



Maternity leave

1 What this policy covers

This policy is a guide for both managers and employees that outlines statutory rights and responsibilities in relation to maternity leave.

It provides information regarding health and safety, pay and leave entitlements and how to apply for maternity leave. Definitions of terms and abbreviations used in the policy are given at the end of this policy.

2 Principles

GHC is committed to positively supporting staff during their pregnancy, maternity leave and return to work, taking account of individual circumstances, while continuing to deliver a high-quality service.

3 Responsibilities

- GHC will ensure that applications for maternity leave are treated in accordance with this policy and in a way that does not discriminate.
- Managers are responsible for actioning requests for maternity leave in accordance with this policy.
- Line managers are responsible for conducting a risk assessment for new and expectant staff at work using the appropriate forms.
- Employees wishing to take maternity leave should comply with the application process and timescales specified in this policy.
- Employees are responsible for reporting any changes in their pregnancy or complications that may occur that will affect their work or ability to perform their daily tasks. They should also inform their line manager of any changes to agreed leave dates in line with the notice periods outlined in this policy.

4 Policy in practice

4.1 Entitlements

All employees, including bank workers, have the right to take 52 weeks' maternity leave regardless of their length of service. The earliest date that maternity leave can start is the eleventh week before the Expected Week of Confinement (EWC) – 29 weeks pregnant – except in cases of premature birth.

Employees on fixed-term contracts are entitled to 52 weeks' maternity leave providing their fixed-term contract does not expire before GHC Qualifying Week (ie eleventh week before EWC).

Employees whose fixed-term contract expires after GHC Qualifying Week and who have more than 26 weeks' continuous service will have their contract extended to enable them to receive 52 weeks' maternity leave. These employees will not have any entitlement to a role within GHC at the end of their maternity leave, unless they have been selected for another role through competitive interview.

“Employees are responsible for reporting any changes in their pregnancy or complications that may occur that will affect their work or ability to perform their daily tasks”

Compulsory Maternity Leave

After giving birth, employees must take two weeks' compulsory maternity leave (CML). However, there are restrictions on whether this will be paid and the amount of maternity pay entitlement. See section 4.7 for details.



Surrogate mothers

Provided they meet the normal eligibility criteria, pregnant surrogates are entitled to 52 weeks' maternity leave and SMP (in the same way as others). The surrogate mother's plans for her baby after it is born have no impact on her right to maternity leave or SMP. Surrogate mothers will not be entitled to OMP.

4.2 Risk assessments

Once advised of the pregnancy, the line manager should meet the employee as soon as possible to complete a risk assessment for new and expectant mothers at work. By assessing potential physical risks and hazards in the workplace, it determines whether there are any potential risks to the employee's health and safety that may affect their pregnancy.

Once the assessment has taken place, the line manager will decide on measures that should be taken to avoid, eliminate or reduce potential risks. Advice and guidance may also be sought from Working Well and HR.

This may on occasion mean a temporary adjustment to working conditions. In extreme cases, where the risk cannot be eliminated or reduced to an acceptable level, a temporary change in the type of work may be necessary. Risk assessments should then be reviewed every two months during the pregnancy to account for any changes over time or as needed if a change occurs.

4.3 Time away from work

All pregnant employees are entitled to reasonable time off, with pay, to attend antenatal care appointments. Employees should try to book appointments on their days off where possible. If appointments are to be taken during working hours, they should be booked at times that minimise impact on service where possible. Employees may be asked to show appointment cards to their manager and should always give as much notice as possible before appointments.

4.4 Sickness during pregnancy

For the purpose of managing sickness, all absence will be defined as either pregnancy-related or non-pregnancy related.

Non pregnancy-related sickness

Any sickness not related to the pregnancy will be treated in accordance with GHC's Sickness Management Policy.

Pregnancy-related sickness

Any pregnancy-related sickness must be reported and recorded as usual. The absence will not be managed using GHC's sickness management procedure. However, to support and manage the employee, all absences will be discussed with them through return-to-work interviews and informal meetings. The line manager should seek guidance and support from HR and Working Well as appropriate.

If necessary, another risk assessment will be completed to ensure that any changes to health during the pregnancy can be identified and action taken to support the employee to be at work.

In exceptional circumstances, Working Well may advise an employee is redeployed to an alternative role during her pregnancy. The manager should work with HR and Working Well to identify a suitable alternative role. If Working Well advises that there is no suitable or reasonable alternative employment, the employee should be suspended with full pay for as long as required to protect the health and safety of the mother and child.

If the employee is suspended for the whole pregnancy, maternity leave will start on the planned date. If an employee unreasonably refuses an offer of suitable alternative work, she will forfeit the right to paid maternity suspension and will be placed on unpaid leave until the planned maternity leave starts.

Pregnancy-related sickness after 29 weeks

If a pregnant employee is absent from work after week 29 of pregnancy because of pregnancy-related sickness, she can choose whether to start her maternity leave or take sick leave.

Pregnancy-related sickness after 36 weeks

If a pregnant employee is absent because of pregnancy-related sickness and this continues into or starts within the four-week period starting on the Sunday of the fourth week before the EWC, maternity leave will start on the day after the first complete day of absence.

4.5 Pregnancy complications

As soon as practicable, employees should inform their line manager of any pregnancy complications that may affect their daily work or ability to perform their role. Such complications will be discussed and risk assessments amended where appropriate. Line managers should seek advice from HR and make a referral to Working Well to obtain guidance on reasonable adjustments.

Miscarriage

Sadly, if a miscarriage occurs on or before week 24 of pregnancy, time away from work will be classed as sickness absence and therefore the sickness reporting and pay procedures will apply. Please see the Supporting Attendance Policy.

Stillbirth

In cases of stillbirth after week 24 of pregnancy, which very sadly can happen, the maternity leave will commence from this date and maternity pay and leave will be the same as if the baby had been born alive.

Premature birth

If a baby is born prematurely after the 11th week before the EWC, maternity leave and pay will automatically start on the day after the date of birth. If a baby is born before the 11th week before the EWC and the baby is in hospital, the employee may split their maternity leave entitlement, taking a minimum period of two weeks' leave immediately after the birth and the rest of their leave following their baby's discharge from hospital.

Employees should inform their manager who will put the correct procedures in place in their absence. Confirmation of the date of birth must be supplied, as well as a birth certificate and MATB1 (if not already supplied).

4.6 Procedure for requesting leave

Employees must notify their manager in writing of their intentions and plans for maternity leave by the 15th week before the EWC or as soon as practicable in cases of premature birth (but no later than 13 weeks after the start of maternity pay). They should do this by sending the following documents to their manager:

- an Application for Maternity Leave and Pay form
- the original Maternity Certificate (MATB1), which will be provided (usually between the 21st and 26th week of pregnancy) by the midwife or doctor
- in cases of premature birth, a certified copy of the baby's birth certificate.

Before completing the Application for Maternity Leave and Pay form, employees must consider whether they will be returning to work following maternity leave. This information must be shown on the form, because it affects entitlement to Occupational Maternity Pay. Forms lacking this information will not be processed and will be returned to the line manager.

If an employee wishes to change their maternity leave dates before they have started maternity leave, they should contact their line manager to discuss the reasons and to agree a new date. Reasonable notice of a change of dates should be given where possible. Normally, no fewer than 28 days would be accepted unless in cases of ill health or emergency.

A flowchart outlining the key stages to organising maternity leave is available in the Maternity Leave Policy Action Card.

4.7 Annual Leave

Employees must discuss and agree plans to take annual leave entitlement with their manager. These will be documented in the letter confirming maternity leave.

Normal leave carry over provisions will apply, therefore employees are expected to use all of their annual leave for the current leave year before starting maternity leave, unless there are exceptional service delivery restrictions which would be impacted by this.

In exceptional circumstances where an employee has not been able to take all of their annual leave specifically due to their maternity leave starting earlier than planned or service need, they may be able to carry forward

more than the normal carry over provisions. They will be expected to take their accrued annual leave at the end of their maternity leave. Any carry over of annual leave must be reported to the Finance department.

4.8 Maternity Pay

There are three types of maternity pay:

- 1 Statutory Maternity Pay (SMP) – paid by the government.
- 2 Occupational Maternity Pay (OMP) – paid by GHC.
- 3 Maternity Allowance (MA) – paid by the government.

The type of maternity pay paid is based on six deciding factors:

- 1 How long the employee has worked at GHC or how much continuous NHS service they have.
- 2 Whether the employee is still pregnant at the eleventh week before her due date.
- 3 Whether they have earned enough in the relevant period.
- 4 Whether they intend to return to work.
- 5 Whether they have provided the correct evidence and paperwork.
- 6 Whether this evidence been provided as notification within the correct timescales.

Flowcharts to establish maternity pay entitlements are available in the Maternity Policy Action Card.

Statutory Maternity Pay

SMP is paid to all employees (including bank workers) provided they have been continuously employed by the same employer for the 26 weeks prior to the Qualifying Week (15 weeks before the EWC), who are pregnant at the eleventh week before the EWC, and have earnings above the lower earnings limit for National Insurance contributions. Calculations will include all pay within the earnings period.

Provided the employee has also given the correct notification and medical proof to show they are pregnant (MATB1), SMP is paid for 39 weeks and consists of two rates: higher rate SMP and lower rate SMP.

Occupational Maternity Pay

OMP is paid in addition to SMP for employees who qualify. It is assessed as an average of the normal pay for eight weeks or two months up to the last normal pay

day before the Saturday of the Qualifying Week (15 weeks prior to the EWC).

For OMP purposes, normal pay will include all items for the qualifying period on which National Insurance is calculated, including any arrears that would normally have been accrued during that period. It does not include expenses.

In exceptional circumstances, GHC may need to change the qualifying period if the salary cannot be determined. This will be managed in line with HMRC regulations.

OMP will be paid to both part-time and full-time employees who:

- **have more than one year's continuous service** – at the beginning of GHC Qualifying Week (11 weeks before the EWC). Service from another NHS organisation will be included if there is a break of less than three months. However, the months that the employee was not employed (up to three months) will not be used when calculating service

and

- **intend to return to work for at least three months** – employees must return to work on contracted hours, for a minimum of three months following their maternity leave. Employees returning to bank assignments will not be regarded as 'returned to work' for OMP purposes. If an employee doesn't return to work on contracted hours within this time frame, they must repay the occupational element of their maternity pay. Employees who change their mind about returning to work should inform their manager as soon as possible to avoid overpayment.

Employees can reserve the right to return to work and make a decision about returning to work after the birth. Under this option an employee will initially receive maternity pay as if they were not to returning to work. This is to avoid them having to repay any OMP if they chose not to return. If they do return to work, they will receive any entitlement to pay outstanding.

OMP will be paid for a total of 39 weeks at the rates detailed in the boxes.

Statutory Maternity Pay

Weeks	Pay	Duration
1-6	Higher rate SMP – a weekly equivalent of 90% of full pay	6 weeks
7-39	Lower rate SMP – a set weekly rate or 90% of full pay, whichever is lower. This rate changes annually – the HR Department can provide details of the current rate of lower SMP	33 weeks
40-52	Unpaid	13 weeks

Occupational Maternity Pay

Weeks	Pay	Duration
1-8	Full normal pay	8 weeks
9-26	Half normal pay plus lower rate SMP (this will not exceed full pay)	18 weeks
27-39	Lower rate SMP	13 weeks
40-52	Unpaid	13 weeks

Maternity Allowance

MA is available for employees who do not qualify for SMP (see flowcharts in the Maternity Leave Action Card). MA is a weekly payment paid by the Department for Work and Pensions for a maximum period of 39 weeks.

The Payroll Department will inform employees if they're not entitled to OMP or SMP and will also provide an SMP1 form to explain why. This form should be completed and returned to the Department for Work and Pensions (via Jobcentre Plus) to claim Maternity Allowance.

Pension contributions during maternity leave

Pension contributions made by GHC continue during the whole period of maternity leave and are based on the employee's normal salary before the start of the leave. For information on employee pension contributions during maternity leave employees should contact the GHC Pensions team.

Fixed-term contracts

Employees on fixed-term or training contracts which expire after the 11th week before the EWC, or the 15th week before the baby's due date if applying via a surrogacy arrangement, and who meet the relevant eligibility criteria, will have their contracts extended by 52 weeks to allow them to receive maternity leave and

any OMP and SMP they are entitled to.

In such cases there will be no right of return at the end of the maternity leave and the OMP repayment provisions will not apply.

Bank workers

Bank workers will not be eligible for OMP, but may be eligible for SMP. Their average weekly earnings must not be less than the lower earnings limit for National Insurance contributions for the eight-week period prior to the 15th week before the baby is due.

Bank workers should apply for maternity leave and pay in the normal way and the Payroll Department will advise them of their entitlements accordingly. Workers returning to work on a bank contract will not be entitled to OMP.

Rotational contracts

Maternity pay will be calculated in the same way for those on a rotational contract as for other employees.

5 Return to work

5.1 Notification of return to work

The earliest any employee can return to work is after CML of two weeks, which has to be taken immediately after the birth. The maximum amount of maternity leave

is 52 weeks.

Where possible, employees are encouraged to confirm their return to work date before they start maternity leave. However, it is acknowledged that this is not always practicable and the employee has the right to change their date of return.

If an employee chooses to return to work or reserves the right to return to work within their application for maternity leave, their manager will write to them at about 12 weeks before the planned end date of their maternity leave to request information about their intention to return to work. Employees should return the form as soon as possible to allow for any changes to be made to the arrangements to cover the work.

If an employee decides to change their return to work date once they are on maternity leave, they must give at least 28 calendar days' notice in writing to their line manager.

All employees are expected to return to work on the date they have specified, which should be no later than 52 weeks after starting their maternity leave (this may not necessarily include any annual leave taken). If an employee does not return to work, they will be contacted by their manager to find out the reasons why, and they will be managed in line with GHC policy.

All employees who received OMP must complete three months' service to retain this entitlement. Employees who are paid OMP but do not work for three months will be asked to repay the OMP in accordance with the normal GHC processes for reclaiming overpayments.

If an employee notifies GHC of their intention to return to work but does not, they will be liable to repay the whole of the OMP received, but they will not be required to repay SMP to which they are entitled.

5.2 Returning to another NHS employer

If an employee decides to return to work at another NHS trust, they must notify GHC of their intention. To retain full OMP, the employee must return within 15 months of their maternity leave start date.

To ensure that OMP is maintained, the employee must provide Payroll with a copy of their offer letter and contract of employment with another NHS employing body within 15 months of the beginning of their maternity leave or within three months of the final day of



their maternity leave. Failure to do so will mean that the employee must refund the whole of the OMP received, they will not be required to repay SMP to which they are entitled.

Employees who have not been paid OMP because they expected not to return to NHS employment, but return within 15 months, should contact GHC and will be expected to provide the above documentation. Once provided, calculations for OMP will be made and paid retrospectively.

5.3 Returning to work when breastfeeding

If an employee chooses to continue breastfeeding after returning to work, they will need to let their line manager know that they are breastfeeding. If possible, this should be before they return to work, so that necessary arrangements can be made.

Upon receipt of this information, the line manager will carry out a risk assessment to ensure that the employee is not exposed to risks that could damage their health and safety or that of the child for as long as they continue to breastfeed. The manager will need to identify an appropriate location where the employee may express, as well as storage facilities for the expressed milk.

5.4 Sickness preventing a return to work

If an employee cannot return to work after their maternity leave because of sickness, they should inform their line manager as soon as practicable.

5.5 Rotational contracts

If an employee works on a planned rotational contract

with one or more NHS employers as part of an agreed training programme, they will retain the right to return to work in the same post or next planned post and their contract will be extended to enable them to complete the remainder of the agreed programme. This agreement is irrespective of whether the contract would have otherwise ended.

5.6 Contractual rights

During maternity leave, all contractual rights including accrual of annual leave and continuous service are retained (with the exception of remuneration).

5.7 Organisational change

In the event of organisational change, employees on maternity leave will be managed in the same way as all other employees when it comes to consultation and communication. They will receive written documents, letters and notifications and will be required to attend formal meetings where appropriate.

All organisational change will be managed in line with the GHC Organisational Change Policy.

5.8 Training

Employees on maternity leave are not expected to attend mandatory training, however, they must complete it within one month of returning to work.

Managers should arrange for employees to receive training and re-orientation where needed. This must include any changes that have occurred while the employee was on leave.

Employees on maternity leave will be made aware of

substantial training opportunities that are open for teams to apply for. Employees will not be treated any differently in selection for such opportunities.

5.9 KIT days

Employees are allowed to work up to 10 Keeping in Touch (KIT) days during their maternity leave without affecting or bringing their leave or pay to an end. KIT days can only be taken by agreement between the employee and GHC and can be used for any purpose including training events, attending meetings, conferences, aiding entry back to work, etc.

KIT days are paid at the employee's usual basic pay rate. Where only part of a day is worked this will still be counted as a whole day. A Variation form must be submitted for all KIT days to record them and ensure they are paid correctly.

KIT days can only be taken in the maternity leave period and cannot be taken during any period of annual leave that may be added to the end of maternity leave.

5.10 Vacancies

Employees on maternity leave will be made aware of vacancies, opportunities for promotion or extra hours they can apply through expressions of interest which are not advertised on NHS Jobs. Employees will not be treated any differently in the selection for such opportunities.

Time taken to attend an interview for a vacancy will not be counted as a KIT day (unless it is part of a KIT day already arranged to complete other activities) and will not affect maternity pay or leave.

Maternity abbreviations and terms

AML	Additional Maternity Leave – the second 26 weeks' maternity leave is classified as AML
Childbirth	Resulting in a child after 24 weeks of pregnancy, either alive or stillborn
CML	Compulsory Maternity Leave – the first two weeks after the baby is born when maternity leave must be taken
EWC	Expected Week of Confinement – the week the child is expected to be born
KIT Days	Keeping in Touch Days – the option of up to 10 days to attend work for training and keeping up to date with work without losing the right to maternity benefits
MAT B1	The maternity certificate issued by the GP or midwife to confirm the pregnancy
OML	Ordinary Maternity Leave – the first 26 weeks' maternity leave is classified as OML
OMP	The NHS Occupational Maternity Pay scheme paid to eligible employees
QW	Qualifying Week – the fifteenth week before the EWC
SMP	Statutory Maternity Pay – paid by the government to eligible employees