



## Appendix 10: Maternity Leave Policy

<b>Name</b>	<b>Maternity Leave Policy</b>
<b>Summary</b>	This policy sets out the rights and responsibilities of employees who are pregnant or have recently given birth and gives details of the arrangements for antenatal care, pregnancy-related illness, and maternity leave and pay.
<b>PIN Policy</b>	Supporting the Worklife Balance
<b>Associated Documents</b>	
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## Golden Jubilee Foundation Values Statement

What we do or deliver in our roles within the Golden Jubilee Foundation (GJF) is important, but the way we behave is equally important to our patients, customers, visitors and colleagues. We know this from feedback we get from patients and customers, for example in “thank you” letters and the complaints we receive.

Recognising this, the GJF have worked with a range of staff, patient representatives and managers to discuss and promote our shared values which help us all to deliver the highest quality care and service across the organisation. These values are closely linked to our responsibilities around Equality.



**V**aluing dignity and respect  
**A** can do attitude  
**L**eading commitment to quality  
**U**nderstanding our responsibilities  
**E**ffectively working together

Our values are:

- Valuing dignity and respect.
- A ‘can do’ attitude.
- Leading commitment to quality.
- Understanding our responsibilities.
- Effectively working together.

Our policies are intended to support the delivery of these values which support employee experience.

## 1 Policy Statement

This policy sets out the rights and responsibilities of employees, regardless of gender identity and trans identity, who are pregnant or have recently given birth and gives details of the arrangements for antenatal care, pregnancy-related illness, and maternity leave and pay.

The policy aims to implement best practice in the processing of applications, management of pregnant workers and return to work arrangements.

This policy is inclusive and where the term “mother” is used it refers to the employee who gave birth, regardless of that employee’s gender identity or trans identity.

## 2 Maternity Leave and Pay

The following provisions are as set out within Section 15 of the NHS Terms and Conditions of Service Handbook. However, they apply to all individuals employed by Golden Jubilee Foundation (GJF) including the Executive Level and Senior Management cohort and Doctors and Dentists.

These provisions provide benefits which exceed the statutory minimum levels.

### 2.1 Eligibility

All employees will have a right to take 52 weeks of maternity leave whether or not they return to NHS employment.

An employee will be entitled to paid and unpaid maternity leave under the NHS contractual maternity pay scheme if:

i) they have 12 months' continuous service with one or more NHS employers at the beginning of the 11th week before the expected week of childbirth;

ii) they notify their employer in writing before the end of the 15th week before the expected date of childbirth (or if this is not possible, as soon as is reasonably practicable thereafter):

(a) of their intention to take maternity leave;

(b) of the date they wish to start their maternity leave - they can choose when to start their maternity leave - this can usually be any date from the beginning of the 11th week before the baby is born;

(c) that they intend to return to work with the same or another NHS employer for a minimum period of three months after their maternity leave has ended;

(d) and provides a MATB1 form from their midwife or GP giving the expected date of childbirth.

All requests for Maternity leave should be submitted to line managers via the self service provision within eESS (electronic Employee Support System). Further information on how to submit this request can be found at the following link: <http://www.eess.nhs.scot/wp-content/uploads/EmployeeSelfService/REF308-ESS-Maternity-Leave.pdf>

### 2.2 Continuous service

In order to calculate whether the employee meets the qualification set out in paragraph 2.1 (i) to have had 12 months of continuous service with one or more NHS employers, reference should be made to the provisions of the NHS Terms and Conditions of Service Handbook sections 15.61 to 15.65.

## **2.3 Notification**

In addition to 2.1 (ii) above, employees should be encouraged to notify their line manager as soon as possible after becoming pregnant. This is important as there are health and safety considerations for the organisation, as detailed below. The rules regarding notification apply irrespective of the employee's entitlement to paid leave under this policy.

## **2.4 Confirming maternity leave and pay**

An employee should be written to upon receipt of their application for maternity leave, detailing what they must do (if anything) and their entitlements to pay and leave together with dates (where these can be confirmed).

Following discussion with the employee, the employer should confirm in writing:

- i) the employee's paid and unpaid leave entitlements under this agreement (or statutory entitlements if the employee does not qualify under this agreement);
- ii) unless an earlier return date has been given by the employee, their expected return date, based on their 52 weeks paid and unpaid leave entitlement under this agreement;
- iii) the length of any period of accrued annual leave which it has been agreed may be taken following the end of the formal maternity leave period; (NHS Terms and Conditions of Service Handbook - paragraphs 15.49 and 15.50); and
- iv) the need for the employee to give at least 28 days of notice if they wish to return to work before the expected return date.

## **2.5 Paid maternity leave**

### **2.5.1 Amount of pay**

Where an employee intends to return to work the amount of contractual maternity pay receivable is as follows:

- i) for the first eight weeks of absence the employee will receive full pay, less any Statutory Maternity Pay or Maternity Allowance (including any dependents' allowances) receivable;
- ii) for the next 18 weeks the employee will receive half of full pay, plus any Statutory Maternity Pay or Maternity Allowance (including any dependents' allowances) receivable, providing the total receivable does not exceed full pay;
- iii) for the next 13 weeks, the employee will receive any Statutory Maternity Pay or Maternity Allowance that they are entitled to under the statutory scheme.

By prior agreement with the employer, occupational maternity pay may be paid in a different way, for example a combination of full pay and half pay or a fixed amount spread equally over the maternity leave period.

### **2.5.2 Calculation of maternity pay**

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.

### **2.6 Unpaid contractual leave**

Employees are also entitled to take a further 13 weeks as unpaid leave to bring the total of leave to 52 weeks. However, this may be extended by local agreement in exceptional circumstances, for example, where employees have sick pre-term babies or multiple births.

### **2.7 Commencement and duration of leave**

An employee may begin their maternity leave at any time between 11 weeks before the expected week of childbirth and the expected week of childbirth, provided they give the required notice. An employee is not permitted to return to work for a period of two weeks immediately after giving birth.

#### **2.7.1 Changing the maternity leave start date**

If the employee subsequently wants to change the date from which they wish their leave to start, they should notify their employer at least 28 days beforehand (or, if this is not possible, as soon as is reasonably practicable beforehand).

#### **2.7.2 Sickness prior to childbirth**

If an employee is off work ill, or becomes ill, with an illness, either related to the pregnancy or not, during the last four weeks before the expected week of childbirth, maternity leave will normally commence at the beginning of the 4th 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 expected week of childbirth, supported by a medical statement of incapacity for work, or a self-certificate, shall be treated as sick leave in accordance with normal leave provisions.

Odd days of pregnancy-related illness during this period may be disregarded if the employee is medically fit to continue working till the maternity leave start date previously notified to the employer.

#### **2.7.3 Pre-term birth**

Where an employee's baby is born prematurely, the employee will be entitled to the same amount of maternity leave and pay as if their baby was born at full term.

Where an employee's baby is born before the 11th week before the expected week of childbirth and the employee has worked during the actual week of childbirth, maternity leave will start on the first day of the employee's absence.

Where an employee's baby is born before the 11th week before the expected week of childbirth 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.

Where an employee's baby is born before the 11th week before the expected week of childbirth and the baby is in hospital, the employee may split their maternity leave entitlement, taking a minimum period of two weeks' leave immediately after childbirth and the rest of their leave following their baby's discharge from hospital.

#### **2.7.4 Stillbirth**

Where an employee's baby is stillborn after the 24th week of pregnancy, the employee will be entitled to the same amount of maternity leave and pay as if their baby was born alive.

#### **2.7.5 Miscarriage**

Where an employee has a miscarriage before the 24th week of pregnancy, normal sick leave provisions will apply as necessary.

### **2.8 Contractual rights**

During maternity leave (both paid and unpaid) an employee retains all of their contractual rights, except remuneration.

#### **2.8.1 Increments**

Maternity leave, whether paid or unpaid, 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 maternity leave would progress through a Knowledge Skills Framework gateway on the due date, if concerns had not been raised about the ability to meet their KSF outline prior to maternity leave.

#### **2.8.2 Accrual of Annual Leave and Public Holidays**

Annual leave and public holidays will continue to accrue during maternity leave, whether paid or unpaid, provided for by this agreement.

Where the amount of accrued annual leave and public holidays would exceed normal carry over provisions, it may be mutually beneficial to both the employer and employee for the employee to

take annual leave before and/or after the formal (paid and unpaid) maternity leave period. The amount of annual leave to be taken in this way, or carried over, should be discussed and agreed between the employee and employer. Payment in lieu may be considered as an option where accrual of annual leave exceeds normal carry over provisions.

#### **2.8.3 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 the Scottish Public

Pensions Agency (SPPA) how their leave will impact upon their own pension contributions; the organisation's contributions and their entitlements under the pension scheme.

## **2.9 Line Management Contact**

Line managers should keep in contact with the employee throughout the period of their confinement and maternity leave, providing information and support where required and a link to the workplace.

### **2.9.1 Pre-Maternity Leave Interview**

Before going on leave, the line manager and the employee should meet to discuss the practicalities of the pregnant employee's approaching maternity leave. The employee should already have been informed by this stage of their maternity leave and pay entitlement.

The meeting will provide the opportunity:

- To discuss the final arrangements for the employee's maternity leave;
- To discuss with the employee how their work will be covered during the maternity leave, including who will take over their tasks, how the handover will be managed and any other practicalities that arise;
- To discuss and agree any voluntary arrangements for keeping in touch during the employee's maternity leave, including:
  - i) The employee's right to keeping-in-touch days and whether or not they might be interested in exercising this right;
  - ii) how the line manager will keep in touch with the employee while they are on maternity leave, what information they might expect to receive and by what means;
  - iii) keeping the employer in touch with any developments that may affect their intended date of return.
- To discuss how the employee's annual leave entitlement will be managed while they are on maternity leave;
- For the employee to raise any other issues that they would like to discuss.

### **2.9.2 Keeping in touch days**

To facilitate the process of keeping in touch, it is important that the employer and employee have early discussion to plan and make arrangements for Keeping in Touch (KIT days) before the employee's maternity leave takes place.

To enable employees to take up the opportunity to work KIT days, employers should consider the scope for reimbursement of reasonable childcare costs or the provision of childcare facilities.

KIT days are intended to facilitate a smooth return to work for employees returning from maternity leave.

An employee may work for up to a maximum of ten KIT days without bringing their maternity leave to an end. Any days of work will not extend the maternity leave period.

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

The work can be consecutive or not and can include training or other activities which enable the employee to keep in touch with the workplace.

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

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

Working for part of any day will count as one KIT day.

Any employee who is breastfeeding must be risk assessed and facilities provided in accordance with the provisions set out in the Breastfeeding Policy.

## **2.10 Antenatal and Postnatal care**

Pregnant employees have the right to paid time off for antenatal care. Antenatal care may include relaxation and parent-craft classes that the employee's doctor, midwife or health visitor has advised their to attend, in addition to medical examinations.

In order to be entitled to take time off for antenatal care, the employee is required to produce a certificate from their doctor, registered midwife or registered health visitor, stating that they are pregnant. Except in the case of the first appointment, the employee should also produce evidence of the appointment, such as a medical certificate or appointment card, if required to do so.

Employees who have recently given birth should have paid time off for post-natal care, e.g. attendance at health clinics. Evidence of such appointments should be similarly provided if required.

The employee should endeavour to give their line manager as much notice as possible of antenatal or postnatal appointments and, wherever possible, try to arrange them out with working hours or as near to the start or end of the working day as possible. However, it is recognised that this may not necessarily be possible.

## **2.11 Miscellaneous provisions**

### **2.11.1 Fixed-term contracts or training contracts**

Employees subject to fixed-term or training contracts which expire after the 11th week before the expected week of childbirth and who satisfy the conditions in paragraphs 2.1 (i), and 2.1 (ii) (a), (b) and (d), shall have their contracts extended so as to allow them to receive the 52 weeks, which includes paid contractual and statutory maternity pay, and the remaining 13 weeks of unpaid maternity leave.

Absence on maternity leave (paid and unpaid) up to 52 weeks before a further NHS appointment shall not constitute a break in service.

If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred, the repayment provisions set out in paragraph 2.10 above will not apply.

Employees on fixed-term contracts who do not meet the 12 months' continuous service condition set out in paragraph 2.1 (i) above, may still be entitled to Statutory Maternity Pay.

### **2.11.2 Rotational training contracts**

Where an employee is on a planned rotation of appointments with one or more NHS employers, as part of an agreed programme of training, they shall have the right to return to work in the same post or in the next planned post, irrespective of whether the contract would otherwise have ended if pregnancy and childbirth had not occurred. In such circumstances the employee's contract will be extended to enable the practitioner to complete the agreed programme of training.

### **2.11.3 Employees not returning to NHS employment**

An employee who satisfies the conditions in paragraph 2.1, except that they do not intend to work with the same or another NHS employer for a minimum period of three months after their maternity leave is ended, will be entitled to pay equivalent to Statutory Maternity Pay, which is paid at 90 per cent of their average weekly earnings for the first six weeks of their maternity leave and to a flat rate sum for the following 33 weeks.

### **2.11.4 Employees with less than 12 months' continuous service**

If an employee does not satisfy the conditions in paragraph 2.1 for occupational maternity pay, but has 26 weeks' continuous service with their employer assessed at the 15th week before the week the baby is due, they may be entitled to Statutory Maternity Pay, depending on their earnings level.

If their earnings are too low for them to qualify for Statutory Maternity Pay, they may be entitled to claim Maternity Allowance. In such circumstances, the employee should seek further information from their local Job Centre Plus or social security office.

### **2.11.5 Information about statutory maternity/adoption and paternity leave and pay**

There are occasions when employees are entitled to other statutory benefits/allowances and Information about all statutory maternity/adoption and paternity rights can be found using the following links:

[www.gov.uk/search?q=maternity+leave](http://www.gov.uk/search?q=maternity+leave)

[www.gov.uk/search?q=statutory+maternity+pay](http://www.gov.uk/search?q=statutory+maternity+pay)

Information about health and safety for new and expectant “mothers” at work can be found using the following link:

[www.hse.gov.uk](http://www.hse.gov.uk)

Information on The Best Start Grant Pregnancy and Baby Payments which was launched in December 2018 which provides extra money to lower income families is available using the following link or by calling 0800 182 2222:

[www.mygov.scot/pregnancy-and-baby-payment](http://www.mygov.scot/pregnancy-and-baby-payment)

### **3 Management of Pregnant Workers**

#### **3.1 Health and safety of employees pre and post birth**

The Pregnant Workers Directive 1992 introduced measures to encourage improvements in the health and safety at work of pregnant workers and workers who have recently given birth or are breastfeeding. The Management of Health and Safety at Work regulations 1999 places a duty of care on employers to ensure that the health and safety of pregnant workers is risk assessed and that action must be taken to in relation to identified risks.

Where an employee is pregnant, has recently given birth or is breastfeeding, the employer must carry out a risk assessment of their working conditions. The result of the risk assessment should be communicated to the employee and their representative (where appropriate).

Examples of risk:

- Chemical exposure;
- Physical and biological agents;
- Industrial processes movements and postures;
- Mental and physical fatigue;
- Other types of physical and mental stress connected with the work done.

If it is found, or a medical practitioner considers, that an employee or their child would be at risk were they to continue with their normal duties, the employer should provide suitable alternative work for which the employee will receive their normal rate of pay.

Examples of provisions to reduce risk:

- Temporarily adjusting the working conditions or hours;
- Move the worker to another job;

- Transfer to daytime working.

Where it is not reasonably practicable to offer suitable alternative work, the employee should be suspended on full pay on pregnancy grounds.

## **4 Return to Work Arrangements**

**4.1** An employee who intends to return to work at the end of their maternity leave will not be required to give any further notification to the employer, although if they wish to return early, they must give at least 28 days' notice.

**4.2** An employee has the right to return to their job under their original contract and on no less favourable terms and conditions.

**4.3** The line manager will arrange to meet with the employee on their return to work (ideally at the start of their first day back at work, but as soon as is reasonably practicable) who will be responsible for dealing with any housekeeping matters and ensuring that they settle in smoothly. In order to assist further in this regard, their manager will also:

- Arrange a catch-up meeting to update the employee on developments in their absence not previously notified to them;
- Discuss the arrangements for handing work back to them;
- Arrange for them to meet with other work colleagues to enable them to re-familiarise them with the workload and the relevant systems of work;
- Discuss any training needs and ensure that these are addressed as soon as possible after their return;
- Introduce them to any new members of staff;
- Advise on parental leave entitlement;
- Confirm the right to request flexible working arrangements;
- Discuss provision of support should the employee wish to breastfeed after they return to work;
- Discuss any recommendations that the employee's doctor and/or Occupational Health have made in relation to their health and wellbeing following their return from maternity leave (carrying out a risk assessment and implementing any resulting actions as appropriate);
- Discuss any other operational matters.

**4.4** Work should be handed back to the employee on a gradual basis with the aim that they will be completely up to speed and handling a workload appropriate to their contracted working hours within an agreed period following their return from maternity leave.

### **4.5 Returning on flexible working arrangements**

If, at the end of maternity leave, the employee wishes to return to work on different hours, the NHS employer has a duty to consider this and will seek to facilitate this, wherever possible bearing in mind the needs of the service. If possible, the employee will return to work on different hours but in the same job. If this is not possible, the employer must provide written, objectively justifiable reasons for this and the employee shall, wherever possible, be given the option to

return to a role at the same pay band and undertaking work of a similar nature and status, to that which they held and undertook prior to their maternity absence. It may not be possible for an employee to have their flexible working request accommodated either in their existing role or through the provision of an alternative role.

If it is agreed that the employee will return to work on a flexible basis, including changed or reduced hours, for an agreed temporary period, this will not affect the employee's right to return to their job under their original contract, at the end of the agreed period.

#### **4.6 Sickness following the end of maternity leave**

In the event of illness following the date the employee was due to return to work, normal sick leave provisions will apply as necessary.

#### **4.7 Failure to return to work**

If an employee who has notified their employer of their intention to return to work for the same or a different NHS employer, in accordance with paragraph 2.1 (ii) (c) above, fails to do so within 15 months of the beginning of their maternity leave, they will be liable to refund the whole of their maternity pay, less any Statutory Maternity Pay, received. In cases where the employer considers that to enforce this provision would cause undue hardship or distress, the employer will have the discretion to waive their right to recovery.

#### **4.8 Shared parental leave**

Under a new system of flexible parental leave (called Shared Parental Leave), parents will be able to choose how they share care of their child during the first year after birth. Employed "mothers" will still be entitled to 52 weeks of maternity leave; however, working parents will be able to opt to share the leave.

"Mothers" will have to take at least the initial two weeks of leave following the birth as a recovery period. Following that they can choose to end the maternity leave and the parents can opt to share the remaining leave using the Shared Parental Leave Policy.

The Government introduced the changes to flexible parental leave in April 2015.

Further information is available from

<https://www.gov.uk/search?q=reform+of+flexible+parental+leave>

### ***Dignity at Work***

The Golden Jubilee Foundation is committed to providing all reasonable support to employees who are pregnant or new mothers. 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 pregnant or who have recently given birth. It is a requirement of this policy that all employees of the organisation respect this principle.

## **5 Questions or Concerns**

The GJF recognises that, from time to time, employees may have questions or concerns relating to their maternity rights. It is the policy of GJF to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. As the maternity provisions are complex, if an employee becomes pregnant, they should clarify the relevant procedures with Human Resources to ensure that they are followed correctly.

## **6 Resolution of Disagreements**

No request for leave under this policy will be unreasonably withheld. Should a disagreement arise, the individual has the right to raise a formal grievance. It may be preferable in such circumstances, however, for the manager to seek advice on resolving the matter from an appropriate member of the HR Team and a Trade Union/or Professional Organisation representative.

## **7 Monitoring, Review and Evaluation**

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