

JOINT NEGOTIATING COUNCIL FOR THE EDUCATION AND LIBRARY BOARDS

29 April 2010

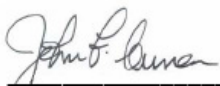
**To: Chief Executives
Council Members
MSO/TUSO**

Joint Negotiating Council Circular No. 117 - Amended

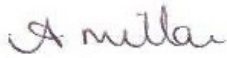
Maternity Leave Provision

The Joint Secretaries of the Joint Negotiating Council have agreed revised documentation relating to Maternity Leave Provision which has been reviewed to take account of recent legislative developments.

The Maternity Guidelines are attached as an appendix to this circular. Please note that this circular replaces JNC Circular No 115 dated 23 May 2005 which should be destroyed.



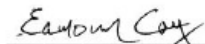
Management Side Secretary
J Curran



Trade Union Side Secretary
A Millar



Trade Union Side Secretary
L Kerr



Trade Union Side Secretary
E Coy



Trade Union Side Secretary
A Mills

ML1
MATERNITY PROVISION

NOTES FOR GUIDANCE

These notes are not intended as a full and definitive statement of maternity rights or provisions.

Advice is available from Employee Relations, Human Resource Section, _____

ABBREVIATIONS AND TERMS

<i>AML</i>	Additional Maternity Leave
<i>EWC</i>	Expected Week of Childbirth. This is the week in which your baby is expected to be born.
<i>KIT</i>	Keeping in Touch Days
<i>LEL</i>	Lower Earnings Limit – for National Insurance contributions. Used as the level of earnings for entitlements to SMP.
<i>MATB1</i>	Maternity Certificate issued by a doctor or midwife up to 20 weeks before the baby is due.
<i>MPP</i>	Maternity Pay Period
<i>MA</i>	Maternity Allowance
<i>ML</i>	Maternity Leave
<i>ML2 Form</i>	Application form for maternity leave.
<i>ML3 Form</i>	Notification of Internal Trawls.
<i>OMP</i>	Occupational Maternity Pay
<i>SMP</i>	Statutory Maternity Pay
<i>SMP1</i>	Claim form for Maternity Allowance for those employees not entitled to SMP.

INTRODUCTION

The Occupational Maternity Scheme shall apply to all pregnant employees.

NOTIFICATION OF PREGNANCY

An employee is obligated to notify the board in writing of their pregnancy by the 15th week before the baby is due. An application form for maternity leave (ML2) is attached for this purpose. Within 28 days of receiving this notice Human Resources will confirm in writing the date of return to work following maternity leave.

A Certificate of Expected Confinement (MATB1) must be forwarded to Employee Services, Human Resources Section as soon as possible. An MATB1 is available from a doctor or midwife and must be issued and signed by a doctor or midwife not **more than 20 weeks** before the week the baby is expected. Applications will not be processed without this certificate.

An employee cannot choose to commence Maternity leave before the beginning of the 11th week prior to the expected date of confinement. If an employee's maternity leave has not already started it will be triggered by the birth of a child, or pregnancy related illness from the beginning of the 4th week before the expected week of childbirth.

In both these circumstances the employee must provide medical evidence to Human Resources that she has given birth or that she is absent because of a pregnancy related illness.

Maternity leave can commence on any day of the week in which the employee gives in her notice, with the exception of an early birth and a pregnancy related illness when maternity leave will commence on the following day after the first day of sickness or childbirth.

Where an employee is aware of a risk in relation to her pregnancy in carrying out the duties of her post, the employee must bring the matter to the attention of her line manager as soon as possible.

ANTE-NATAL CARE

Every pregnant employee has the right to paid time off to attend for antenatal care and must produce if requested evidence of appointments.

MISCARRIAGE, TERMINATION, STILL-BIRTH AND DEATH OF A BABY

In the unfortunate event of a death of a baby or a stillbirth after 24 weeks of pregnancy, the Occupational Maternity Scheme will apply. Statutory Maternity payments will apply after the 25th week of pregnancy.

Where there is a miscarriage or termination before 24 weeks the board will give sympathetic consideration to the circumstances and where necessary grant special leave or sick leave, as appropriate on the basis of the individual circumstances.

MATERNITY LEAVE ENTITLEMENT

Provided that an employee has complied with the notification procedures she will be entitled to 52 weeks maternity leave, of which 39 weeks may be paid as either OMP and/or SMP. The remaining 13 weeks AML will be unpaid.

PAYMENT DURING MATERNITY LEAVE

An employee may qualify for Occupational Maternity Pay (OMP) and/or Statutory Maternity Pay (SMP). To assess eligibility for OMP and SMP the following criteria must be met.

OCCUPATIONAL MATERNITY PAY (OMP)

If an employee has one year's continuous service at the 11th week before the expected date of confinement she will be entitled to Occupational Maternity Pay. Payment will be as follows:

For the first 6 weeks of absence an employee will be entitled to 9/10ths of a weeks pay which would include any payment made by way of Statutory Maternity Pay (SMP) if applicable.

If an employee intends to return to work for a period of at least 3 months she will be entitled to the next 12 weeks at half pay. If an employee is entitled to either SMP or MA these payments will be made in addition to half salary. If half pay plus SMP or MA exceeds full pay the excess will be deducted.

If an employee does not return to work for the three month period, the board will be entitled to recover twelve weeks' salary at half pay.

STATUTORY MATERNITY PAY (SMP)

An employee will be entitled to 39 weeks Statutory Maternity Pay if:

- (a) Average weekly earnings are above the lower earnings limit;
- (b) They have been employed continuously for 26 weeks into the qualifying week i.e. 15 weeks before the expected week of childbirth;
- (c) Are still pregnant in the 11th week before the expected week of childbirth or have given birth by that date;
- (d) Submits a certificate MAT B1 at least 28 days before the absence is due to begin;
- (e) Leaves work (including resignation) after the 15th week before EWC providing that the above criteria is met.

If an employee satisfies the above employment and earnings criteria and terminates her employment after the beginning of the 15th week before the EWC she will remain entitled to payments of SMP. Sick Pay will not be paid during the MPP period, i.e. the first 39 weeks.

Statutory Maternity Pay is payable at:

- (a) 90% of the employees average weekly earnings for the first 6 weeks;
- (b) Followed by 33 weeks at maximum £124.88 per week from 1 April 2010 or 90% of her average weekly earnings whichever is the lesser amount.

If 90% of the average weekly earnings are less than the current level of SMP the current level will be paid for the 39 weeks;

MATERNITY ALLOWANCE

If an employee does not qualify for SMP she may be entitled to Maternity Allowance (MA) which is payable by the DHSS. Payments are made weekly for a maximum of 39 weeks.

In order to apply for Maternity Allowance an employee will require an Exclusion Form (SMP1). This form can only be issued by the board on receipt of the application form for Maternity Leave (ML2) and notification of pregnancy MATB1.

SUMMARY OF PAYMENT

Employees who intend to return to work, who have at least one years' continuous service at the 11th week before the expected week of childbirth, regardless of the number of hours worked, and satisfies the SMP criteria, payment will be as follows:

- 6 weeks at 9/10 of average earnings, inclusive of Statutory Maternity pay;
- 12 weeks at half pay, plus Statutory Maternity Pay; if half pay and SMP exceeds full pay the excess will be deducted;
- 21 weeks' Statutory Maternity Pay;
- 13 weeks unpaid Additional Maternity Leave.

Employees who do not intend to return to work, who have at least one years' continuous service at the 11th week before the expected week of childbirth, regardless of the number of hours worked, and satisfies SMP criteria, payment will be as follows:

- 6 weeks at 9/10ths of average earnings, inclusive of Statutory Maternity pay;
- 33 weeks' Statutory Maternity Pay.

TERM TIME / OPTION 1 EMPLOYEES

If you are employed on a Term Time basis and qualify for both OMP and SMP, during school closure in July and August only Statutory Maternity Pay (SMP) will be received.

KEEPING IN TOUCH DAYS

Up to 10 'Keeping in Touch' (KIT) days may be worked without bringing an end to maternity leave. These days may be taken in single or multiple days up to a maximum total of 10 'KIT' days. Working for part of a day will count as one full day out of the entitlement of 10 days. Pay will be pro-rata for the hours worked. Training or attending team meetings may also be included in the entitlement to work up to 10 days. SMP will be offset against wages earned on a 'KIT' day as total payments made may not exceed normal pay. If the 'KIT' day falls outside the SMP period, pay will be at employees daily rate.

These days must be agreed between the employee on maternity leave and her line manager. Line managers may not compel the employee to attend work and similarly the employee may not insist on working up 'KIT' days. Employees on maternity leave who refuse to attend work in respect of a 'keeping in touch' day are protected from any detriment.

'KIT' days may not be taken in the two weeks following the birth of the baby i.e. compulsory maternity leave period.

RETURN TO WORK

It will be assumed that an employee will be returning to work on expiry of the approved period of maternity leave or following any period of annual leave as agreed by the Line Manager/Principal.

If, for health reasons, the employee is unable to return on the proposed date she must contact the Line Manager/Principal and submit the relevant medical documentation as soon as possible confirming that she is unfit to return to work.

If an employee proposes to return to work from Maternity Leave earlier than the specified date, the board requires notice of 8 weeks, if this should be impractical no later than 28 days. An employee cannot return to work in the compulsory leave period i.e. 2 weeks after the birth.

An employee must inform the board if she intends to resign from her job.

PENSION SCHEME (NILGOSC)

If an employee is a member of the Pension Scheme (NILGOSC) she must pay contributions for the first 30 days of any period of unpaid leave. Payment of the remaining period of unpaid leave is optional and the Board requires confirmation in writing if an employee wishes to continue paying contributions. Any period for which she does not pay will not count as pensionable service.

CONTACT

During the maternity leave period an employer may make reasonable contact with the employee in order to discuss for example arrangements for the return to work such as dates or working hours, or to keep employee abreast of developments at the workplace. In the same way, an employee may make contact with her employer. This contact can be made in any way that best suits both parties such as by telephone or in writing. It is recommended that, before maternity leave commences, arrangements for staying in touch are discussed and agreed.

AUTHORISED LEAVE

Any period of authorised leave (paid or unpaid) shall be regarded as service for the purposes of calculating annual leave entitlement. If an employee intends to take annual leave before or after her Maternity Leave she will require the authorisation of her Line Manager/Principal.

PAYMENT OF ESSENTIAL CAR USER ALLOWANCE

The Education and Library Boards consider that, for all staff, the essential car user allowance should be treated as a 'reimbursement' to offset costs associated with the member of staff being designated as an 'essential car user' for the purposes of conducting the board's business. This payment is intended to be a reimbursement of expense and is not simply cash that is a 'transferrable benefit' (i.e. insurance, road tax etc). In these circumstances the allowance is considered to be a benefit and employees on maternity leave will be entitled to essential car user allowance throughout the entire maternity leave period (*i.e. ordinary maternity leave and additional maternity leave*) for women whose expected week of childbirth is on or after 5 October 2008.

**JNC Circular No 119 - Issued 23 May 2005
Amended 29 April 2010**

EDUCATION AND LIBRARY BOARD

MATERNITY APPLICATION FORM ML2

This form **must** be completed, signed and returned to Human Resources, Employee Relations not later than the end of the 15th week before expected week of childbirth.

Failure to comply with the conditions of the Maternity Scheme without good reason may lead to a loss of benefits and a loss of right to return to work. The information given on this form will also be used to assess your entitlement to statutory maternity pay.

PART A – To be completed by employee (please use block capitals)

Name: _____

Address: _____

Post(s) held: _____ Location: _____

Date employment commenced: _____

Expected date of childbirth: _____

Certificate of confinement, MATB1 attached: ***YES / NO**

Date ordinary maternity leave to commence: _____

Number of weeks required: _____

Is it your intention to resign from work? ***YES / NO**

Is it your intention to apply for additional maternity leave?
(please see notes for guidance) ***YES / NO**

Date additional unpaid maternity leave to end: _____

If applying for additional maternity leave,
Do you wish to pay pension contributions after
the first 30 compulsory days? ***YES / NO**

NB The Board requires notice of 8 weeks if employee proposes to return to work from maternity leave earlier than date specified. If this should be impractical, no later than 28 days.

I wish to claim for maternity leave/pay in accordance with the Board's Occupational Maternity Scheme and the Government's Statutory Maternity Pay Scheme. I have read the notes for guidance and agree to comply with the conditions of both schemes. I authorise the board to seek recovery of any monies paid to me under the board's maternity scheme if I do not return for a period of 3 months.

Signature: _____ Date: _____

Line Manager/Principal
Counter Signature: _____ Date: _____

PART B – to be completed by human resources, employee relations

Two of the following statements must be deleted.

Under the terms and conditions of their employment, this officer is entitled to:

1. Occupational maternity pay at the rate of 9/10ths salary for the first 6 weeks followed by 12 weeks at half pay with statutory maternity pay offset, followed by 21 weeks statutory maternity pay. *Unpaid Additional Maternity Pay of 13 weeks will follow on from this.
2. Occupational maternity pay at the rate of 9/10ths salary for the first 6 weeks with statutory maternity pay offset, followed by 33 weeks statutory maternity pay. *Pension contributions are not to be deducted from this payment as employee is resigning from post.
3. Leave without occupational maternity pay for a period of 39 weeks. Statutory maternity pay is to be paid for 39 weeks (dependent on entitlement) *followed by 13 weeks unpaid Additional Maternity Pay.

CERTIFICATE OF CONFINEMENT			ELIGIBILITY CHECKED / CONFIRMED	
Received	Requested	Payroll	Recorded in Diary	Initials

Signed: _____

Date: _____

** Delete accordingly*

MATERNITY LEAVE – INTERNAL TRAWLS (Form ML3)

In recognition of the Board's commitment to equality of opportunity, it has been decided to establish a mailing-list for staff on maternity leave who wishes to be supplied with a copy of any internally trawled posts for which they are eligible.

To assist us in doing this, we would be grateful if you would complete the attached slip and return to Employee Relations, Human Resources as soon as possible.

Thank you for your co-operation.

MATERNITY LEAVE – PROMOTIONAL TRAWL

(Please delete as appropriate)

I wish / do not wish to be supplied with a copy of the internal promotional trawls.

Name: _____

Address: _____

Post code: _____

Job Title: _____

Location: _____

Dates of Maternity Leave: From _____ To _____

Please return to: Employee Relations, Human Resources

_____ **Education and Library Board**
