



Workforce

Maternity Policy: guide for managers

This guide will help managers 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:

| | |
|--|-----------|
| What is the purpose of the Maternity Policy? | 4 |
| Maternity leave | 4 |
| Statutory Maternity Pay (SMP) | 5 |
| SMP examples | 6 |
| Occupational Maternity Pay (OMP) | 7 |
| OMP examples..... | 7 |
| Maternity Allowance (MA) | 8 |
| Bank and agency staff | 9 |
| Notification of pregnancy | 9 |
| Receiving a notification of pregnancy | 9 |
| Risk assessment | 10 |
| Preparing for maternity leave | 11 |
| Keeping in Touch (KIT) days | 11 |
| Working when on maternity leave | 12 |
| Employees not returning to NHS employment | 13 |
| Annual leave and public holidays during maternity leave | 13 |
| Employees on a fixed-term or training contract | 14 |
| Rotational training contracts | 14 |
| Employees experiencing a miscarriage | 14 |
| Employees experiencing a stillbirth or neonatal loss | 15 |

Child bereavement.....15
Antenatal care15
Postnatal care16
Pension contributions16
Professional registration.....16
Links to other policies17

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

All pregnant employees are eligible for 52 weeks of maternity leave. No minimum length of service is required for an employee to be eligible for maternity leave. You cannot refuse maternity leave or change the amount of leave the employee wants to take.

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

- laundry services
- sterile services
- mechanical maintenance

In addition to maternity leave, the employee 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 the employee's:

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

Pregnant employees are provided with written confirmation of their pregnancy by their 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 the employee wants to claim SMP, OMP or MA.

Along with the EWC, you will need to 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](#).

Employees currently under UK immigration control should contact the human resources department to discuss how their maternity leave may impact their visa conditions.

Statutory Maternity Pay (SMP)

An employee will be entitled to receive SMP if they have:

- been employed within the 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, an employee's EWC starts on Sunday, 19th June, their qualifying week will start on Sunday, 6th March.

They 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 the employee is eligible for SMP, they will receive the following pay through their 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 an employee's weekly earnings are £100, they 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 an employee's weekly earnings are £500, they 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 £450 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 the employee is not entitled to SMP, the employer must give a reason for refusal and provide the employee with a [Statutory Maternity Pay: employee not entitled – form for employers - SMP1](#).

If the employee is not eligible for SMP, they may be able to claim Maternity Allowance directly from the UK Government.

Occupational Maternity Pay (OMP)

An employee will be entitled to receive OMP if they:

- 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 an employee's EWC starts on Sunday, 19th June, the 11th week before their EWC is Sunday, 3rd April. The employee must also have been continuously employed by one or more NHS employers before 3rd April of the previous year.

If the employee is eligible for OMP, the first 8 weeks of maternity leave will be paid at their full pay rate.

The next 18 weeks will be paid at the employee's half pay rate. They will also receive any SMP they may be eligible for in addition to their half pay rate. The total amount the employee will receive will not exceed their full pay rate.

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

If the employee takes the full 52 weeks of maternity leave, the final 13 weeks are unpaid.

If the employee is not eligible for SMP, they may be able to claim Maternity Allowance directly from the UK Government.

OMP examples

If an eligible employee's weekly earnings are £100, they 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 the employee's 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 the employee's rate of full pay
- no pay for the final 13 weeks

If an employee is eligible for SMP, and their weekly earnings are £500, they 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 an employee is not eligible for SMP and their weekly earnings are £500, the employee will receive the following:

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

It may be possible to spread maternity pay to equalise payments across the employee's maternity leave. You should advise your employee to 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 let the employee know to contact their local Jobcentre Plus for information on applying for MA.

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

Employees who the employing board has not employed for a minimum of 26 weeks before the qualifying week may be eligible for MA.

Employees should be encouraged to 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. They may be entitled to SMP, depending on their level of earnings. The employer may review entitlement to OMP in exceptional cases, such as if the worker can demonstrate regular work patterns over an extended period.

If you have a bank worker who can demonstrate a regular work pattern over an extended period, 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 an employee notifies you of their pregnancy, they must submit the following:

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

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

For example, if an employee's EWC starts on Sunday, 19 June, they should notify their manager of their pregnancy by Saturday, 12 March.

The employee may wish to inform you of their pregnancy before submitting their maternity form and confirmation of their pregnancy.

You should ensure that the employee receives confirmation of the maternity leave and maternity pay arrangements in writing within 28 days of receipt of the documents. This may involve liaison with the relevant department locally.

The employee may have recently returned from maternity leave when they notify you of their pregnancy. While the employee's service continues during maternity leave there may be implications to pay depending on qualifying week and level of earnings. The employee should check with their local advisor.

Risk assessment

Once an employee has informed you of their pregnancy, you must complete an individual pregnant workers and new mothers risk assessment. You should follow your local board's risk assessment process.

This should include:

- reviewing your existing general risk management and controls for pregnant workers and new mothers
- talking to the employee to see if there are any conditions or circumstances with their pregnancy that could affect their work
- discussing any concerns they have about how their work could affect their pregnancy

This may be before you receive the employee's confirmation of pregnancy and [Maternity leave form](#).

The risk assessment should be reviewed regularly as the employee's pregnancy develops.

If you identify a risk that could cause harm to the employee or their child, you must decide what you can do to manage the risk. If you cannot manage or remove the risk, you must do the following:

- provide suitable alternative work with the employee's agreement
- suspend the employee on paid leave for as long as necessary to protect the employee's health and safety and that of their child

The risk assessment should be further reviewed if the employee indicates that they 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 |

Where an agency worker has notified you of their pregnancy, their agency should complete a pregnant workers and new mothers risk assessment. A copy of this risk assessment should be provided to the NHS board. It must be suitable and sufficient.

Preparing for maternity leave

Before the employee starts their maternity leave, you should discuss arrangements to keep in touch during their absence from the workplace. These arrangements should include methods to inform the employee about departmental updates, organisational updates, and career development opportunities.

Keeping in Touch (KIT) days

An employee can ask to return to work for a maximum of 10 days during their maternity leave. KIT days can be consecutive or not. If the employee works more than 10 days their maternity leave will automatically end.

If the employee is on an unpaid period of leave, they should be paid the relevant enhancements for the shift worked. If the KIT day falls within the full pay period, they will receive one day in lieu once they have returned to work. If the KIT day falls within the half-pay period, they will receive a half day in lieu once they 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 the employee. You are encouraged to support these requests wherever possible.

The employee does not have to work KIT days, and you cannot force the employee to take them. An employee cannot work KIT days within the first 2 weeks following childbirth, or 4 weeks if the employee works in a factory setting.

If the employee is breastfeeding, you must review the pregnant workers and new mothers risk assessment. You must also provide breastfeeding facilities, as outlined in the [Breastfeeding Policy](#).

Working when on maternity leave

An employee is permitted to work 10 KIT days in their substantive or bank role within their organisation. If the employee works for more than 10 days, their maternity leave will automatically end.

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

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

If the employee takes up secondary employment after the qualifying week, their statutory maternity pay from their primary employer will stop.

As health boards are separate employers, the employee may be able to work for another health board while on maternity leave.

You should plan with the employee for their return to work. The plan should include their return date, use of annual leave, equipment, and systems access. The agreed return date should be entered on eESS, or payroll advised in line with local procedures, to ensure salary is correct on return.

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

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

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

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

If the employee wishes to return to work earlier than previously agreed, they must provide you with at least 28 days' notice of their intention to return.

In the case of pregnancy loss, you should take a person-centred approach to allow the employee to return to work earlier if they wish to.

Employees entitled to OMP must return to NHS paid employment for a minimum of 3 months. Their employment does not have to be with the same employing board. It can be any NHS employer in the UK. You should ask the employee to provide a copy of the letter of their appointment. You should send this to the payroll department. Bank and agency work does not count as a return to employment.

If the employee has more than one post, entitlement to OMP is not affected, providing they are returning to one of their substantive posts.

Employees not returning to NHS employment

If the employee decides to resign, they must provide you with written notice as specified in their employment contract. The employee can resign and leave at any point during their maternity leave.

If an employee does not return to NHS paid employment for a minimum of 3 months after their maternity leave has ended, they must repay their OMP maternity pay. You can discuss the option to use accrued annual leave to count as paid employment with the employee.

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. Your employee may use accrued annual leave before or following maternity leave, to either delay the start of maternity leave or their return date. Annual leave must be taken and will not be paid in lieu. The employee should discuss this with you 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

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

Employees whose contract ends before the end of the 11th week before their EWC will not have their contract extended or receive OMP.

However, they may be entitled to SMP or MA. The employer must confirm a reason for refusal and provide the employee with a [Statutory Maternity Pay: employee not entitled – form for employers - SMP1](#).

Rotational training contracts

If you are a manager of an employee on a rotational training contract, you are responsible for the following:

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

Where there is a planned rotation of appointments with one or more NHS employers as part of an agreed programme of training, the employee has the right to return to work after maternity leave in the same post or the next planned post. You should make the employee aware of this.

Employees experiencing a miscarriage

If you become aware of the employee's miscarriage, you should support your employee during the difficult time. You should discuss support mechanisms, which may include occupational health services and employee counselling. Further information is available:

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

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

You should withdraw the notification if the employee has already submitted their [Maternity leave form](#).

Employees experiencing a stillbirth or neonatal loss

If you are notified of the employee having a stillbirth, or experiencing neonatal loss, you should support your employee during the difficult time. You should discuss support mechanisms, which may include occupational health services, employee counselling, and support organisations. More information is available:

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

The employee's maternity leave must start from the date of the still birth or neonatal loss. They are entitled to access their full maternity leave and pay entitlements. If the employee wishes to return to work earlier, they should discuss this with you.

You should make the employee aware of child bereavement leave provisions within the [Special Leave Policy](#). This leave can only be accessed once maternity leave has ended.

Child bereavement

If you are notified of the employee losing a child, you should support your employee during the difficult time. You should discuss support mechanisms, which may include occupational health services, employee counselling, and support organisations. Further information is available:

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

You should make the employee aware of child bereavement leave provisions within the [Special Leave Policy](#). This leave can only be accessed once maternity leave has ended.

Antenatal care

As a manager you are asked to take a person-centred approach depending on the employee's individual circumstances.

Employees are entitled to paid time off to attend antenatal care. This may include relaxation and parentcraft classes that the employee's

doctor, midwife, or health visitor has advised them to attend, in addition to medical examinations.

Employees should provide reasonable notice of appointments. Except for the first appointment, you may ask the employee to provide evidence of the appointment where available.

Employees 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 you should be as flexible as possible.

Postnatal care

As a manager, you are asked to take a person-centred approach depending on the employee's individual circumstances.

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

Employees should provide reasonable notice of appointments. You may ask the employee to provide evidence of the appointment where available.

Employees 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 you should be as flexible as possible.

Pension contributions

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

For private or other pensions, the employee will need to check with their pension provider.

Professional registration

The employee is required to maintain their professional registration during maternity leave as they continue to be employed by the organisation. It is the employee's responsibility to consider how they will maintain their professional competence. However, you should support them in this through access to KIT days.

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

The employee is entitled to the benefit of the terms and conditions of employment which would have applied had they not been absent.

Examples include:

- Cycle to Work scheme
- credit union arrangement

The employee 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](#)