

NHS Business Services Authority – HR Policies

Maternity Leave Policy

1. POLICY STATEMENT

- 1.1 The policy is designed to make employees aware of their rights and entitlements during, and following pregnancy and conforms to the NHS Staff Council Conditions of Service, the Employment Act 2002 and other current legislation.
- 1.2 The policy and procedure will be reviewed periodically by the Human Resources Department and trade unions giving due consideration to legislative changes.
- 1.3 In accordance with the NHSBSA's Equality & Diversity policy, this procedure will not discriminate, either directly or indirectly, on the grounds of race, colour, ethnic or national origin, sexual orientation, marital status, religion or belief, age, trade union membership, disability, offending background or any other personal characteristic.

2. PRINCIPLES

Entitlement To Maternity Leave

- 2.1 All employees will be entitled to 52 weeks Maternity leave.

Entitlement to Occupational Maternity Pay under the NHS Scheme

- 2.2 An employee working full or part-time is entitled to Maternity pay under the NHS scheme provided that she:
 - o has 12 months continuous service with one or more NHS employers and continues to be employed by the Authority until at least the beginning of the 11th week before the expected week of childbirth (EWC); and
 - o notifies the Authority, on form BSA/M1 (see attached) at least 15 weeks before her expected week of childbirth (EWC) that she intends to take Maternity Leave (or as soon as is reasonably practicable thereafter) and intends to return to work for a minimum period of three months with the same or another employing authority; and
 - o submits a statement (MAT B1) signed by a registered medical practitioner or a practising midwife at least 28 days before commencement of Maternity Leave, indicating the expected date of childbirth.

Entitlements Under The Scheme

- 2.3 An employee who **qualifies for full benefits and intends to return to work with the same or another employing authority** will be entitled to 52 weeks Maternity Leave, paid as follows:-
 - o 8 weeks at full pay including any SMP, Maternity Allowance (MA) or equivalent benefits receivable;
 - o 18 weeks at half pay reduced only where half pay plus benefits payable exceeds full pay;
 - o 13 weeks at SMP, if payable;
 - o 13 weeks unpaid leave.

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- 2.4 An employee who **qualifies for full benefits and does not intend to return to work for the same or another employing authority** will be entitled to 52 weeks Maternity Leave, paid as follows:
- 6 weeks at 90% of full pay;
 - 33 weeks at the lesser of standard rate SMP or 90% of average weekly earnings;
 - 13 weeks unpaid leave.
- 2.5 An employee who **does not qualify for full benefits under the NHS Scheme** but who has at least 26 weeks service by the 15th week before the EWC **and** meets the earnings rule whether or not she intends to return to work will be entitled to 52 weeks Maternity Leave, paid as follows:
- 6 weeks at 90% of full pay;
 - 33 weeks at the lesser of standard rate SMP or 90% of average weekly earnings;
 - 13 weeks unpaid leave.
- 2.6 An employee who **does not qualify for SMP**, whether or not she intends to return to work, will be entitled to 52 weeks Maternity Leave. No payments will be made during the maternity leave period although Maternity Allowance or other benefits may be payable directly from Jobcentre Plus.
- 2.7 By prior agreement with the employer, occupational maternity pay may be paid in a different way e.g. a combination of full pay and half pay or a fixed amount spread equally over the maternity leave period.
- 2.8 In exceptional circumstances, for example in the case of a multiple birth or sick pre-term babies, the unpaid element of leave may be extended beyond 13 weeks. Requests for this should be submitted in writing to the employees line manager who may seek advice from the HR Department.

Timing Of Leave

- 2.9 Maternity Leave may commence at any time between the eleven weeks before the EWC and the expected week of childbirth, provided the required notice is given. Early childbirth and maternity related sickness absence will affect this as follows:

Early Childbirth

- 2.10 Where childbirth occurs before the 11th week before the EWC and the employee has worked during the actual week of childbirth, Maternity Leave will start on the first day of the employee's absence.
- 2.11 Where childbirth occurs before the 11th week before the EWC and the employee has been absent from work on certified sickness absence during the actual week of childbirth, Maternity Leave will start the day after the day of birth.
- 2.12 Where an employee's baby is born before the 11th week before the EWC, and the baby is in hospital, she may split her Maternity Leave entitlement, taking a minimum period of two weeks' leave immediately following the birth and the rest of her leave following the baby's discharge from hospital.

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- 2.13 Where an employee has a miscarriage before the 25th week of pregnancy then normal sick leave provisions will apply.
- 2.14 In the event of a still birth after the 24th week of pregnancy the employee will be entitled to the same amount of maternity leave and pay as if her baby was born alive.
- 2.15 The NHSBSA recognises that this will be a difficult and traumatic time and would encourage the use of the Employee Assistance Programme. This service is available to both employees and family members.

Sickness Absence During Pregnancy And Leave

- 2.16 Where an employee is off work ill, or becomes ill, with a pregnancy related illness during the last four weeks before the EWC, maternity leave will normally commence at the beginning of the fourth week before the expected week of childbirth or the beginning of the next week after the employee last worked, whichever is the later. Absence prior to the last four weeks before the EWC, supported by a medical certificate or self-certificate will be treated as sick leave in accordance with normal leave provisions. Normal sick leave provisions will be suspended once maternity leave has commenced.
- 2.17 Odd days of pregnancy related illness during the period may be disregarded if the employee wishes to continue working until the maternity leave start date previously agreed.
- 2.18 Where an employee is absent due to illness which is not pregnancy related then normal sick leave provisions will apply until the date previously agreed that maternity leave would commence.

Other Provisions

Ante-natal and Post-natal Care

- 2.19 Pregnant employees have the right to paid leave for ante-natal care and relaxation and parent craft classes.
- 2.20 Employees who return to work shortly after giving birth will be given paid time off for post natal care e.g. attendance at health clinics.

Calculation of Pay

- 2.21 Maternity Pay is calculated on average earnings paid for two months prior to the Qualifying week which is the 15th week before the EWC. Employees with average weekly earnings below the Lower Earnings Limit who do not qualify for SMP may be entitled to MA or other benefits.

Implementation Of A Pay Award Or Annual Increment

- 2.22 Absence on Maternity Leave, whether paid or unpaid, counts towards the normal annual increment.
- 2.23 Where a pay award and/or annual increment are implemented from a date prior to the paid Maternity Leave period, the Maternity Pay will be calculated as though the pay award had effect throughout the entire SMP calculation period. If a pay award is agreed retrospectively, the Maternity Pay will be recalculated on the same basis

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- 2.24 Where a pay award and/or annual increment is implemented from a date during the paid Maternity Leave period, the Maternity Pay due from the operative date of the pay award or annual increment should be increased accordingly. Again, if such a pay award were agreed retrospectively, the Maternity Pay should be recalculated on the same basis.

Employees On A Fixed-Term or Training Contract

- 2.25 An employee who is entitled to full benefits under the NHS Scheme, i.e. who satisfies the conditions under section 2.1 and whose contract is due to end after the 11th week before the EWC, will have her contract extended to enable her to receive 52 weeks Maternity Leave which includes paid occupational and statutory maternity pay and the remaining 13 weeks of unpaid leave.

Under these circumstances, there will be no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred.

Employees who do not satisfy the conditions under section 2.1 and whose contract ends after the 15th week prior to the EWC but before the 11th week prior to the EWC, there is no right to maternity leave but SMP may be payable. In this case, the contract will not be extended but the NHSBSA will be responsible for paying any SMP due. Under these circumstances, the employee must inform the NHSBSA if she starts work for another employer following the birth of the baby and must still provide evidence of pregnancy via the MAT B1 form.

Contractual Rights

- 2.26 An employee retains all her contractual rights, except remuneration, during the Maternity Leave period.

Annual Leave

- 2.27 Annual leave will continue to accrue during maternity leave, whether paid or unpaid.
- 2.28 Where the amount of accrued leave would exceed the normal carry over provisions, the manager and employee should agree arrangements for the leave to be taken either prior to or immediately following the maternity leave period.
- 2.29 In exceptional circumstances, where leave cannot be carried over for operational reasons, payment in lieu of annual leave may be considered.
- 2.30 All maternity leave, including unpaid maternity leave, will count as service for the purpose of satisfying the service qualification for accruing additional annual leave entitlements.
- 2.31 Bank Holiday leave is not accrued whilst on paid or unpaid maternity leave.

Pension

- 2.32 Contributions will be deducted from salary as normal during paid Maternity Leave and continue to be payable during unpaid leave. On return to work, arrears of contributions will be deducted by Salaries over an agreed period of time.

Knowledge & Skills Framework

- 2.33 The expectation is that an employee on maternity leave will progress through a KSF gateway on the due date if concerns have not been raised about her ability to meet her KSF outline prior to maternity leave.

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3. PROCEDURE

How To Claim Maternity Leave and Pay

- 3.1 Form BSA/M1 (see attached) should be completed no later than the end of the 15th week before the EWC and signed by the employee and their Line Manager or equivalent. The original form should be sent to Corporate Finance with a copy to Human Resources.
- 3.2 Maternity Leave can start on any day of the week. Any Annual Leave to be taken before the commencement of Maternity Leave should be taken into account.
- 3.3 On receipt of form MAT B1 from a Doctor or Midwife, the original should be sent to Corporate Finance, with a copy to Human Resources, at least 28 days before the commencement of leave. Payroll can then determine whether the employee qualifies for SMP. If not, they will send form SMP 1 together with the Maternity Certificate MAT B1 to the employee. These forms will be needed to claim Maternity Allowance from Jobcentre Plus.
- 3.4 The employee will be notified in writing of the end date of her leave within 28 days of receipt of her BSA/M1.

Return To Work

- 3.5 If the employee wishes to take her full entitlement to Maternity Leave she need not give any further notification of her return to work. An employee has the right to return to her job under her original contract and on no less favourable terms and conditions.
- 3.6 If she wishes to return to work before the end of her full entitlement to leave, she must give at least 28 days notice of her date of return. Form BSA M2 will be included with the letter mentioned in 3.4 above for use in these circumstances.
- 3.7 An employee has the right to apply to return to work on a part-time or flexible working basis. Applications should be made to their Line Manager and will be given fair and objective consideration.

4. HEALTH AND SAFETY

- 4.1 Where an employee is pregnant, has recently given birth or is breastfeeding, then a risk assessment of her working conditions will be carried out. If it is found, or if a medical practitioner considers, that an employee or her child would be at risk were she to continue with her normal duties, she will be provided with suitable alternative work for which she will receive her normal rate of pay. Where it is not reasonably practicable to offer suitable alternative work, the employee will be suspended on full pay.
- 4.2 These provisions also apply to an employee who is breastfeeding if it is found that her normal duties would prevent her from successfully breastfeeding.

5. COMPULSORY PERIOD OF MATERNITY LEAVE

- 5.1 The legal minimum period of maternity leave which an employee is required to take is 2 weeks. This will commence on the day that the baby is born.

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6. CHILDCARE CO-ORDINATOR

6.1 The NHSBSA provides access to a Childcare Co-ordinator. The Childcare Co-ordinator provides information on the childcare voucher scheme and provisions available locally.

7. KEEPING IN TOUCH

7.1 Before going on maternity leave employees should discuss and agree with their Line Manager any voluntary arrangements for keeping in touch. It should be noted that staff absent on maternity leave should receive details of vacancies and other pertinent business information, this is normally done via the post to the employees home address.

7.2 Keeping in Touch (KIT) days allow employees to do a limited amount of work under their contract during the Maternity Pay Period without loss of SMP for the week. They are intended to facilitate a smooth return to work for women returning from maternity leave and can include training or other activities which enable the employee to keep in touch with the workplace.

7.3 An employee may work a maximum of 10 KIT days without bringing her maternity leave to an end. Any days of work will not extend the maternity period.

7.4 An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of her baby.

7.5 Working for part of any day will count as a whole KIT day.

7.6 The employee will be paid at their basic daily rate for the hours worked less appropriate maternity leave payment for KIT days worked

7.7 Any work must be by agreement and neither the employer nor the employee can insist upon it.

7.8 Employees who are breastfeeding will be risk assessed in accordance with Section 4.2 and facilities will be provided, where possible, in accordance with Section 8.2

7.9 In certain circumstances, the NHSBSA may consider the reimbursement of reasonable childcare costs in order to enable the employee to take up the opportunity to work KIT days.

8. PROVISION FOR NURSING MOTHERS

8.1 If you are a nursing mother returning to work, please inform your Line Manager as soon as possible so they are able to make the necessary arrangements.

8.2 An employee who is breastfeeding will be given suitable access to a private room to express and store milk in an appropriate refrigerator. Requests for flexible working arrangements to support breastfeeding mothers at work will be considered.

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Form BSA/ M1 (A)

ONE YEARS RELEVANT CONTINUOUS SERVICE by 11 WEEKS BEFORE EWC

FULL NAME	DIVISION/ORGANISATION
PERSONAL NUMBER	START DATE WITH THE NHSBSA
CONTINUOUS SERVICE DATE IN NHS	EXPECTED DATE OF CHILDBIRTH

MAT B1 ATTACHED YES / NO If not, please forward at least 28 days prior to commencement of leave.

I have read and understood the Maternity Policy issued by the Authority in the Human Resources Manual and wish to claim;

	PLEASE TICK YOUR OPTION
<p>52 weeks Maternity Leave including 39 weeks occupational and statutory maternity pay, and unpaid leave of up to 13 weeks. I will return to work no later than 52 weeks after the commencement of my leave.</p> <p>I hereby declare that;</p> <ol style="list-style-type: none"> It is my intention to return to work for at least 3 months after my Maternity Leave. If I do not return for at least 3 months I agree to repay any money not due to me. I will inform the Authority in writing not later than 28 days before my date of return should I wish to return before the end of 52 weeks leave 	
<p>OR</p> <p>52 weeks Maternity Leave including 6 weeks Maternity Pay at 90% of full pay, a further 33 weeks at a flat rate sum and a further 13 weeks unpaid maternity leave and the right to return to work.</p>	
<p>OR</p> <p>6 weeks Maternity Pay at 90% of full pay and a further 33 weeks at a flat rate sum. I do not wish to return to work.</p>	

I wish my first day of maternity leave to be	
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Signed – Employee	Date
Signed – Manager	Date
Signed – HR	Date

Please forward the original of this form to Salaries with a copy to Human Resources BY 15TH WEEK BEFORE YOUR EXPECTED WEEK OF CHILDBIRTH.

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Form BSA/M1 (B)

26 WEEKS CONTINUOUS SERVICE BY 15 WEEKS BEFORE EWC

FULL NAME	DIVISION/ORGANISATION
PERSONAL NUMBER	START DATE WITH THE NHSBSA
CONTINUOUS SERVICE DATE IN NHS	EXPECTED DATE OF CHILDBIRTH

MAT B1 ATTACHED YES / NO If not, please forward at least 28 days prior to commencement of leave

I have read and understood the Maternity Policy issued by the Authority in the Human Resources Manual and wish to claim;

	PLEASE TICK YOUR OPTION
<p>52 weeks Maternity Leave and the right to return to work.</p> <p>Employees with at least 26 weeks continuous service who also meet the earnings rule will be entitled to Statutory Maternity Pay payable for 6 weeks at 90% of full pay and a further 33 weeks at a flat rate sum.</p>	
<p>OR</p> <p>6 weeks Maternity Pay at 90% of full pay and a further 33 weeks at a flat rate sum provided I have at least 26 weeks service and meet the earnings rule. I do not wish to return to work.</p>	

I wish my first day of maternity leave to be	
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Signed – Employee	Date
Signed – Manager	Date
Signed – HR	Date

Please forward the original of this form to Salaries with a copy to Human Resources BY 15TH WEEK BEFORE YOUR EXPECTED WEEK OF CHILDBIRTH.

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Form BSA/M1 (C)

LESS THAN 26 WEEKS CONTINUOUS SERVICE BY 15 WEEKS BEFORE EWC

FULL NAME	DIVISION/ORGANISATION
PERSONAL NUMBER	START DATE WITH THE NHSBSA
CONTINUOUS SERVICE DATE IN NHS	EXPECTED DATE OF CHILDBIRTH

MAT B1 ATTACHED YES / NO If not, please forward at least 28 days prior to commencement of leave

I have read and understood the Maternity Policy issued by the Authority in the Human Resources Manual and wish to claim;

	PLEASE TICK YOUR OPTION
52 weeks Maternity Leave and the right to return to work. Employees who have worked, and paid National Insurance contributions, in 26 out of the 66 weeks ending with the week before the expected week of childbirth may be entitled to receive up to 39 weeks Maternity Allowance.	
OR I wish to terminate my employment due to my pregnancy	

I wish my first day of maternity leave to be	
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Signed – Employee	Date
Signed – Manager	Date
Signed – HR	Date

Please forward the original of this form to Salaries with a copy to Human Resources BY 15TH WEEK BEFORE YOUR EXPECTED WEEK OF CHILDBIRTH.