

LEEDS BLACK ELDERS ASSOCIATIONS



MATERNITY PROVISIONS

In 1991 changes were made within the law, which affected Women's Legal Maternity Rights. Detailed below are the areas of change within the Occupational Maternity Scheme and the implications for operating this in the new legal framework.

INITIAL NOTIFICATION REQUIREMENTS

Under the new legislation the requirements for notification of pregnancy or the expected week of childbirth to be given in writing was removed. However, an employer can still request the following:

- Written notification of the date maternity leave is due to start at least 21 days before the start date;
- That the employee produces a certificate from a Registered Medical Practitioner or a Registered Midwife stating the expected week of childbirth.

The right of the employer to request written notification from the employee of their intention to return to work before maternity leave commences was removed from the legislation.

Paragraph (i) and (iii) of the Maternity Scheme has been amended to reflect the above changes.

MATERNITY PAY

There have been no specific legislative changes to Maternity Pay arrangements. But there are implications for operating the Scheme with the removal of the requirement for written notification of intention to return before Maternity Leave starts.

Payments for employees who have less than 1 year's continuous service at the beginning of the 11th week before the expected week of childbirth shall be the employee's entitlement to Statutory Maternity Pay (SMP).

Payment for employees who have completed 1 year's continuous service at the 11th week before the expected week of childbirth 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 receive half a week's pay 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.
- (iii) For employees not intending to return to work payments during the subsequent 12 weeks shall be the employee's entitlement to SMP.
- (iv) Payments made by Leeds Black Elders Association during Maternity Leave under (ii) above shall be made on the understanding that the employee will return to Leeds Black Elders Association employment for a period of at least three months, which may be varied by the Association 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 Association may decide. Payments made to the employee by way of SMP are not refundable.

EXERCISE OF THE RIGHT TO RETURN TO WORK

Further legislative changes have been made to the notification requirements of the expected return date. Under the legislation there is now a basic assumption that the employee will return on the expiry of the maternity leave period. Specific notification of the return date is then only required where it is to be before the end of the maternity leave period. 21 days notice of early return date is required under the legislation but within the occupational scheme the shorter notice period of 7 days has been maintained for those employees with less than one year's service. 21 days notice of early return is required in the case of an employee who is eligible for extended maternity leave. The employer's general right to postpone the return has been removed from the legislation with the only exception being to ensure that the required notice is given. The postponement cannot be extended beyond the end of the maternity leave period.

SICKNESS AT THE TIME OF RETURN

Legislative changes also provide that where sickness occurs at the time of return this should be classed as a return to work and covered by the sickness scheme in the normal way. Previously the occupational scheme required a doctor's note in all cases of sickness at the time of return.

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.

ANNUAL LEAVE ENTITLEMENT DURING MATERNITY LEAVE

Employees accrue normal leave entitlement throughout the paid and unpaid portion of their Maternity Leave (subject to the unpaid leave being up to and including 22 weeks duration).

Any leave entitlement so accrued must still be taken in the leave year to which it appertains. Common practice is to take any outstanding Annual Leave at the beginning or ending of the Maternity Leave period depending where this falls in relation to the Annual Leave Year.

If the employee subsequently resigns her post and has taken more paid Annual Leave than entitled to at the date of resignation then the overpaid portion must be repaid to the Association.

RETURN TO WORK – FLEXIBLE WORKING ARRANGEMENTS

Employees should consider the full range of flexible working arrangements and support facilities for employees returning to work. The needs of breast-feeding employees should be taken into account.

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.

PATERNITY LEAVE

Staff will be entitled to 10 days paid paternity leave within a period of 3 months.

