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1 Introduction

The policy of NHS Lothian is to comply with the legislation relating to maternity leave and pay and NHS terms and conditions of service, and to apply these fairly and consistently throughout NHS Lothian.

The purpose of this policy is to explain the facts regarding maternity leave and pay. Its intention is to simplify the procedure involved in applying for maternity leave. A glossary is attached (Appendix B) to provide additional information, and you should read this carefully. The information has been broken down into five main headings as follows:

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Your maternity leave and pay depend on your length of service, the number of hours you work per week, your salary and whether you intend to return to work or not. The policy is designed to allow you to identify as easily as possible what you are eligible for. The page to which you should refer for specific entitlements (within Appendix A) is detailed below.

1.1 References for Staff Who Wish to Return to Work

Page 12 Staff with continuous service of less than 26 weeks.
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There are two kinds of maternity provisions, National Health Service and Statutory. These are explained in detail on the following pages. You may be entitled to one or both.

To ensure that you receive the appropriate benefits, you must first submit a completed “Application for Maternity Leave/Pay” form. Copies of the relevant form are included in this policy as Appendices F and G. A flowchart summarising the process of applying for maternity leave is shown at Appendix H.
2. **Your Maternity Rights by Law** (provided you comply with certain legally specified conditions):

- 26 weeks ordinary maternity leave (OML) regardless of length of service;
- a further 26 weeks additional maternity leave (AML) regardless of length of service;
- protection from dismissal because of pregnancy;
- the right to return to work with your employer after a period of absence on account of pregnancy or delivery;
- the right to maternity pay.

2.1 **To Qualify for Statutory Maternity Leave with Pay You Must:**

a) 1. Be employed on a substantive contract, or hold a bank/zero hours appointment, and have continuous employment within NHS Lothian for at least 26 weeks ending with the 15th week before the week your baby is due, and still be employed by NHS Lothian for part of that week. This 15th week is sometimes known as the qualifying week. For further assistance calculating these dates please use link: [http://www.hmrc.gov.uk/helpsheets/e15.pdf](http://www.hmrc.gov.uk/helpsheets/e15.pdf)

   have average weekly earnings of not less than the lower earnings limit for the payment of National Insurance contributions which is in force during your qualifying week, current rates for which can be found on the following website:


2. still be pregnant at the 11th week before the expected week of childbirth, or have had your baby by then;

3. provide your manager or the HR Department with written notice of your expected week of childbirth and when your maternity leave is due to begin by the end of the 15th week before the baby is due (For further assistance calculating these dates please use link: [http://www.hmrc.gov.uk/helpsheets/e15.pdf](http://www.hmrc.gov.uk/helpsheets/e15.pdf)) or, if this is not possible, do so as soon as is reasonably practicable;

4. provide the HR Department with your “Mat B1”, a certificate issued by your GP or midwife which confirms your date of childbirth, by the end of the 15th week before the baby is due (For further assistance calculating these dates please use link: [http://www.hmrc.gov.uk/helpsheets/e15.pdf](http://www.hmrc.gov.uk/helpsheets/e15.pdf)). More information relating to this is provided in Section 3.4;

5. have stopped working.

**Note:** Staff who hold bank or zero hours appointments with NHS Lothian may be eligible for statutory maternity leave with pay if they meet the qualifying criteria.

2.2 **To Qualify for National Health Service Maternity Leave and Pay You Must:**

1. at the beginning of the 11th week before the expected week of childbirth, have 12 months employment with the National Health Service with no break;

2. be employed on a whole-time or part-time basis on a substantive contract of employment with NHS Lothian;
3. intend to return to work in a substantive post (ie. not bank or zero hours contract) with NHS Lothian or another NHS employer for a minimum period of 13 weeks after your maternity leave has ended and provide the HR Department with details of your new employment. If qualifying period of 13 weeks is not completed in new post and occupational maternity pay was not deferred, the Payroll Department will be notified and an account raised to recover overpaid monies;

4. provide your manager or the HR Department with written notice of your expected week of childbirth and when your maternity leave is due to begin by the end of the 15th week before the baby is due (For further assistance calculating these dates please use link: http://www.hmrc.gov.uk/helpsheets/e15.pdf) or, if this is not possible, do so as soon as is reasonably practicable;

5. provide the HR Department with your “Mat B1”, a certificate issued by your GP or midwife which confirms your date of childbirth by the end of the 15th week before the baby is due (For further assistance calculating these dates please use link: http://www.hmrc.gov.uk/helpsheets/e15.pdf). More information relating to this is provided in Section 3.4;

6. have stopped working.

Note: Staff who hold bank or zero hours appointments with NHS Lothian do not have an entitlement to NHS maternity provisions. They may be eligible for statutory maternity leave and pay if they meet the qualifying criteria. There may be exceptions to this for certain staff employed on such contracts prior to September 2006. If in doubt about your own position, check with the Personnel Services Team.

The following notes and explanations are intended to help clarify your entitlements and provide additional useful information.

Other notes which you may find useful are detailed at the end of this section. If you have any further queries that are not covered in this document, please don’t hesitate to contact either your manager or the HR Department, who will be happy to advise.

3. BEFORE COMMENCEMENT OF MATERNITY LEAVE

3.1 Alternative Employment During Pregnancy

In the event that you are unable to continue to work for health reasons during your pregnancy or on your return to work, or if you or your unborn baby are at risk but you have not been advised to refrain from work completely, you are entitled to be offered alternative employment where available, or to be medically suspended until you are fit to resume the duties of your post. If this situation arises you should contact your line manager in the first instance. You will need your GP to confirm the position in writing for us and further advice may be taken from Occupational Health. You will continue to receive the pay you would have received in your substantive post with NHS Lothian.

Please also see the section on Risk Assessment.

3.2 Annual Leave

Please see the section on Returning to Work.

3.3 Attendance at Antenatal Clinics

If you have to request paid time off work in order to keep an appointment for antenatal care, this will not be unreasonably refused. In accordance with Agenda for Change terms and conditions, “antenatal care” may include relaxation and parentcraft classes. It is expected that, where there is a choice, appointments will be made outside working hours. You may be asked for verification of the relevant dates after the first appointment. If you work night shifts and this makes it difficult for you to attend any appointments, you
should discuss this with your manager who, dependent on the circumstances, may be able to release you early from your shift to accommodate this. Again this will be paid time off.

3.4 Certificate of Delivery/Mat B1

This certificate formally confirms your date of childbirth. The original certificate, signed by your GP or registered midwife, must be submitted to the HR Department by the end of the 15th week before the baby is due (the 26th week of your pregnancy) to allow us to make payments to you. Please note that this certificate will not be available until the beginning of the 20th week before your expected week of delivery (the 21st week of pregnancy). If you are not eligible to be paid SMP by NHS Lothian we will return this certificate to you to allow you to apply for a Maternity Allowance via Job Centre Plus.

3.5 Continuous Service

Your length of service determines your entitlement to maternity leave and pay. Continuous service within the NHS is defined as service completed by the 11th week before the expected week of delivery with one or more NHS authorities. Continuity is normally broken by a break of more than three calendar months, although there are certain exceptions to this rule, e.g. voluntary service overseas, employment on an honorary contract, absence on a retainer scheme and postgraduate medical training.

For Statutory Maternity Pay (SMP) purposes continuous service is defined as service completed with NHS Lothian by the 15th week before the week the baby is due. Service with other authorities or Trusts will not count for SMP purposes unless your existing contract has been transferred to Lothian Health Board. Continuity can be broken by a break of as little as one day.

For clarification, and if you have a break in service of less than three months, you should contact the Employee Services Team (Maternity).

3.6 Risk Assessment

As part of the general risk assessment process, NHS Lothian is required to conduct a risk assessment of the work which new, expectant or breastfeeding mothers carry out, including the hazardous substances to which they are exposed. Guidance on risk assessment and a risk assessment form for completion jointly by manager and pregnant staff member is available in the Health, Safety and Risk Manual and on the intranet using the following link:


Any risk to the mother or baby which is identified must be eliminated or adequately controlled, or the nature of the work altered or her hours of work or conditions changed. Similarly, if you are a night worker and produce a medical certificate stating that this poses a threat to you or your baby’s health and safety, you will if possible be transferred to day work. If the risks to mother or child cannot be adequately controlled by these means, you will be suspended on full pay on medical grounds.

3.7 Sick Pay

(i) If you are absent due to ill health before the 4th week before the expected week of delivery normal sick pay arrangements will apply.

(ii) If you are absent due to ill health after the 4th week before the expected week of delivery and the illness is pregnancy related, you will normally commence your maternity leave automatically.

(iii) If you are absent due to ill health after the 4th week before the expected week of delivery and the illness is certified as not pregnancy related, normal sick pay arrangements will apply.
4. STARTING MATERNITY LEAVE

4.1 Ordinary Maternity Leave (OML)

All employees qualify for 26 weeks Ordinary Maternity Leave: this may be paid or unpaid depending on length of service (see Appendix A).

The earliest you can start your Ordinary Maternity Leave (OML) is the beginning of the 11th week before the Expected Week of Childbirth (EWC), i.e. the week beginning with midnight between Saturday and Sunday in which it is expected childbirth will occur.

The actual start of your OML will be the earliest of the following:

1) the intended start date notified to your manager or HR Department,

2) the first day after the beginning of the 4th week before the EWC where you are absent from work wholly or partly because of pregnancy, or

3) the day of childbirth.

In the case of 2) and 3) above, you must notify us as soon as possible, and in writing, that your absence is wholly or partly because of pregnancy, or that you have given birth.

If you are planning to work past the 30th week of pregnancy (the end of the 11th week before your expected week of childbirth), you must check with your GP, or other practitioner looking after your pregnancy, that you are fit to continue working in your normal job. This is very important for you and your baby’s health.

4.2 Where Delivery Falls Before Commencement of Maternity Leave

Maternity leave will commence on the first day of absence in the actual week of delivery. The NHS maternity leave can be split, taking a short period of leave immediately after confinement (minimum of 2 weeks Compulsory Leave, see page 8), with the balance following on the child’s discharge from hospital if this is appropriate. This may, however, affect SMP due, and the HR Department should be contacted for advice on this.

4.3 Notice of Commencement of Maternity Leave

You must tell us by the 15th week before the week the baby is due that you intend to take maternity leave and when you wish this to commence. You can change your mind about this date provided you give us 28 days’ notice in writing.

5. DURING MATERNITY LEAVE

5.1 Ordinary Maternity Leave (OML)

During this 26-week period you are entitled to the benefit of the terms and conditions of employment which would have applied if you had not been absent, excepting those terms and conditions about remuneration, i.e. your wages or salary.

You are entitled, therefore, to continue to use your leased/crown car, if you have one, and accrue any entitlement to annual leave and public holidays that occur during this period. You will also continue to accrue pensionable service.

In line with legislative requirements, staff in receipt of non-cash benefits through salary sacrifice schemes eg childcare vouchers, will continue to be eligible during maternity leave. Deductions will be made from
any salary payment made however cannot be made from SMP only payments or unpaid maternity leave and in this circumstance NHS Lothian will fund the salary sacrifice

5.2 Additional Maternity Leave (AML)

AML is an additional period of unpaid leave commencing on the day after the last day of Ordinary Maternity Leave and lasting for a further period of 26 weeks.

During this 26-week period you are entitled to the benefit of the terms and conditions of employment which would have applied if you had not been absent, excepting those terms and conditions about remuneration, i.e. your wages or salary.

You are entitled to continue to use your leased/crown car, if you have one, you will be contacted by the Fleet Manager, once you move to a no-pay situation, to discuss whether you wish to retain this facility and what arrangements will be put in place for payment.

You will also continue to accrue any entitlement to annual leave and public holidays that occur during this period.

You will continue to accrue pensionable service during the paid period of leave, however you will be invited to make up payments for pensionable service for any period of nil pay, and our Payroll Department will contact you to agree a suitable repayment plan once they have received notification of your return to work.

As per the provision in 5.1 above staff in receipt of non-cash benefits through salary sacrifice schemes will continue to be eligible during maternity leave.

5.3 Compulsory Maternity Leave

There is a compulsory period of maternity leave for two weeks from the date of childbirth. It is an offence for your employer to allow you to work during this period.

5.4 Maternity Support (Paternity) Leave

From 1 October 14 an expectant father or the partner (including same sex) of a pregnant woman are entitled to take unpaid time off work to accompany the woman to up to 2 of her ante-natal appointments. The time off is capped at six and a half hours for each appointment. “Partner” includes the spouse or civil partner of the pregnant woman and a person (of either sex) in a long term relationship with her. The right applies whether the child is conceived naturally or through donor insemination. It also extends to those who will become parents through a surrogacy arrangement if they expect to satisfy the conditions for and intend to apply for a Parental Order for the child born through that arrangement.

Further details can be found on the FAQ Sheet available on HR-on-Line.

In addition to the maternity provisions detailed in this policy Maternity Support (Paternity) Leave is available for the biological father of the child, or the mother's husband or partner for the sole purpose of caring for a new baby or supporting the mother of the baby.

Additionally legislation provides an option for part of the mother's maternity leave to be taken by the father/mothers partner enabling the mother to return to work.

For further detail see NHS Lothian Maternity Support (Paternity) Policy.

5.5 Calculation of Pay

NHS Pay: for the purposes of NHS maternity pay, full pay is calculated on the basis of your average weekly earnings over the eight week period leading up to the last pay day before the end of the 15th week
before the expected week of delivery - i.e. your average pay between weeks 17 and 25 of your pregnancy. (Please note that this calculation may be different depending on your pay period, i.e. weekly/monthly.) All payments that were taken into account for National Insurance contributions are included in this calculation. Half pay is half the amount of full pay as calculated above.

Statutory Maternity Pay (SMP): the higher rate of SMP is 9/10ths of your average weekly earnings, normally calculated as above. Lower rate SMP is a flat rate benefit which is reviewed annually. SMP Rates can be found on the HMRC website using the following link.

http://www.hmrc.gov.uk/paye/employees/statutory-pay/smp-calc.htm

Any pay award received after the date your maternity pay is determined, but before the end of Ordinary Maternity Leave, should be reflected in payments made to you.

At no time can the combination of NHS pay and SMP pay exceed your normal average weekly pay.

NB: If you are paying for Child Care Vouchers (CCV), your average earnings will be based on gross pay minus CCV payments in line with terms of the Salary Sacrifice Agreement.

5.6 Payment Arrangements
All maternity pay will be paid as per normal pay frequency ie weekly or monthly, and the pay slip will be sent to your home address.

5.7 Deferring Payments
Experience has shown that a number of applicants for maternity leave and pay would only wish to return to work should unforeseen circumstances arise. To help employees in this situation a “deferment” option exists. This means that your job will be kept open for you, but you will be paid as if you had left NHS Lothian. Then, if you decide to return to work, the additional NHS maternity payments which you are entitled to will be paid to you in a lump sum when you have completed the required three month employment period. If, however, you decide not to return to work, no overpayment has been made to you and NHS Lothian will initiate no recovery of this sum.

Staff who choose to defer payments will continue to accrue entitlement to annual leave and public holidays that occur during this period. Should you elect to leave after the period of maternity leave payment in lieu of accrued leave will be made.

If you wish to choose this option you should complete the application form for “Returning to Work” and select the option for your payments to be deferred.

5.8 Sick Pay
Please note that there is no entitlement to sick pay during paid or unpaid maternity leave.

5.9 Superannuation
Where you contribute to the NHS Superannuation Scheme, the period of Ordinary Maternity Leave will count as pensionable service, and any contributions due during the period of unpaid maternity leave will be deducted from your pay on your return to work, usually over an appropriate number of weeks/months. You should contact the Pay Department to discuss this further if you have any concerns.

5.10 Redundancy
Should your post become redundant during your maternity leave you will be entitled to the same rights as any other member of staff in this situation, regardless of the fact that you may be on paid or unpaid maternity leave.
5.11 Still Birth
In the event of a still birth after the start of the 24th week of pregnancy, you will be entitled to the same
maternity pay and leave, if returning to work, as if the baby had lived. Before that date normal sick leave
provisions will apply.

5.12 Keeping in Touch
Your manager may make contact with you while you are on maternity leave, for example to discuss your
plans for returning to work or to give you information on important developments at the workplace.

It is also possible for you to do up to 10 days’ work, by prior agreement between you and your manager,
without losing your right to SMP. These “keeping in touch days” may be used to carry out actual work or
for other purposes, eg to take advantage of in-house development opportunities and/or attend mandatory
training. Payment for these days will be at the appropriate hourly rate for the hours worked during the
shift; this will not exceed normal contractual (NHS) pay. Working for any part of one day will count as a
KIT day. There is no obligation for NHS Lothian to offer work, or for you to accept it.

Where it is agreed that a KIT day will be worked the “Keeping in Touch” Days - Payment Request Form,
Appendix C should be completed and signed by your line manager and forwarded to: Employee Services
Team (Maternity), Block 3/6, Residency Buildings, St John’s Hospital, Livingston for processing

5.13 Registration
For all healthcare staff requiring registration this must be maintained during any period of Maternity
Leave.

6. RETURNING TO WORK

6.1 Notice of Return to Work

a) If you intend to return to work at any time before the expiry of your full maternity leave entitlement (26
weeks Ordinary Maternity Leave plus 26 weeks Additional Maternity Leave), you must give us at least
8 weeks notice in writing of your intended return date. You may wish to discuss the terms of your
return informally with your manager before this. If this notice is not given we can postpone your return
until full notice has been given (or until the end of your maternity leave period, if this is sooner). You
must ensure that you receive the compulsory two-week leave period after the birth of your child.

b) If you wish to change the date of your return to work, you should give us 28 days notice or less if
agreed with your direct line manager.

c) If you do not plan to return earlier than the end of the 52 weeks maternity leave period (26 weeks
Ordinary Maternity Leave plus 26 weeks Additional Maternity Leave), you do not need to take any
further action.

d) If you decide that you do not wish to return to work at the end of your OML (or, indeed, during it), you
will require to give your manager or the HR Department appropriate written notice that you intend to
resign. This does not have to coincide with the expiry of your OML.

e) If you decide that you do not wish to return to work at the end of your AML (or, indeed, during it)
you must give your manager or the HR Department appropriate written notice that you intend to
resign. This does not have to coincide with the expiry of your AML.
f) If you have chosen not to defer your Occupational Maternity Pay and decide that you do not wish to return to work at any point within your maternity leave period (and are not moving to another NHS post) then the Pay Department will contact you regarding recovery of the overpayment of OMP.

g) You may wish to consider taking advantage of the provisions in NHS Lothian’s Policy on Parental Leave when deciding the date for your return to work.

6.2 Hours On Return To Work

An employee who has notified her intention to return to work has the right to return to her job under her original contract, on no less favourable terms and conditions and with grade, pension and similar rights protected at the end of her Ordinary Maternity Leave. You may, however, return to work on any basis agreed with your employer, including part-time and job share. All requests will be carefully considered and not unreasonably refused, subject to the requirements of service provision. Any refusal will be confirmed in writing. Please see the Policy on Flexible Working for Working Parents.

6.3 Breastfeeding

Reasonable requests for access to suitable private rest facilities for the expressing and storage of breast milk will be provided. You should contact your manager, HR Department or Facilities to discuss your requirements at least 3 weeks before the date from which you will require these facilities. A risk assessment should be carried out for any employee who is breastfeeding: please see the Policy on Facilitating Breastfeeding on Return to Work and the accompanying guidance and risk assessment form referred to above under 3.6 Risk Assessment.

6.4 Post-Natal Health Care

Mothers returning to work are entitled to paid time off for post-natal care, especially for treatment arising out of complications of the pregnancy or birth.

6.5 Annual Leave

Wherever possible you should take all annual leave due to you before returning from your maternity leave; this should be fully discussed with your manager before commencement of leave. Remember that if, on your return to work, you decide to work fewer hours or days, this may affect your annual leave entitlement from the date that you return and for the remainder of the current leave year. It is important that you discuss this with your manager in more detail to clarify the implications of this before commencing your maternity leave. All maternity leave will qualify for the purpose of calculating your annual leave entitlement. The carrying forward of annual leave from one leave year to another will not be unreasonably refused in maternity leave situations but should be discussed with your line manager.

6.6 Public Holidays

All maternity leave will qualify for the purpose of calculating public holiday entitlement. Time off in lieu of these should be given on return to work.

6.7 Parental Leave

Staff may choose to take some of their Parental Leave entitlement immediately after Maternity Leave, or they may take it at another time: see NHS Lothian’s Policy on Parental Leave.

6.8 Incremental Date

Absence on paid or unpaid maternity leave does not change your incremental date.
6.9 Sick Pay/Leave

i) If you cannot return to work due to ill health on the date that you agreed as being your official date of return, normal sick pay arrangements will apply.

ii) If you cannot return to work due to ill health after the expiry of your full entitlement of maternity leave, normal sick pay arrangements will apply.

iii) If you cannot return to work after your maternity leave for reasons of health and safety, you may be given alternative employment for a period of time or be medically suspended on full pay.

6.10 Failure to Return to Work

In normal circumstances if you do not return to work within the specified time limit having said you will, or do not submit a copy of your letter of appointment to a new NHS employer to NHS Lothian within 15 months of the date you began maternity leave, you must repay any additional payment you may have received on the basis that you were returning to work (please see section on Deferring Payments).

6.11 Childcare Vouchers

NHS Lothian has a childcare voucher scheme, which allows employees to purchase vouchers for childcare from their gross salary and make considerable savings on tax and national insurance. Further information is available on the intranet, or by contacting Edenred, the agency administering the scheme, via Helpline number 0800 247 1244. Please also refer to Section 5.4 re calculation of maternity pay if paying Childcare vouchers.

7. LEAVING NHS LOTHIAN

If you do not plan to return to employment after the birth of your child you should complete the relevant application form enclosed with this pack and consult the appropriate section in Appendix A.

8. RELEVANT POLICIES AND INFORMATION

8.1 Working During your Maternity Leave

During any element of paid maternity leave you cannot undertake any work for NHS Lothian (other than agreed Keeping in Touch Days as per Section 5.11) or for any other organisation as this may affect your rights to SMP and OMP. You may undertake Bank/other work for NHS Lothian during the unpaid element, provided this is within the parameters of the Working Time Regulations. This does not count towards the minimum period you must return to work if you choose to defer your payments of OMP. If you do take up employment with another organisation during your paid maternity leave, you have a duty to inform NHS Lothian within 7 days of the date on which you commence work, and your maternity payment will stop henceforth. If you subsequently give up this work with your new employer there is no obligation on NHS Lothian to resume payment of maternity pay for any further weeks in the maternity pay period.

8.2 Fixed Term or Training Contracts

NHS provisions: If you are on a fixed term contract and satisfy the conditions governing eligibility for maternity leave, and your contract expires after the 11th week before the expected week of delivery, your contract will be extended to enable you to receive 52 weeks of maternity leave. This will include paid contractual and statutory maternity pay and the remaining 13 weeks of unpaid maternity leave. For training purposes, where there is planned rotation of appointments you have the right to return to work in the next planned post with the same or another employing authority.

If there is no right of return to be exercised because the contract would have ended if pregnancy and childbirth had not occurred, and suitable redeployment cannot be achieved (see below), the repayment provisions will not apply.
Under the terms of NHS Lothian’s Policy on Fixed Term Contracts, staff employed on fixed term contracts for more than two years who are facing a redundancy situation will be eligible for redeployment under the Redeployment Policy. If redeployment is offered and refused, repayment of NHS Maternity Pay will be required.

**SMP provisions:** If you satisfy the qualifying conditions 39 weeks SMP will be payable, even if your contract of employment ends at the start of your maternity absence or whilst SMP is being paid.

### 8.3 Other Relevant Policies

NHS Lothian has separate policies for the following areas - please ask the HR Department for a copy:

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<td>Flexible Working for Working Parents and Carers</td>
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### 9.0 REVIEW OF POLICY

The effectiveness of this policy will be reviewed by the Lothian Partnership Forum after a period of two years.
PROFILE 1. STAFF WITH CONTINUOUS SERVICE OF LESS THAN 26 WEEKS WHO WISH TO RETURN TO WORK

(a) **SMP Provisions:** If you have less than 26 weeks service by the 15\textsuperscript{th} week before the week the baby is due you are entitled to 52 weeks statutory maternity leave but will receive no statutory maternity pay during this period. The first 26 weeks are known as Ordinary Maternity Leave (OML) and the second 26 weeks as Additional Maternity Leave (AML). Additional Maternity Leave starts the day after the last day of Ordinary Maternity Leave.

You must submit a completed maternity leave application form by the end of the 15th week before the week your baby is due. In doing this you are stating your intention to take maternity leave and to return to work for this or another National Health Service employing authority.

Please note that you may be entitled to Maternity Allowance from the Department of Social Security, and to qualify for this you still need to complete an application form for maternity leave and pay.

You must also ensure that the provisions detailed in Section 2.1 of these notes, with the exception of provision 2.1.1, are strictly adhered to.

(b) **National Health Service Provisions:** If you have less than 26 weeks service by the 11\textsuperscript{th} week before the week the baby is due you will be entitled to 52 weeks unpaid leave. This leave will be counted as service and you will therefore be eligible for accrued annual leave for this period.

You must submit a completed maternity leave application form by the end of the 15th week before the week your baby is due. In doing this you are stating your intention to take maternity leave and to return to work for this or another National Health Service employing authority.

You must also ensure that the provisions detailed in Section 2.2 of these notes, with the exception of provision 2.2.1, are strictly adhered to.

Remember, if you have previous NHS service, without any break, this will count towards your NHS entitlement and you may therefore be eligible for additional entitlements which are detailed overleaf.

In both cases the earliest you can start your maternity leave is the beginning of the 11\textsuperscript{th} week before the week your baby is due. This period of leave will be extended, if necessary, to allow a compulsory period of two weeks leave after the baby has been born (see “Compulsory Maternity Leave”, Section 5.3).

The actual start of your leave will be the earliest of the following:

i) the intended start date notified to your manager or HR Department,

ii) the first day after the beginning of the 4\textsuperscript{th} week before the EWC where you are absent from work wholly or partly because of pregnancy, or

iii) the day of childbirth.

In the case of ii) and iii) above you must notify us as soon as possible, and in writing, that your absence is wholly or partly because of pregnancy, or that you have given birth.
PROFILE 2. STAFF WITH CONTINUOUS SERVICE OF AT LEAST 26 WEEKS BUT LESS THAN ONE YEAR WHO WISH TO RETURN TO WORK

(a) **SMP Provisions:** If you have more than 26 weeks service by the 15th week before the week the baby is due you will be entitled to 52 weeks maternity leave; the first 26 weeks are known as Ordinary Maternity Leave (OML) and the second 26 weeks as Additional Maternity Leave (AML). You will also be entitled to 39 weeks Statutory Maternity Pay (SMP), if you satisfy the qualifying conditions detailed in Section 2.1 of these notes. This equates to:

- 90% of full pay for the first 6 weeks, followed by
- [SMP or 90% of your average weekly earnings, whichever is the lower, for the next 33 weeks.

**NB:** SMP Rates can be found on the HMRC website using the following link.

http://www.hmrc.gov.uk/paye/employees/statutory-pay/smp-calc.htm

AML commences on the day after the last day of OML.

You **must** submit a completed maternity leave application form by the end of the 15th week before the week your baby is due. In doing this you are stating your intention to take maternity leave and to return to work for this or another National Health Service employing authority.

If you do not qualify for SMP you may still be eligible for Maternity Allowance from the Department of Social Security, and should still therefore complete an application form for maternity leave/pay.

(b) **National Health Service Provisions:** If you have less than 1 year's continuous service by the 11th week before the week the baby is due you will be entitled to 52 weeks unpaid leave. This leave will be counted as service and you will therefore be eligible to accrue annual leave for this period.

You **must** submit a completed maternity leave application form by the end of the 15th week before the week your baby is due. In doing this you are stating your intention to take maternity leave and to return to work for this or another National Health Service employing authority.

You must also ensure that the provisions detailed in Section 2.2 of these notes, with the exception of provision 2.2.1, are strictly adhered to.

Remember, if you have previous NHS service, without any break, this will count towards your NHS entitlement and you may therefore be eligible for additional entitlements which are detailed overleaf.

In both cases the earliest you can start your maternity leave is the beginning of the 11th week before the week your baby is due. This period of leave will be extended, if necessary, to allow a compulsory period of two weeks leave after the baby has been born (see “Compulsory Maternity Leave”, Section 5.3).

The actual start of your leave will be the earliest of the following:

i) the intended start date notified to your manager or HR Department,

ii) the first day after the beginning of the 4th week before the EWC where you are absent from work wholly or partly because of pregnancy, or

iii) the day of childbirth.
In the case of ii) and iii) above you must notify us as soon as possible, and in writing, that your absence is wholly or partly because of pregnancy, or that you have given birth.

PROFILE 3. STAFF WITH CONTINUOUS SERVICE OF AT LEAST ONE YEAR WHO WISH TO RETURN TO WORK

(a) **SMP Provisions:** If you have more than 26 weeks service by the 15th week before the week the baby is due you will be entitled to 52 weeks maternity leave; the first 26 weeks are known as Ordinary Maternity Leave (OML) and the second 26 weeks as Additional Maternity Leave (AML). You will also be entitled to 39 weeks Statutory Maternity Pay (SMP), if you satisfy the qualifying conditions detailed in Section 2.1 of these notes. This equates to:-

90% of full pay for the first 6 weeks, followed by

[SMP or 90% of your average weekly earnings, whichever is the lower, for the next 33 weeks.

NB: SMP Rates can be found on the HMRC website using the following link.

http://www.hmrc.gov.uk/paye/employees/statutory-pay/smp-calc.htm

AML commences on the day after the last day of OML.

You must submit a completed maternity leave application form by the end of the 15th week before the week your baby is due. In doing this you are stating your intention to take maternity leave and to return to work for this or another National Health Service employing authority.

If you do not qualify for SMP you may still be eligible for Maternity Allowance from the Department of Social Security, and should still therefore complete an application form for maternity leave/pay.

(b) **National Health Provisions:**

**Maternity Leave:** If you have more than 1 year's continuous service by the 11th week before the week the baby is due you are entitled to a maximum of 52 weeks maternity leave. This leave will be counted as service and you will therefore be eligible for accrued annual leave for this period.

**Maternity Pay Entitlement:**

First eight weeks: In effect you will receive full pay.

Next 18 weeks: Half full pay plus, if you also qualify for SMP, lower rate SMP up to the limit of full pay. Alternatively, if you do not qualify for SMP, Maternity Allowance may be payable, up to the limit of full pay.

Next 13 weeks: Any SMP or Maternity Allowance payable

Any further weeks: Unpaid, up to a maximum of 52 weeks maternity leave in total.

You must submit a completed maternity leave application form by the end of the 15th week before the week your baby is due. In doing this you are stating your intention to return to work for this or another National Health Service employing authority at the end of your maternity leave, for a minimum period of three months.

If you fail to return to work you are liable to repay the whole of your National Health Service maternity pay. (Please see the guidance notes on Deferring Payments, Section 5.6 and Failure to Return to Work, Section 6.10.)
You must also ensure that the provisions detailed in Section 2.2 of these notes are strictly adhered to.

In both cases the earliest you can start your maternity leave is the beginning of the 11th week before the week your baby is due. This period of leave will be extended, if necessary, to allow a compulsory period of two weeks leave after the baby has been born (see “Compulsory Maternity Leave”, Section 5.3).

The actual start of your leave will be the earliest of the following:

i) the intended start date notified to your manager or HR Department,

ii) the first day after the beginning of the 4th week before the EWC where you are absent from work wholly or partly because of pregnancy, or

iii) the day of childbirth.

In the case of ii) and iii) above you must notify us as soon as possible, and in writing, that your absence is wholly or partly because of pregnancy, or that you have given birth.

PROFILE 4. STAFF WITH CONTINUOUS SERVICE OF LESS THAN 26 WEEKS WHO DO NOT WISH TO RETURN TO WORK

(a) **SMP Provisions:** You will be entitled to up to 52 weeks maternity leave (the first 26 week period is known as Ordinary Maternity Leave, OML, and the second 26 weeks is known as Additional Maternity Leave, AML). If you have less than 26 weeks service by the 15th week before the week the baby is due you have no entitlement to SMP but may be eligible for Maternity Allowance from the Department of Social Security, and should still therefore complete an application form for maternity leave/pay

(b) **National Health Provisions:** If you have less than 26 weeks service by the 11th week before the week the baby is due you have no right to National Health Service maternity pay but do qualify for 52 weeks unpaid maternity leave, as long as you satisfy the qualifying conditions detailed in Section 2.2 of these notes with the exception of paragraph 2.2.1 and 2.2.3. This leave will be counted as service and you will therefore be eligible to accrue annual leave for this period.

Your actual leaving date will be the earliest of the following:

i) the intended leaving date notified to your manager or HR Department,

ii) the first day after the beginning of the 4th week before the EWC where you are absent from work wholly or partly because of pregnancy, or

iii) the day of childbirth.

In the case of ii) and iii) above you must notify us as soon as possible, and in writing, that your absence is wholly or partly because of pregnancy, or that you have given birth.
PROFILE 5. STAFF WITH CONTINUOUS SERVICE OF AT LEAST 26 WEEKS BUT LESS THAN ONE YEAR WHO DO NOT WISH TO RETURN TO WORK

SMP Provisions: If you have more than 26 weeks service by the 15th week before the week the baby is due you will be entitled to 52 weeks maternity leave; the first 26 weeks are known as Ordinary Maternity Leave (OML) and the second 26 weeks as Additional Maternity Leave (AML). You will also be entitled to 39 weeks Statutory Maternity Pay (SMP), if you satisfy the qualifying conditions detailed in Section 2.1 of these notes. This equates to:

90% of full pay for the first 6 weeks, followed by

[SMP or 90% of your average weekly earnings, whichever is the lower, for the next 33 weeks.

NB: SMP Rates can be found on the HMRC website using the following link.

http://www.hmrc.gov.uk/paye/employees/statutory-pay/smp-calc.htm

If you do not qualify for this, you may be eligible for Maternity Allowance from the Department of Social Security, and should still therefore complete an application form for maternity leave/pay.

(b) National Health Provisions: If you have less than 1 year’s service by the 11th week before the week the baby is due you have no right to National Health Service maternity pay but do qualify for 52 weeks unpaid maternity leave, as long as you satisfy the qualifying conditions detailed in Section 2.2 of these notes with the exception of paragraph 2.2.1 and 2.2.3. This leave will be counted as service and you will therefore be eligible to accrue annual leave for this period.

In both cases you can choose to give up work any time after the 11th week before the week your baby is due.

Your actual leaving date will be the earliest of the following:

i) the intended leaving date notified to your manager or HR Department,

ii) the first day after the beginning of the 4th week before the EWC where you are absent from work wholly or partly because of pregnancy, or

iv) the day of childbirth.

In the case of ii) and iii) above you must notify us as soon as possible, and in writing, that your absence is wholly or partly because of pregnancy, or that you have given birth.
PROFILE 6. STAFF WITH CONTINUOUS SERVICE OF AT LEAST ONE YEAR WHO DO NOT WISH TO RETURN TO WORK

(a) **SMP Provisions:** If you have more than 26 weeks service by the 15\textsuperscript{th} week before the week the baby is due you will be entitled to 52 weeks maternity leave; the first 26 weeks are known as Ordinary Maternity Leave (OML) and the second 26 weeks as Additional Maternity Leave (AML). You will also be entitled to 39 weeks Statutory Maternity Pay (SMP), if you satisfy the qualifying conditions detailed in Section 2.1 of these notes. This equates to:

90% of full pay for the first 6 weeks, followed by

[SMP or 90% of your average weekly earnings, whichever is the lower, for the next 33 weeks.

**NB:** SMP Rates can be found on the HMRC website using the following link.

http://www.hmrc.gov.uk/paye/employees/statutory-pay/smp-calc.htm

If you do not qualify for this, you may be eligible for Maternity Allowance from the Department of Social Security, and should still therefore complete an application form for maternity leave/pay.

(b) **National Health Service Provisions:** If you have more than 1 year’s service by the 11\textsuperscript{th} week before the week the baby is due you will be entitled to receive pay equivalent to SMP, ie 90% of full pay for the first 6 weeks, as long as you satisfy the qualifying conditions detailed in Section 2.2 of these notes with the exception of paragraph 2.2.3. This will be followed by a further 33 weeks unpaid maternity leave, plus lower rate SMP/Maternity Allowance if eligible. This leave will be counted as service and you will therefore be eligible to accrue annual leave for the whole 52 weeks.

In both cases you can choose to give up work any time after the 11th week before the week your baby is due.

Your actual leaving date will be the earliest of the following:

i) the intended leaving date notified to your manager or HR Department,

ii) the first day after the beginning of the 4\textsuperscript{th} week before the EWC where you are absent from work wholly or partly because of pregnancy, or

iii) the day of childbirth.

In the case of ii) and iii) above you must notify us as soon as possible, and in writing, that your absence is wholly or partly because of pregnancy, or that you have given birth.
Expected Week of Delivery

This is the week in which your baby is due.

Qualifying Week

The qualifying week is the 15th week before the week in which the baby is due. If you are no longer employed during the qualifying week you will not be entitled to Statutory Maternity Pay or Leave.

Break in NHS Service

3 months, or as defined for the particular staff group. Please consult the Employee Services Team (Maternity) for advice if you have a break in service of less than three months.

Maternity Allowance

Where you are not eligible for SMP you may be eligible for a Maternity Allowance from the Department of Social Security. You must still apply for maternity leave in the normal way and fill in the appropriate application forms.

Lower Rate Maternity Pay

This is sometimes referred to as "Standard Rate" Maternity Pay and is paid for 33 weeks immediately following the 6-week period of Higher Rate SMP. The rate of SMP will be paid at the current annual rate, found on the HMRC website below, or 90% of your average weekly earnings, whichever is the lower.

http://www.hmrc.gov.uk/paye/employees/statutory-pay/smp-calc.htm

Higher Rate Maternity Pay

This is sometimes referred to as "Earnings Related" Maternity Pay and is paid during the first 6 weeks of your maternity leave and equates to 90% of your full pay.

Working Families Tax Credit and Child Credit

Further information can be obtained from the Inland Revenue, telephone 0845 300 3900 or http://www.inlandrevenue.gov.uk
"KEEPING IN TOUCH" DAYS - PAYMENT REQUEST FORM

EMPLOYEE NAME: __________________________________________ (in block capitals)

PAY NUMBER: ____________________ GROUP CODE __________ PAY POINT _________

Please pay the above named employee at the normal appropriate hourly rate for the hours detailed below which were worked as "Keeping in Touch" Day(s) during a period of maternity leave.

It is understood that this payment will be made less the appropriate statutory payment (if applicable) and will not therefore exceed normal contractual (NHS) pay.

<table>
<thead>
<tr>
<th>Date of Shift</th>
<th>Start Time</th>
<th>End Time</th>
<th>Total No. of Hours To be Paid For</th>
<th>Any Additional Information (eg. any enhancements etc)</th>
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Employee Signature: __________________________________________ Date: ________________

Authorising Manager: __________________________________________ Date: ________________

________________________________________ (BLOCK CAPITALS)

Authorised Signature (HR): ________________________________ Date: ________________

________________________________________ (BLOCK CAPITALS)

Please send form to Employee Services Team (Maternity), Block 3/6, Residency Buildings, St John's Hospital, Livingston for processing.
MATERNITY LEAVE ENTITLEMENTS FOR STAFF INTENDING TO RETURN TO WORK

FLOW CHART

Do you qualify for Statutory Maternity Pay? I.e. you have at least 26 weeks service with NHS Lothian ending with the 15th week before the week your baby is due and earn in excess of the Lower Earnings Limit?
(See page 4 of policy)

Yes  No

Do you have one year's NHS service by the end of the 11th week before your baby is due?

Yes  No

You are entitled to take up to 52 weeks maternity leave; 8 weeks of this will be on full pay, 18 on half pay + lower rate SMP, 13 on lower rate SMP/Maternity Allowance. The remaining 13 weeks are unpaid. See page 14.

Do you have 1 year's NHS service by the end of the 11th week before your baby is due?

Yes  No

You are entitled to take up to 52 weeks maternity leave; 6 weeks of this will be on 90% of full pay, 33 on lower rate SMP. The remaining 13 weeks are unpaid. See page 13.

You are entitled to take up to 52 weeks maternity leave; 8 weeks of this will be on full pay, 18 on half pay plus (if eligible) Maternity Allowance, 13 on Maternity Allowance (if eligible). The remaining 13 weeks are unpaid. See page 14.

You are entitled to 52 weeks maternity leave but will not receive any maternity pay during this. You may however be entitled to a DSS Maternity Allowance. See page 12.
MATERNITY LEAVE ENTITLEMENTS FOR STAFF NOT INTENDING TO RETURN TO WORK

FLOWCHART

Do you qualify for Statutory Maternity Pay? I.e. you have at least 26 weeks service with NHS Lothian ending with the 15th week before the week your baby is due and earn in excess of the Lower Earnings Limit? (See page 4 of policy)

Yes

No

Do you have one year’s NHS service by the end of the 11th week before your baby is due?

Yes

You will receive 6 weeks NHS Maternity Pay at 90% of full pay followed by 33 weeks lower rate SMP. You are also entitled to a further 13 weeks unpaid leave. See page 18.

No

You have no right to NHS Maternity Pay but are entitled to receive 39 weeks SMP and a further 13 weeks unpaid leave. See page 17.

Do you have one year’s NHS service by the end of the 11th week before your baby is due?

Yes

You will receive 6 weeks NHS Maternity Pay at 90% of full pay plus 33 weeks Maternity Allowance. You are also entitled to a further 13 weeks unpaid leave. See page 18.

No

You will receive 52 weeks unpaid maternity leave. You may also be entitled to a DSS Maternity Allowance. See page 16.
APPLICATION FOR MATERNITY LEAVE IF RETURNING TO WORK

Before filling in this form please carefully read the attached information concerning your maternity rights. Should you require clarification on any points, the HR Department will be pleased to help you.

Full Name (Dr/Mrs/Ms/Miss) _____________________________________________________________

Please list all current pay numbers (including Bank). Failure to do so may result in wrong maternity payment

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Telephone No _____________________________________ Extension ______________________

Department __________________________________________________________________________

Grade and Title of Post _________________________________________________________________

Basis of Contract: (please circle) Permanent Temporary Fixed Term Bank/Zero Hours

Date of Expiry of Contract (if relevant): _____________________________________________

Hours: Full Time:___ hours Part Time: ___ hours As and when required (please delete as applicable)

Date of Taking up Post________________________________________________________________

Name of Head of Department/Manager __________________________________ Extension __________

Details of work in last two years (please note exact dates of employment if known):-

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Have you had a break in service, i.e. a continuous spell of 3 months outwith the employment of any NHS authority?

(Please delete as applicable) YES/NO
Expected Date of Delivery

___________________________________________________________

Date of Beginning Maternity Leave ________________________________________________________
(Please see Policy and Procedure)

You will continue to accrue annual leave during your full maternity leave period. Please discuss and agree your annual leave requirements with your Line Manager prior to commencing maternity leave.

Do you plan to take any annual leave at the end of your maternity leave period and prior to your return to work? YES/NO

If yes, how many days annual leave has it been agreed that you may take? ___ days, ___ working weeks.

1 PLEASE READ CAREFULLY

To be eligible for payment under the NHS Scheme you are required to give an undertaking that you will resume work within a specified period. If you fail to return to work you may be required to repay the total amount which you received in respect of the NHS Scheme. Any payment made to you in respect of the Statutory Maternity Pay Scheme is, however, not recoverable should you not return to work.

Instead of taking the money due to you at this time you have the option to defer the payment due under the NHS Scheme. The money would be held back and paid to you once you have returned to work for the minimum period of three months. Taking the option to defer payment under the NHS Scheme means that you may avoid any potential worry or hardship in having to make repayments if, for any reason, you should decide not to return to work.

You should note that, if you decide to defer payment under the NHS Scheme, it does not affect entitlement to the 39 weeks Statutory Maternity Pay which may be due to you under the Statutory Maternity Pay Scheme.

STATEMENT

• If I am eligible for paid maternity leave I DO / DO NOT agree to have payment of my NHS Maternity Pay deferred until I return to work and complete 3 months’ work (please delete as applicable).

• I also understand that if payment is made I must return, within the prescribed period, to regular contracted hours of work and complete 3 months’ work for NHS Lothian or another NHS employer. If I fail to return I may have to pay back ALL the NHS Maternity Pay received. This does not include the 39 weeks Statutory Maternity Pay which I may have received.

• I attach/will send later my Certificate of Delivery (MatB1). (Please delete as applicable.)

• Maternity Pay will be paid as per normal pay prior to maternity leave (ie. monthly / weekly)

Signed _________________________________ Date ______________________
(Certified as correct by manager)

Signed _________________________________ Date ______________________
(Employee’s signature)
Please complete this form and send as soon as possible to the Employee Services Team (Maternity), Recruitment & Personnel Services, Block 3/6, First Floor, Residency Buildings, St John’s Hospital, Howden Road West, Livingston, West Lothian, EH54 6PP. This **must** be received by no later than the end of the 15th week before the baby is due. You should check that ALL sections have been completed and should keep a copy for yourself and your head of department / manager.
APPLICATION FOR MATERNITY LEAVE IF NOT RETURNING TO WORK

Before filling in this form please carefully read the attached information concerning your maternity rights. Should you require clarification on any points, the HR Department will be pleased to help you.

Full Name (Dr/Mrs/Ms/Miss) ________________________________________________________________

Please list all current pay numbers (including Bank). Failure to do so may result in wrong maternity payment.

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Work Address ________________________________________________________________

Telephone No ________________________________________ Extension ______________________

Department __________________________________________________________________________

Grade and Title of Post _________________________________________________________________

Basis of Contract: (please circle) Permanent Temporary Fixed Term Bank/Zero Hours

Date of Expiry of Contract (if relevant): ______________________________________

Hours: Full Time: ___ hours Part Time: ___ hours As and when required (please delete as applicable)

Date of Taking up Post _______________________________________________________________________

Name of Head of Department/Manager __________________________________ Extension __________

Details of work in last two years (please note exact dates of employment if known):-

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Have you had a break in service, i.e. a continuous spell of 3 months out with the employment of any NHS authority within the last 2 years?

(Please delete as applicable) YES/NO
Expected Date of Delivery

Proposed Last Working Day

Does this include all annual leave or days in lieu of public or local holidays due? (Please delete as applicable) YES/NO

If not, how many days are outstanding?

I confirm that I do not wish to return to work after the birth of my baby.

I attach/will send later my Certificate of Delivery (MatB1). (Delete as applicable.)

Signed ________________________________ Date ______________________________
(Certified as correct by manager)

Signed ________________________________ Date ______________________________
(Employee’s signature)

Please complete this form and send it as soon as possible to the Employee Services Team (Maternity), Recruitment & Personnel Services, Block 3/6, First Floor, Residency Buildings, St John’s Hospital, Howden Road West, Livingston, West Lothian, EH54 6PP, retaining a copy for your manager and checking that all sections are fully completed.
Employee to inform manager of pregnancy and discuss when she expects to commence her maternity leave. Manager and Employee Services Team must be informed of date commencing maternity leave by the 15th week before the Expected Date of Confinement. NHS Lothian Maternity Leave Policy to be downloaded via intranet or contact Employee Services Team.

Employee Services Team will issue employee with NHS Lothian Maternity Leave Policy.

On receipt of Maternity Leave Policy, employee is required to fill in the appropriate maternity leave application form (Appendix F or Appendix G). Contact Employee Services Team if any advice is required on completing form, or any clarification of policy.

Employee should then send the maternity leave application form and Maternity Certificate (MATB1) to their manager.

When maternity leave application form has been signed by employee and manager, both the form and the Mat B1 Certificate should be sent to the Employee Services Team.

Employee Services Team will process maternity leave application form and send on to Payroll Services Unit. Payroll Services Unit (PSU) will then confirm maternity pay entitlements.

On receipt of confirmation from PSU, Employee Services Team will write to employee confirming maternity pay and leave entitlements. A copy of this letter will also be sent to the manager who countersigned the application form.

Employee to sign and return one copy of maternity letter to confirm acceptance of conditions relating to maternity leave detailed in the letter. This copy should be returned to the Employee Services Team.

Manager to generate Change Form commencing employee on maternity leave, at least 28 days prior to maternity leave. This Change Form should then be sent to the Employee Services Team (PO Box 5, St John’s Hospital).

PRIOR TO RETURN TO WORK FOLLOWING MATERNITY LEAVE

Manager to generate Change Form to return employee to work. Change Form to be sent to Employee Services Team. If employee plans to take less than 12 months’ maternity leave, employee must write to manager to confirm return date at least 8 weeks prior to return.

Employee Services Team will then forward maternity file for inclusion in employee’s personal file.

EMPLOYEE SERVICES TEAM CONTACT DETAILS

Telephone: 01506 523455 or 01506 523428

Mail Address: Employee Services Team (Maternity), Recruitment and Personnel Services, Block 3 / 6, First Floor, Residency Buildings, St John’s Hospital, Howden Road West, LIVINGSTON, EH54 6PP