



Dear Colleague

PAY AND CONDITIONS FOR STAFF RETURNING TO WORK TO ASSIST IN NHS SCOTLAND'S COVID-19 RESPONSE

1. The unprecedented national response to the COVID-19 means that many staff will be returning to work in NHS Scotland, either in the same role they were in previously, or in a new position.
2. The Scottish Government recognise that this will raise a number of pay and conditions issues. It is important that the service maintains a consistent approach on these matters and the Annex to this letter provides guidance on key points which are likely to arise.
3. This guidance has been discussed and agreed between NHS Scotland Employer and Staff Side representatives and will be reviewed regularly in partnership.

Action

4. NHS Boards and Special Health Boards should apply the guidance set out in this letter when employing returning staff in response to the COVID-19 crisis.

Yours sincerely

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Deputy Director of Health Workforce

DL (2020) 6

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Addresses

For action

Chief Executives, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)
Directors of Human Resources, NHS Boards and Special Health Boards and NHS National Services Scotland (Common Services Agency)

For information

Members, Scottish Partnership Forum
Members, Scottish Terms and Conditions Committee
Members, Scottish Workforce and Governance Group

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Agenda for Change

During the emergency period, if staff return to work in roles covered by Agenda for Change terms and conditions for substantive staff, they should be paid at the top of the appropriate pay band for the role they are fulfilling, providing they previously worked in that pay band or higher.

Medical Staff

If they left from a medical role, staff should be paid on the appropriate contract for the role they are fulfilling, providing they return to the same level of responsibility.

All Staff

All staff who return to work in the NHS after retirement will be paid the substantive rate for their role. The pay point should not be lower than the pay point before they retired, unless the staff member wishes to work in a more junior role (see below).

Staff Who Want to Return to a More Junior Role

If staff want to return to a more junior role than the role they left, they should be paid the top of the pay scale in the more junior role.

Staff Who Choose to Return to Work During Maternity, Adoption and Shared Parental Leave, or End their Leave Early

The NHS offers generous occupational maternity, adoption, and shared parental leave pay, well above statutory levels. However, for staff who choose to work when they would otherwise be on leave, it is important that they do not lose their contractual entitlement.

Staff can work up to ten keeping in touch (KIT) days while on maternity or adoption leave, without bringing their maternity/adoption leave to an end. Staff on shared parental leave can work up to 20 shared parental leave in touch (SPLiT) days without ending their shared parental leave. This means that many employees will have access to up to 30 days where they can work, without bringing their paid family-related leave entitlements to an end.

Should employees wish to work more than this, ordinarily it would end their statutory and contractual family-related leave and pay entitlements. NHS organisations cannot change the legal rules around statutory payments and leave, but should staff wish to end their maternity, adoption or shared parental leave early to assist in the pandemic, Boards may wish to consider flexible options so staff do not lose out on any of their contractual entitlements.

This might, for example, include allowing an individual to take contractual paid leave in lieu of the weeks of family-related leave and pay that the employee gave up to support the NHS during the pandemic, at a later date.

The rights and special protections that apply to women on maternity leave and to parents on other types of family-related leave will not apply to periods of contractual leave taken in lieu of any weeks of maternity, adoption and shared parental leave that an employee gives up when they end their leave early. The appropriateness of putting such arrangements in place should be carefully considered on a case-by-case basis, with risk assessments where necessary, and only where an NHS employer and the individual employee consent, and should not be forced on individual employees.

Staff who have not retired, but just left the NHS

If staff have not retired, but left NHS employment, and they return to work in roles covered by NHS national terms and conditions of service, they should be paid at the top of the appropriate pay scale for the role they are filling, providing they are returning to the same level of responsibility.

They will be paid the substantive rate for the role. The actual amount and the frequency should be confirmed by their employer.

Individuals who have not retired but return to NHS service are automatically enrolled into the NHS Pension Scheme when they re-enter NHS employment with an NHS organisation. This is a statutory requirement.

Membership of the NHS Pension Scheme is voluntary, and staff can opt out if they wish. If an individual opts out within the first pay period after starting NHS employment, the individual is treated as having never joined the scheme. High earners should be made aware of potential pension tax implications of building up further pension. For example, an individual may have a protected lifetime allowance limit.

Impact on Pension When Staff Return to Work

If staff have already taken their pension, the Coronavirus Act 2020 put in place by the UK Government has removed any restrictions on the amount of work they can do without losing any of their pension during the emergency.

If they retired from the 1995 NHS Pension Scheme, they will no longer be limited to having to work 16 hours a week in the first four weeks after retirement.

For staff who want to take partial retirement from the 2008 and 2015 pension schemes, they will not be required to reduce their pay in order to claim pension.

If staff are a Special Class scheme member with the right to take their pension unreduced at age 55, they will no longer be subject to the current restrictions, called abatement, in the amount of work they are allowed to do before losing

their pension between the ages of 55 and 60. This new rule will apply both to retired staff returning to the NHS and those who have already returned to work.

Please see the [Coronavirus Act 2020 - retired NHS staff returning to work](#) page on the Scottish Public Pensions Agency website (www.pensions.gov.scot) for more information on the changes which have been made to pension rules in response to COVID-19.