit for National Insurance contributions](#)

If you are not entitled to SMP, the employer must give a reason for refusal and provide you with a [Statutory Maternity Pay: employee not entitled – form for employers - SMP1](#).

If you are not eligible for SMP, you may be able to claim Maternity Allowance directly from the UK Government.

Occupational Maternity Pay (OMP)

You will be entitled to receive OMP if you:

- intend to return to work for at least 3 months after maternity leave

- have been continuously employed by one or more NHS employers for more than 12 months, at the 11th week before the EWC

For example, if your EWC starts on Sunday, 19th June, the 11th week before your EWC is Sunday, 3rd April. You must also have been continuously employed by one or more NHS employers before 3rd April of the previous year.

If you are eligible for OMP, the first 8 weeks of maternity leave will be paid at your full pay rate.

The next 18 weeks will be paid at your half pay rate. You will also receive any SMP you may be eligible for in addition to your half pay rate. The total amount you will receive will not exceed your full pay rate.

For the next 13 weeks of maternity leave, you will receive any SMP you may be eligible for.

If you take the full 52 weeks of maternity leave, the final 13 weeks are unpaid.

If you are not eligible for SMP, you may be able to claim Maternity Allowance directly from the UK Government.

OMP examples

If your weekly earnings are £100, you will receive the following:

- £100 per week for the first 8 weeks
- £100 per week for the following 18 weeks, as the rate of SMP is higher than £100 per week, made up of £50 half pay plus SMP, capped at your rate of full pay
- £100 per week for the following 13 weeks, as the rate of SMP is higher than £100 per week, capped at your rate of full pay
- no pay for the final 13 weeks

If you are eligible for SMP, and your weekly earnings are £500, you will receive the following:

- £500 per week for the first 8 weeks
- £400 to £500 per week for the following 18 weeks:
 - half pay rate at £250
 - SMP of between £150-£200 per week
- £150 to £200 per week for the following 13 weeks, which is the rate of SMP

- no pay for the final 13 weeks

If you are not eligible for SMP and your weekly earnings are £500, you will receive the following:

- £500 per week for the first 8 weeks
- £250 per week for the following 18 weeks, plus any Maternity Allowance you have claimed directly from the UK Government
- any Maternity Allowance you have claimed directly from the UK Government for the following 13 weeks

It may be possible to spread maternity pay to equalise payments across your maternity leave. This will follow your standard payroll dates. You should contact your local payroll team.

Maternity Allowance (MA)

MA is a payment that may be available to pregnant employees who are employed but are not eligible for SMP. MA is paid directly by the UK Government into the employee's bank account. You should contact your local Jobcentre Plus for information on applying for MA.

You should contact your relevant department to obtain an [Employee not entitled to Statutory Maternity Pay form \(SMP1\)](#).

If you have not been employed by the employing board for a minimum of 26 weeks before the qualifying week, you may be eligible for MA.

You should visit the UK Government website to find out more about:

- [Maternity Allowance](#)
- [Maternity Leave](#)

Bank and agency staff

Bank staff have no entitlement to OMP or maternity leave. You may be entitled to SMP, depending on your level of earnings. Your employer may review entitlement to OMP in exceptional cases, such as if you can demonstrate regular work patterns over an extended period.

If you are a bank worker who can demonstrate a regular work pattern over an extended period, your manager should contact your local staff bank service for advice.

Agency staff may be entitled to maternity leave, SMP, and time off for antenatal appointments if they are considered an agency employee. The agency staff member should check with their agency.

Notification of pregnancy

Receiving a notification of pregnancy

When you notify your manager of your pregnancy, you must submit the following:

- written confirmation of your pregnancy
- a completed [Maternity leave form](#)

These should be submitted by the end of the 15th week before the EWC. If you fail to meet this timescale, there may be a delay in any pay you are eligible to receive during maternity leave.

For example, if your EWC starts on Sunday, 19 June, you should notify your manager of your pregnancy by Saturday, 12 March.

You may wish to inform your manager of your pregnancy before submitting your maternity form and confirmation of your pregnancy.

Your manager will provide confirmation of your maternity leave and maternity pay arrangements in writing within 28 days of receipt of the documents.

You may have recently returned from maternity leave and are pregnant. If so, you should notify your manager of your pregnancy as outlined above. While your service continues to increase during maternity leave, there may be implications for your pay depending on your qualifying week and level of earnings. You should check with your local advisor.

Risk assessment

Once you have informed your manager of your pregnancy, you must complete an individual pregnant workers and new mothers risk assessment. Your manager should be able to advise on your local board's process. This may be before you submit your confirmation of pregnancy and [Maternity leave form](#).

The risk assessment should be reviewed regularly as your pregnancy develops.

If a risk is identified that could cause harm to you or your child, your manager must decide what to do to manage the risk.

If the risk cannot be managed or removed, your manager must do the following:

- provide suitable alternative work with your agreement
- suspend you on paid leave for as long as necessary to protect your health and safety and that of your child

The risk assessment should be further reviewed if you plan to breastfeed on return to work.

Examples of aspects of pregnancy which could affect work.

Aspect	Factors in work
Morning sickness	Early shift work Exposure to nauseating smells
Backache	Standing, manual handling, or posture
Varicose veins	Standing or sitting
Frequent visits to the toilet	Difficulty in leaving job or site of work
Increasing size	Use of protective clothing Work in confined areas Manual handling
Tiredness	Overtime Evening work

If you are an agency worker, your agency should complete your pregnant workers and new mothers risk assessment. A copy of this risk assessment should be provided to the NHS board that you are working for.

Preparing for maternity leave

Before you start your maternity leave, you should discuss arrangements to keep in touch with your manager during your absence from the workplace. These arrangements should include methods for your manager to inform you about departmental updates, organisational updates, and career development opportunities.

Keeping in Touch (KIT) days

You can ask to return to work for a maximum of 10 days during your maternity leave. KIT days can be consecutive or not. If you work more than 10 days, your maternity leave will automatically end.

If you are on an unpaid period of leave, you should be paid the relevant enhancements for the shift worked. If the KIT day falls within the full pay period, you will receive one day in lieu once you have returned to work. If the KIT day falls within the half pay period, you will receive a half day in lieu once you have returned to work.

Working for part of any day will count as one KIT day from the 10-day allowance.

Any KIT days should be agreed between you and your manager. Your manager is encouraged to support these requests wherever possible.

You do not have to work KIT days and your manager cannot force you to take them. You cannot work KIT days within the first 2 weeks following childbirth, or 4 weeks if you work in a factory setting.

If you are breastfeeding, your manager will review the pregnant workers and new mothers risk assessment with you. Your employer must provide breastfeeding facilities, as outlined in the [Breastfeeding Policy](#).

Working when on maternity leave

You are permitted to work 10 KIT days in your substantive or bank role within your organisation. If you work for more than 10 days, your maternity leave will automatically end.

You may be permitted to work with a second employer whilst on maternity leave.

Both employers must employ you at the qualifying week. There is no limit to the number of hours or days you can work with your secondary employer.

If you take up secondary employment after the qualifying week, your statutory maternity pay from your primary employer will stop.

As health boards are separate employers, you may be able to work for another health board while on maternity leave if they employ you at the qualifying week.

Returning to work

You should plan with your manager for your return to work. The plan should include your return date, use of annual leave, equipment, and systems access.

You may want to change your hours or other working arrangements on your return from maternity leave. If so, you should request the change under our flexible working policies:

- [Flexible Work Pattern Policy](#)
- [Flexible Work Location Policy](#)

When discussing your return to work, you should confirm if you intend to continue breastfeeding. In this circumstance, you should review the pregnant workers and new mothers risk assessment.

You have the right to return to your job under your original contract of employment. If this is not possible, because the post no longer exists, your manager should follow your employing board's organisational change policy.

If you wish to return to work earlier than previously agreed, you must provide your manager with at least 28 days' notice of your intention to return.

In the case of pregnancy loss, your manager should take a person-centred approach to allow you to return to work earlier than planned, only if you wish to.

If you are entitled to OMP, you must return to NHS paid employment for a minimum of 3 months. Your employment does not have to be with the same employing board. It can be any NHS employer in the UK. You should provide a copy of the letter of your appointment to your manager. This will be sent to the payroll department. Bank and agency work does not count as a return to employment.

If you have more than one post, entitlement to OMP is not affected, provided you are returning to one of your substantive posts.

Employees not returning to NHS employment

If you decide to resign, you must provide your manager with written notice as specified in your employment contract. You can resign and leave at any point during your maternity leave. You may continue to be paid any SMP that is outstanding.

If you do not return to NHS paid employment for a minimum of 3 months after your maternity leave has ended, you must repay your OMP maternity pay. You can discuss the option to use accrued annual leave to count as paid employment with your manager.

Returning to NHS paid employment includes all types of authorised leave. A career break would not count as a return.

In cases where the repayment of OMP would cause undue hardship or distress, employers have discretion to waive the right to recovery.

Annual leave and public holidays during maternity leave

Annual leave and public holidays will accrue as normal during maternity leave. You may use accrued annual leave before or following maternity leave to either delay the start of maternity leave or your return date. Annual leave must be taken and will not be paid in lieu. You should discuss this with your manager and request leave in line with your board's annual leave policy. You may wish to use the [annual leave calculator](#).

Employees on a fixed-term or training contract

If you are on a fixed-term or training contract that expires after the 11th week before your EWC you will have your contract extended. The extension period will be up to the end of your maternity leave to allow you access to OMP entitlements. You will continue to accrue annual leave entitlements during any extension period.

If your contract ends before the end of the 11th week before your EWC you will not have your contract extended or receive OMP. However, you may be entitled to SMP or MA. The employer must confirm a reason for

refusal and provide you with a [Statutory Maternity Pay: employee not entitled – form for employers - SMP1](#).

Rotational training contracts

If you are on a rotational training contract, your manager is responsible for the following:

- completing your pregnant workers and new mothers risk assessment
- making sure the employing board is aware of your pregnancy

Where there is a planned rotation of appointments with one or more NHS employers as part of an agreed programme of training, you have the right to return to work after maternity leave in the same post or the next planned post.

Employees experiencing a miscarriage

If you experience a miscarriage, your manager should support you during this difficult time. They should discuss support mechanisms, which may include occupational health services and employee counselling. Further information is available:

- [employee support](#)
- [support organisations](#)

You may need time off work during this time. Time off should be facilitated through special leave and sickness absence.

Employees experiencing a stillbirth

If you have a stillbirth, your manager should support you during this difficult time. They should discuss support mechanisms, which may include occupational health services, employee counselling, and support organisations. More information is available:

- [employee support](#)
- [support organisations](#)

You are entitled to access your full maternity leave and pay entitlements. Your maternity leave will start from the date of the stillbirth. If you wish to return to work earlier, you should discuss this with your manager.

Child bereavement leave provisions are detailed within the [Special Leave Policy](#). This leave can only be accessed once maternity leave has ended.

Child bereavement

If you lose a child, there is support for you during this difficult time. You should be made aware of support mechanisms, which may include occupational health services, employee counselling, and support organisations. Further information is available:

- [employee support](#)
- [support organisations](#)

Child bereavement leave provisions are detailed within the [Special Leave Policy](#). This leave can only be accessed once maternity leave has ended.

Antenatal care

Your manager is asked to take a person-centred approach depending on your individual circumstances.

You are entitled to paid time off to attend antenatal care. This may include relaxation and parentcraft classes that your doctor, midwife, or health visitor has advised you to attend, in addition to medical examinations.

You should provide reasonable notice of appointments. Except for the first appointment, you may be asked to provide evidence of the appointment where available.

You are encouraged to arrange appointments outside working hours or at the start or end of the working day. However, this may not always be possible, and your manager should be as flexible as possible.

Postnatal care

Your manager is asked to take a person-centred approach depending on your individual circumstances.

You are entitled to paid time off to attend postnatal care. This may include attendance at health clinics.

You should provide reasonable notice of appointments. You may be asked to provide evidence of the appointment where available.

You are encouraged to arrange appointments outside working hours or at the start or end of the working day. However, this may not always be possible, and your manager should be as flexible as possible.

Pension contributions

SPPA pension contributions will continue during SMP and OMP. Normally, you will pay any outstanding contributions for your unpaid period of maternity leave on your return to work. If you do not repay these contributions, you will not be credited with pensionable service for this period.

For private or other pensions, you will need to check with your pension provider.

Professional registration

You are required to maintain your professional registration during maternity leave as you continue to be employed by the organisation. It is up to you to consider how you will maintain your professional competence. However, maternity provisions can support you in doing so through access to KIT days.

Salary sacrifice arrangements during the OMP and SMP period of maternity leave

You are entitled to the benefit of the terms and conditions of employment which would have applied had you not been absent. Examples include:

- Cycle to Work scheme
- credit union arrangement

You should seek advice from the payroll department.

Links to other policies

You may need to cross-reference with other policies, including:

- [New Parent Support Policy](#)
- [Parental Leave Policy](#)
- [Shared Maternity and Shared Adoption Policy](#)
- [Adoption, Fostering and Kinship Policy](#)
- [Special Leave Policy](#)
- [Attendance Policy](#)
- [Breastfeeding Policy](#)

- [Flexible Work Pattern Policy](#)
- [Flexible Work Location Policy](#)