

Guidance : Support for Staff Undergoing Fertility Treatment



Introduction

NHS Education for Scotland recognises the emotional pressures involved in IVF treatment and the potential stress and anxiety which individuals may experience during the process.

There is no legal right to time off for fertility treatment, however any requests for time off associated with IVF or other fertility treatment will be treated with appropriate sensitivity and discretion.

IVF Treatment

IVF (In Vitro Fertilisation) is the process of fertilisation which happens outside the human body. This process can typically take between 4 and 7 weeks for one cycle. IVF does not always result in a pregnancy.

Time Off for Investigation or Treatment

There is no statutory right for employees to take time off work to undergo investigations or treatment. Any time off for IVF or other fertility treatment should be treated the same way as other medical appointments.

Appointments before a pregnancy occurs are not covered by statutory time off for antenatal care entitlements.

It is important to note that, in responding to requests for time off, line managers must demonstrate fairness and consistency and not treat either gender more favourably; so for example where a man requests time off for fertility treatment there should be consistency of practice.

Line managers may agree to flexible working arrangements and/or or a combination of annual leave and unpaid leave during the treatment. It may also be appropriate to grant an element of paid leave under the [Special Leave](#) policy. This should be assessed on a case-by-case basis, seeking advice from your HR Business Partner as appropriate.

Statutory Protection

Following implantation of a fertilised embryo a pregnancy may or may not occur, but the individual is regarded as being pregnant from the point of the implantation and legally protected from dismissal or adverse treatment. The employee should notify their manager once the individual has reached this stage. The pregnancy test is usually taken 2 weeks after implantation.

If the treatment is successful and the individual remains pregnant, they will be protected against discrimination on the grounds of pregnancy until the end of their maternity leave. The individual will also be entitled to time off for antenatal care via the special leave policy.

If the IVF is unsuccessful, the protected period ends 2 weeks after the end of the pregnancy – i.e. 2 weeks after the date the individual was informed that implantation was not successful.

Illness during IVF Treatment

In some cases the employee may be unable to work due to the effects of the treatment and signed off sick by the GP. This absence should be treated as sick leave in accordance with the [NHS Scotland Workforce policy on Attendance](#).

Pregnancy-related illness during the period after implantation (the protected period) is covered by the statutory protection from adverse treatment. Absences are recorded in the normal way but will not be considered for the purposes of absence management triggers.

Expert, impartial and timely advice can be sought from Occupational Health via self / management referrals in accordance with the Attendance policy. Further information and support is available within the [Occupational Health and Wellbeing Policy and via NHS IVF support](#).

It may be helpful to remind the employee about the [Employee Assistance Programme](#) who provide confidential, independent and unbiased information and guidance from a team of trained wellbeing and counselling practitioners to enhance the wellbeing of all NES employees.

Confidentiality

It is essential that confidentiality is maintained. Many requests may be of a very personal and sensitive nature, and staff need to feel assured that any details they offer in support of their request will be handled sensitively, in confidence and in accordance with [NES's Information Governance and Security Policies](#)

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