

NJC MATERNITY SCHEME

11. Maternity Scheme

11.1 Who This Scheme Applies To

The occupational maternity scheme shall apply to all pregnant employees regardless of the number of hours worked per week.

11.2 Initial Obligations on the Employee

An employee shall notify her employing authority at least 28 days before her absence begins or as soon as is reasonably practicable:

- (a) that she is pregnant;
- (b) of the expected week of childbirth (EWC);
- (c) of the date of the beginning of her absence.

The employer can request that the notification of the beginning of the absence is given in writing and that the employee produce a certificate from a registered medical practitioner or a registered midwife stating the expected week of childbirth.

11.3 Health and Well-being

(a) Ante-natal Care

Any pregnant employee has the right to paid time off to attend for ante-natal care and must produce evidence of appointments if requested by her employing authority.

(b) Health and Safety

Consideration must be given to any health and safety implications for pregnant or breast-feeding employees identified in the Workplace Risk Assessment carried out in accordance with Part 2, Paragraph 4.

11.4 Maternity Leave Entitlement

(a) All employees are entitled to 26 weeks' ordinary maternity leave followed by 26 weeks' additional maternity leave, giving a total of 52 weeks' continuous leave, 'the maternity leave period'.

(b) Maternity leave shall commence no earlier than 11 weeks before the EWC, or from the day following childbirth if that is earlier.

Within 28 days of receipt of the initial notification the employing authority will write to the employee informing them of the last day of their maternity leave and the expected date of their return.

11.4.1 Keeping in Touch (KIT) Days

(a) Keeping in touch (KIT) days are intended to facilitate a smooth return to work for women returning from maternity leave. Before going on leave, the employer and the employee should discuss and agree any voluntary arrangements for keeping in touch during the employee's maternity leave. An employee may work for up to 10 KIT days during OML or AML without bringing her maternity leave to an end. An employee may not work during the two weeks of compulsory maternity leave immediately after the birth of her baby.

(b) The work can be consecutive or not, and can include training or other activities which enable the employee to keep in touch with the workplace. Any such work must be by agreement and neither the employer nor the employee can insist upon it.

(c) Authorities are recommended to adopt policies for KIT days that have regard to DTI guidance (Maternity Entitlements and Responsibilities: A guide - babies due on or after 1 April 2007) and therefore should include arrangements for payment for working on these days.

11.5 Maternity Pay

(a) Payments for employees who have less than 1 year's continuous local government service at the beginning of the 11th week before the EWC shall be the employee's entitlement to Statutory Maternity Pay (SMP), where eligible.

(b) Payments for employees who have completed 1 year's continuous local government service at the 11th week before the EWC shall be as follows:-

(i) For the first six weeks of absence an employee shall be entitled to nine-tenths of a week's pay offset against

payments made by way of SMP or Maternity Allowance (MA) for employees not eligible for SMP.

(ii) An employee who declares in writing that she intends to return to work will for the subsequent 12 weeks' absence receive half a week's pay plus SMP, where eligible, without deduction except by the extent to which the combined pay and SMP (or MA and any dependant's allowances if the employee is not eligible for SMP) exceeds full pay. Alternatively the equivalent amount (i.e. 6 weeks' pay) may be paid on any other mutually agreed distribution.

For the remainder of the maternity leave period the employee will receive their entitlement to SMP (currently 39 weeks in total), where eligible.

(iii) For employees not intending to return to work payments during their maternity leave period following the first 6 weeks will be their entitlement to SMP (currently 39 weeks in total), where eligible.

(iv) Payments made by the authority during maternity leave under (ii) above shall be made on the understanding that the employee will return to local authority employment for a period of at least three months, which may be varied by the local authority on good cause being shown and, in the event of her not doing so, she shall refund the monies paid, or such part thereof, if any, as the authority may decide. Payments made to the employee by way of SMP are not refundable.

11.6 Right to Return To Work

(a) Subject to (b) to return to the job in which she was employed under her original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her if she had not been absent. "Job", for this purpose, means the nature of the work which she is employed to do and the capacity and place in which she is so employed.

(b) Where it is not practicable by reason of redundancy for the authority to permit her to return to work in her job as defined in (a) above the employee shall be entitled to be offered a suitable alternative vacancy where one exists, provided that the work to

be done in that post is suitable to her and appropriate to the circumstances, and that the capacity and place in which she is to be employed and her terms and conditions of employment are not substantially less favourable to her than if she had been able to return to the job in which she was originally employed.

(c) Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (e.g. a general reorganisation), which would have occurred if the employee had not been absent, necessitate a change in the job in which she was employed prior to her absence.

The work to be done should be suitable to her and appropriate to the circumstances and the capacity and place in which she is to be employed and her terms and conditions of employment should not be less favourable to her than if she had been able to return to the job in which she was originally employed.

11.7 **Exercise of the Right to Return to Work**

(a) Return before the end of the maternity leave period

(i) An employee shall notify the authority in writing if requested, at least 21 days before the day on which she proposes to return if this is before the end of the maternity leave period. Where the notice given is less than 21 days the employer may postpone the return to ensure 21 days' notice, but not beyond the end of the maternity leave period.

(ii) If an employee changes her mind about the day she proposes to return, she must give her employer 21 days' notice of the new date, if this is **earlier** than the original date (see 11.7(a)(i)) she notified **or** if she is now proposing to return **later** than the original date, she must give notice of the new return date 21 days before the original return date.

(b) All employees

(i) Where an employee is unable to return on the expected day due to sickness the absence will be covered by the sickness scheme in the normal way.

(ii) For an employee where, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect her to return on the due date, she may instead return when work resumes, or as soon as reasonably practicable thereafter.

(c) Return to work - Flexible Working arrangements

Authorities should consider the full range of flexible working arrangements and support facilities for employees returning to work. The needs of breastfeeding employees should be taken into account. The Health & Safety Executive has produced guidance that employers should refer to if a facility for breastfeeding is requested.

11.8 Relationship with Sickness and Annual Leave

(a) Maternity leave will not be treated as sick leave and will not therefore be taken into account for the calculation of the period of entitlement to sickness leave.

(b) Ordinary maternity leave and additional maternity leave shall be regarded as continuous service for the purposes of the National Joint Council's sickness and maternity schemes and annual leave. Annual leave continues to accrue during both ordinary and additional maternity leave.

11.9 Definitions

(a) **A Week's Pay**

The term "a week's pay" for employees whose remuneration for normal working hours does not vary with the amount of work done in the period, is the amount payable by the authority to the employee under the current contract of employment for working her normal hours in a week. Where there are no normal working hours, a week's pay is the average remuneration in the period of 12 weeks preceding the date on which the last complete week ended, excluding any week in which no remuneration was earned.

(b) **Childbirth**

Childbirth means the live birth of a child, or a still birth after a pregnancy lasting at least 24 weeks

(c) Nothing in the above provisions shall be construed as providing rights less favourable than statutory rights.