



## MATERNITY PROVISIONS – TEACHING STAFF

### MATERNITY LEAVE

- 1.1 A teacher is entitled to 52 weeks of Maternity Leave (ML), regardless of length of service. The 52 weeks comprises 26 weeks' Ordinary Maternity Leave and 26 weeks' Additional Maternity Leave.
- 1.2 ML can begin from a date not earlier than the 11<sup>th</sup> week before the Expected Week of Childbirth (EWC), unless childbirth has taken place prior to this. The period of ML may commence on any day of the week. During the ML period all the teacher's contractual terms and conditions, with the exception of remuneration, continue to apply.

### COMPULSORY MATERNITY LEAVE

- 2.1 A teacher is required to take compulsory maternity leave of 2 weeks starting the day on which childbirth occurs.

### MATERNITY PAY

- 3.1 A teacher with less than 26 weeks' continuous service at the beginning of the 15<sup>th</sup> week before the EWC will have no entitlement to maternity pay. She may, however, be entitled to Maternity Allowance payable through the Department of Work and Pensions.
- 3.2 A teacher with at least 26 weeks' continuous service at the beginning of the 15<sup>th</sup> week before the EWC is entitled to be paid:
  - (a) Occupational Maternity Pay (OMP) and Statutory Maternity Pay (SMP) at the appropriate rate for the first 13 weeks. Taken together, these payments will be equal to the teacher's normal salary, and where eligible,
  - (b) SMP for the remaining 26 week period, provided that the teacher's average weekly earnings are not less than the lower earnings limit for National Insurance contribution liability.
- 3.3 Any previous employment with councils, employers listed in the Redundancy Payment (Local Government) (Modification) Order 1990 (as amended) and any other employment deemed by the Comhairle to be relevant, should be counted as continuous service (as defined in the Employment Rights Act 1996) subject to a gap in employment not exceeding one working week.
- 3.4 Other than Keeping In Touch Days, when a teacher returns to work before the full ML period then her entitlement to any balance of maternity leave and maternity pay ceases. The employee will receive her normal salary from the date of her return to work.

### NOTIFICATION OF START OF MATERNITY LEAVE

- 4.1 To qualify for maternity leave and pay, a teacher must notify the Comhairle in writing of:
  - (a) the fact that she is pregnant;
  - (b) the expected week of childbirth or the actual date of the birth, if this has already occurred; and
  - (c) the date she wishes ML to commence (the notified leave date).
- 4.2 The notification set out above must be given to the Comhairle not later than 21 days before maternity leave commences, or as soon as is reasonably practicable. An application for maternity leave is available from the Personnel Section.
- 4.3 Confirmation of the pregnancy and expected date of childbirth should be given in the form of a maternity certificate (form MAT B1) from a registered medical practitioner or midwife.

## **NOTIFICATION OF BIRTH**

- 5.1 A teacher should notify the Comhairle, as soon as is reasonably practicable, of the date of the birth of her child.

## **NOTIFICATION OF RETURN FROM MATERNITY LEAVE**

- 6.1 A teacher who wishes to return to work earlier than the end of the ML period must give the Comhairle 28 days' notice. If the appropriate notice is not given, the Comhairle may postpone her return for up to 28 days (but not to a date later than the end of the ML period).
- 6.2 No notification is required for a teacher returning to work on the first working day following the end of the ML period.

## **ANTENATAL CARE**

- 7.1 A pregnant teacher shall be allowed to take such reasonable time off, without loss of pay, as is required to attend for antenatal care, on production of evidence of appointments.

## **STILLBIRTH**

- 8.1 In the event of a stillbirth after 24 weeks of pregnancy, a teacher is entitled to maternity leave and pay provisions.

## **SICK LEAVE AND MATERNITY LEAVE**

- 9.1 Where a teacher is absent before the start of the maternity leave period due to illness, the absence will be treated as sickness absence except when paragraph 9.2 below applies. This includes absence due to miscarriage (that is, prior to the 24<sup>th</sup> week of pregnancy).
- 9.2 If a teacher is absent because of a pregnancy related illness, and there are fewer than four weeks before her baby is due, she will be deemed to have commenced ML.
- 9.3 Where a teacher is unable to return to work after the ML period has ended, or on the date previously notified, due to sickness, the normal sickness notification and certification procedures will apply.

## **ANNUAL LEAVE – MATERNITY**

- 10.1 Annual leave shall accrue during the period of ordinary and additional maternity leave.
- 10.2 Maternity leave shall either fall within one leave year or span two leave years. Statutory leave must be provided by the Comhairle and must be taken by the teacher for each leave year spanned by the period of maternity leave.
- 10.3 The balance of annual leave in each leave year which accrues from the period of maternity leave can be taken as paid leave or, if agreed between the Comhairle and the teacher, can be paid in lieu.
- 10.4 When a teacher has notified the Comhairle of the intended date of return, the Comhairle will issue a statement of the teacher's annual leave entitlement effective at that date, including any balance of statutory leave which will require to be taken.
- 10.5 On return from maternity leave the teacher shall take any remaining statutory leave in that leave year. Where it is not practicable to take that leave in full or in part any balance will be carried forward into the next leave year but must be taken as leave. The timing of this leave shall take account of the needs of the service and,
- (a) in the case of teachers and music instructors, should normally be taken in the term in which the return to work takes place, or within the following term; or
  - (b) in the case of education support officers, quality improvement officers and educational psychologists, should normally be taken as soon as possible following the return to work.

- 10.6 The balance of annual leave accrued during maternity leave that is being taken as paid leave shall be taken following the end of the maternity leave period. The timing of this leave is subject to the overriding needs of the service and,
- (a) in the case of teachers and music instructors, should normally be taken in the term in which the return to work takes place, or within the following term; or
  - (b) in the case of education support officers, quality improvement officers and educational psychologists, should normally be taken as soon as possible following the return to work.
- 10.7 Where a teacher gives written notice to the Comhairle that she does not intend to return to work at the end of her ML period, the Comhairle will make a payment in lieu of leave accrued during the paid ML period.

### **KEEPING IN TOUCH DAYS**

- 11.1 During maternity leave, a Teacher is allowed up to 10 days at work with normal pay as 'keeping in touch days', without bringing the maternity leave period to an end. Normal pay will be an amount inclusive of Statutory Maternity Pay or maternity allowance. These days have to be consecutive and can be used for training or any other activity which enables the teacher to keep in touch with the place of employment. 'Keeping in touch days' can only be taken following agreement between the employer and the teacher to both the activity and the timing.

## **KEEPING IN TOUCH WITH PREGNANT EMPLOYEES**

### **1 General Contact with Employees on Maternity Leave**

- 1.1 Prior to the commencement of maternity or adoption leave a meeting should be arranged to discuss how contact can be maintained. Both the Head Teacher and employee should have a clear understanding of the nature and frequency of contact.
- 1.2 Communication may be facilitated by home computers where employees on leave can exchange e-mails with colleagues at work and access council's intranets. For employees who have no home access to e-mails then communication by telephone or letter should be agreed.
- 1.3 Head Teachers have a responsibility to ensure employees on maternity or adoption leave have information on vacancies and promotion, including acting appointments, and in-service or other CPD opportunities. The employee should also be apprised of changes to the workplace or work organisation which may impact on her or him.
- 1.4 Head Teachers should also refer pregnant employees to the Comhairles Occupational Health Service. This is to ensure that Occupational Health undertake a pregnant workers risk assessment.

### **2 Keeping in Touch Days**

- 2.1 Keeping in Touch Days are formal arrangements to allow employees to undertake work of some kind during maternity or adoption leave. An employee cannot be required to take up Keeping in Touch days – participation is not compulsory.
- 2.2 The statutory provision allows for up to 10 Keeping in Touch Days in any period of maternity or adoption leave. The number of days and the activity to be undertaken must be agreed between the employer and employee, taking account of the wishes of both parties. It is noted that if the employee works for part of a day that will count as a Keeping in Touch Day.
- 2.3 The purpose of Keeping in Touch Days is to keep the employee informed on what is happening in the workplace. While a Keeping in Touch Day could simply be used for the person to undertake normal contractual duties on that day DTI guidance stresses that Keeping in Touch Days could be particularly useful in enabling an employee to attend a conference, undertake a training activity or attend a team meeting.
- 2.4 The LNCT recommends the following as examples of good practice which may be undertaken in Keeping in Touch Days:
  - (i) Attending INSET days, as set out in the school calendar.
  - (ii) Team teaching with the teacher covering the leave, particularly in the weeks preceding the date of return.
  - (iii) Attending CPD events, including participating in annual review discussions.
  - (iv) Attending team or departmental meetings.
  - (v) Work shadowing a colleague or liaison with a colleague.
- 2.5 Where the employee on maternity or adoption leave holds a promoted post the LNCT strongly advises that the employee should not resume those duties for Keeping in Touch Days or break the contract of the employee who had taken the post of temporary

responsibility. This would not preclude a Keeping in Touch Day to be used for work shadowing or liaison, as set in 2.4(v) above.

- 2.6 The Regulations make it clear that an employer and employee are allowed to make reasonable contact during maternity leave to discuss such issues as the return to work. This would not constitute 'work' and would not therefore count towards the 10 days.

### **3 Payment for Keeping in Touch Days**

- 3.1 The employee will receive normal contractual pay for keeping in touch days, which will be an amount inclusive of SMP, SAP or Maternity Allowance, where these are still being paid.
- 3.2 Where a teacher is in attendance for the whole of a school day, payment will be in accordance with SNCT/26 (1/261 and 0.3385 for holiday pay). Where the period worked is less than a full day, the teacher shall be paid an hourly rate (calculated on the basis of 1/1827 of the annual rate of salary) with pro rata holiday entitlement, as set out in SNCT 26.

### **4 Recording Keeping in Touch Days**

- 4.1 The employee should apply for keeping in touch days using the attached form.

### **5 Appeals**

- 5.1 It is expected that Keeping in Touch Days will be subject to amicable agreement.
- 5.2 However, if resolution cannot be achieved through informal discussion then formal grievance procedures may have to be invoked by employees who are unable to obtain an agreement on Keeping in Touch Days.



## MATERNITY LEAVE – KEEPING IN TOUCH DAYS

Keeping in touch days are formal arrangements to allow employees to undertake work of some kind during Maternity or Adoption Leave.

An employee is entitled to 10 keeping in touch days in any period of Maternity or Adoption Leave.

A request to undertake keeping in touch days should be made by completing the form below and returning it to the Human Resources Section.

**Name:** .....

**Address:** .....

**Post Title:** ..... **Payroll Ref:** .....

**Dates Requested:** .....

**Duties Requested:** .....

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