

## PART D - MATERNITY, CHILDCARE AND DEPENDENCY

### Maternity provisions

1. As equal opportunities employers, fire and rescue authorities acknowledge that more and more women are coping with the responsibilities of work and home. To this end fire and rescue authorities are committed to creating a positive working environment in which all employees are respected, provided with progression opportunities and can make the most of their abilities within a team.

2. Pregnant employees should expect to be treated in a way that is sensitive to their circumstances and should not in any way be singled out for inferior treatment. Pregnancy should be regarded as part of everyday life and any health and safety implications can be adequately addressed by the usual procedures for the management of health and safety.

3. Nothing in the following provisions, which are minima that may be enhanced locally, should be construed as providing anything less favourable than statutory rights.

### Obligations on the employer

4. Fire and rescue authorities should have in place policies that reflect these provisions and any local enhancements. Copies of such policies should be openly available to employees.

5. Pregnant women and new mothers have a statutory entitlement not to be exposed to risks that could harm either themselves or their unborn child. Fire and rescue authorities are reminded that: (1) The Workplace (Health, Safety and Welfare) Regulations 1992 require employers to provide, where reasonable, suitable rest facilities for pregnant woman and nursing mothers. This is expanded upon in the Health and Safety Executive guidance New and Expectant Mothers at Work: A Guide for Employers. (2) The Management of Health and Safety at Work Regulations 1999 require employers to carry out a risk assessment in respect of new or expectant mothers. Temporary adjustments in working arrangements may be required as a result.

6. Fire and rescue authorities are advised that, when pregnancy is suspected, medical advice should be sought immediately as to whether the employee can continue to perform her current duties. At the point when her doctor advises her that she can no longer perform her current duties, or work her current pattern of hours, the employee should be consulted immediately over appropriate changes. In either case she shall continue to receive her normal pay (for employees on the retained duty system this shall be calculated in accordance with paragraph 34 below). Similarly, on her return to work following the birth and normal maternity leave, there may be a period during which a change in duties or pattern of working hours would be appropriate, again depending on medical advice, in which case the member's normal pay would continue to apply.

7. Pregnant employees will normally remain on their watch, or in their department, unless this is deemed inappropriate following an individual risk assessment.

8. On receipt of the employee's notification of the intended date of commencement of maternity leave, the fire and rescue authority shall, within twenty-eight days, inform the employee of the day on which the maternity leave period will cease and of the date of return to work.

#### Obligations on the employee

9. In order to maximise the effectiveness of health protection through an individual risk assessment an employee should notify the fire and rescue authority as soon as possible after she becomes aware of her pregnancy. In any event, an employee shall notify the fire and rescue authority at least twenty-one days before her absence begins or as soon as is reasonably practicable: (1) That she is pregnant and the expected week of childbirth (EWC). The fire and rescue authority may ask the employee to produce a certificate from a registered medical practitioner or a certified midwife stating the EWC. (2) The date that her absence will commence, in writing if requested by the fire and rescue authority. (3) That she intends to return to work, if that is the case. The authority may ask for this to be confirmed in writing. (This provision applies only to employees who qualify under paragraph 18 below).

10. As the pregnancy develops the employee should inform the fire and rescue authority, in writing if required, of any advice or recommendations received from her doctor. This may include advice that should be considered as part of the individual's risk assessment, such as night work being inadvisable for health and safety reasons.

#### Ante-natal care

11. Pregnant employees are entitled to paid time off to attend for ante-natal care, including relaxation and parentcraft classes. The fire and rescue authority may request evidence of appointments.

12. Fire and rescue authorities may wish to give sympathetic consideration, subject to the exigencies of the service, to reasonable time off for partners to attend ante-natal, relaxation and parentcraft classes.

#### Maternity leave

13. An employee who has less than twenty-six weeks' continuous local government service at the end of the fifteenth week before the EWC shall be entitled to remain absent for up to twenty-six weeks. The employee may then take further leave without pay at the discretion of the fire and rescue authority.

14. An employee who has at least twenty-six weeks' continuous local government service at the end of the fifteenth week before the EWC shall be entitled to twenty-six

weeks' ordinary maternity leave with pay (see paragraph 18 below) and up to twenty-six weeks' additional maternity leave.

15. Maternity leave shall commence no earlier than eleven weeks before the EWC. Where maternity leave has not commenced by the time of the birth it shall start on the day of the birth.

16. Additional maternity leave commences on the day following the last day of ordinary maternity leave.

#### Maternity pay

17. An employee who has less than a year's continuous local government service at the beginning of the eleventh week before the EWC shall be entitled to Statutory Maternity Pay (SMP).

18. An employee who has completed at least a year's continuous local government service at the eleventh week before the EWC shall be entitled to the following: (1) For the first six weeks of absence, nine-tenths of a week's pay offset against SMP, or Maternity Allowance (MA) for employees not eligible for SMP. (2) Where she has declared an intention to return to work, half a week's pay for the subsequent twelve weeks, without deduction except by the extent to which the combined pay and SMP (or MA and any dependants' allowances if she is not eligible for SMP) exceeds full pay. (3) For the remaining eight weeks, SMP if she is eligible. (4) Where she does not intend to return to work, SMP for the subsequent twenty weeks. (5) Payments under (2) shall be on the understanding that the employee shall return to work for at least three months, which may be varied by the fire and rescue authority on good cause being shown. In the event of her not returning to work, the fire and rescue authority may require her to refund all or part of the payments made. Payments made to the employee by way of SMP are not refundable.

#### Right to return to work

19. Subject to paragraph 20 below, the employee shall have the right 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 that would have been applicable if she had not been absent. For this purpose 'job' means the nature of the work that she is employed to do and the capacity and place in which she is so employed.

20. Where it is not practicable by reason of redundancy for the authority to permit an employee to return to her work as defined in paragraph 19 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.

21. Suitable alternative employment may also be offered if exceptional circumstances other than redundancy (such as 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.

#### Exercise of the right to return to work

22. An employee who qualifies for leave under paragraph 13 above shall notify the fire and rescue authority, in writing if requested, at least twenty-one days before she intends to return to work, if this is before the end of her ordinary maternity leave. This notice period may be reduced with the consent of the authority.

23. An employee who qualifies for leave under paragraph 14 above shall notify the fire and rescue authority, in writing if requested, at least twenty-one days before she intends to return to work, if this is before the end of her additional maternity leave. This notice period may be reduced with the consent of the authority.

24. If an employee returns to work before the end of a maternity leave period without having provided the necessary notice under paragraphs 22 or 23 above, the fire and rescue authority may postpone her return to a date that will ensure that the authority has received twenty-one days' notice, or to the end of the relevant maternity leave period if that is sooner.

25. Where, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect an employee to return at the end of her maternity leave or on the date notified under paragraph 22 or 23 above, she may instead return when work resumes or as soon as reasonably practicable thereafter.

26. An employee should attend a health check with the occupational health unit before returning to operational firefighting duties. Relationship with sickness, leave and public holidays

27. Maternity leave will not be treated as sick leave and will not therefore be taken into account in calculating sick leave entitlement.

28. An employee who is unable to return to work on the expected date due to sickness will still be regarded as having returned to work. The sickness should be notified and certified in the same way as any other period of sickness under paragraph 21 of Section 5 Part B.

29. Maternity leave shall be regarded as service for the purpose of calculating annual leave entitlement.

30. An employee who is on ordinary maternity leave on a public holiday shall be granted a day's leave in lieu of that public holiday.

#### Premature birth

31. Where a baby is born prematurely the fire and rescue authority should consider the case on its merits and use its discretion to take any appropriate action, which may include extending maternity leave.

#### Death or still birth of a child

32. These maternity provisions continue to apply where a baby dies or is stillborn after twenty-four weeks' pregnancy. Where a miscarriage occurs before twenty-four weeks the fire and rescue authority should give sympathetic consideration based on the individual circumstances and grant special leave or sick leave as appropriate. The authority's decision should have regard to the needs of the employee and medical opinion.