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**NATIONAL JOINT COUNCIL
FOR LOCAL AUTHORITIES'
FIRE BRIGADES**

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**To: Chief Fire Officers/Firemasters
Chief Executives/Clerks to Fire Authorities
Chairs of Fire Authorities**

Members of the National Joint Council

23rd October 2000

CIRCULAR NJC/6/00

Dear Sir/Madam

1. We are writing to inform you of a number of matters discussed in the National Joint Council on 21st September.

Employees' Side representation on the National Joint Council

2. It has been agreed to amend the constitution of the NJC to increase the Employees' Side's representation from 22 to 23 members in order to provide a seat for a representative of the Fire Brigades Union's retained section. This is entirely separate from the proposed amendments arising from implementation of the Burchill report (see paragraph 3 below).

Constitution of the National Joint Council

3. The NJC has agreed in principle to a number of other amendments to the constitution. Three of these are needed in order to implement the recommendations of the Burchill report:

Appointment of an independent chair

Professor Burchill recommended that the NJC should appoint an independent chair. This will require amendments to the present paragraph 11(ii) and consequential amendments to other paragraphs.

Establishment of a sub-committee

Professor Burchill recommended the establishment of a sub-committee to conduct the day to day business of the NJC. This will require an additional paragraph laying down the status and membership of that sub-committee and consequential amendments to other paragraphs.

Revised procedure for settling differences

Professor Burchill recommended a revised procedure for dealing with failures to agree in the NJC. This will require amendments to the present paragraph 12.

4. There are two further constitutional matters not directly related to the Burchill report:

Abolition of the Officers' and Lower Ranks' Committees

This had already been agreed in principle at the meeting of the NJC on 14th March 1999 and will require the deletion of the present paragraph 9.

Amendments to membership of the full NJC

If either side wishes to propose any change in its membership of the full NJC as a result of the above this will require an amendment to the present paragraph 3.

5. The NJC has instructed the Joint Secretaries to draft a revised constitution for the next meeting of the NJC on 31st October. It has been agreed that, in the wider interest of implementing Professor Burchill's recommendations as soon as possible, the revised constitution be agreed on 31st October and implemented immediately, thus waiving the three months' notice required under the terms of paragraph 14 of the constitution.
6. Also arising from the Burchill report, but not requiring any amendment to the constitution, the Joint Secretaries have been instructed to produce a revised NJC disputes procedure for consideration by the NJC.

Sick leave

7. The NJC has agreed that, in calculating an individual's entitlement to sick pay, previous periods of sick leave in respect of normal and duty related sickness respectively shall not, in any cases, count against each other. This agreement takes effect immediately and requires the following amendment to Section IV paragraph 1(4) of the Grey Book:

Absence in respect of normal sickness shall be recorded separately from absence in respect of illness or injury arising out of authorised duty. Periods of absence in respect of ~~normal sickness~~ *one* shall not be set off against ~~absence in respect of illness or injury arising out of authorised duty~~ *the other* for the purpose of calculating any entitlement under ~~paragraph 1(2)~~ *this paragraph*. Periods of absence in respect of illness or injury arising out of authorised duty may be set off against absence in respect of normal sickness for the purpose of calculating any entitlement under paragraph 1(1).

Independent medical referee procedure

8. The NJC has agreed the following amendments to the independent medical referee procedure at Section IV paragraph 8 of the Grey Book:

- (1) Where there is a divergence of opinion between the brigade medical adviser and a member's ~~medical practitioner (or other medical adviser)~~ *treating medical practitioner* over (i) the member's fitness for duty or, (ii) *for the purpose of calculating sick pay entitlement*, the question of whether an illness or injury has arisen out of authorised duty, *the member may appeal against the brigade medical adviser's opinion. In that case* the fire authority shall refer the matter to an independent medical ~~referee panel drawn from those who sit on the boards that consider medical appeals under the Firefighter's Pension Scheme~~ *appointed by the organisation identified by the National Joint Council for this purpose.*

- (2) If the ~~member's general practitioner (or other medical adviser)~~ *member* does not agree to the matter being referred to an independent ~~referee panel~~ the opinion of the brigade medical adviser shall prevail.
- (3) The ~~referee's panel's~~ written opinion shall be binding on both parties. ~~Where the referee supports the opinion of the member's general practitioner any costs shall be met by the fire authority; where the referee supports the opinion of the brigade medical adviser any costs shall be met by the member.~~
- (4) *Any costs shall be met by the fire authority. Where the panel supports the opinion of the brigade medical adviser and reports that, in its opinion, the appeal was frivolous, vexatious or manifestly ill-founded, the fire authority may require the member to reimburse all or part of the costs of the appeal.*
- ~~(4)~~(5) Where, *under the terms of sub-paragraph 1(ii) above*, the fire authority decides to reduce a member's sick pay in the light of a decision by the brigade medical adviser but the matter is referred to an independent ~~referee panel~~ then, pending receipt of the ~~referee's panel's~~ decision, the fire authority shall, should the member so request it, advance to the member a sum equivalent to his or her pay immediately before the decision to reduce was made subject to the member undertaking to refund such amount as the fire authority may determine should the ~~independent referee's panel's~~ decision support the brigade medical adviser.

- 9. The organisation identified by the NJC to conduct these appeals will be BUPA, who are also providing the boards for pension scheme appeals. The NJC appeals will now also be considered by a panel, rather than a single referee, and the costs will shadow those of the pension appeals.
- 10. The agreement takes immediate effect and supersedes the interim arrangements set out in circular NJC/4/99. The documentation for the new system is being sent to brigades in Employer circular EMP/10/00.

Maternity leave

- 11. The NJC has agreed a number of amendments to the maternity leave provisions at Section XII paragraph 2 of the Grey Book. Most of these arise from legislative changes contained in the Employment Relations Act 1999 and the Maternity and Parental Leave Regulations 1999, which came into force on 15th December 1999 and apply to women expecting babies on or after 30th April 2000.
- 12. The agreement now incorporates the terms "ordinary" maternity leave and "additional" maternity leave. These are defined at paragraph 15 below. Under the terms of the Employment Relations Act employees have a statutory entitlement to all the normal terms and conditions of their employment (other than those relating to remuneration) during ordinary maternity leave. During any period of additional maternity leave the employment contract continues and some contractual benefits and obligations remain in force, for example, redundancy rights and notice periods.

Maternity pay

- 13. An employee no longer has to state that she is "exercising her right to return to work". The assumption is that she will return at the end of ordinary or additional maternity leave

(whichever is appropriate) though an employer may still ask the employee for confirmation that she intends to return if she will be claiming occupational maternity pay for more than six weeks. This does not require any substantive change to the current agreement other than the following amendment to sub-paragraph 2(c) to rectify an existing error:

in writing, if requested by the authority, that she intends to return to work with her employer if that is her intention (for members who qualify under sub-paragraph 4~~(b)~~ 5(b)(ii) below).

Ante-natal care

14. It has been agreed that the entitlement to paid time off to attend ante-natal classes should be extended to include relaxation and parentcraft classes which, though not strictly a legislative requirement, is encouraged in the government's guidance to the Maternity and Parental Leave Regulations. This requires the following addition to sub-paragraph 3:

Any pregnant member has the right to paid time off to attend for ante-natal care, *including relaxation and parentcraft classes*, and must produce evidence of appointments if requested to do so by the authority.

Length of maternity leave

15. Pregnant employees are entitled to eighteen weeks' ordinary maternity leave regardless of length of service. Employees who have completed one year's service with their employer are then able to take additional maternity leave which starts at the end of the ordinary maternity leave and finishes twenty-nine weeks after the birth. These entitlements are already included in the Grey Book but the NJC has agreed to make the following changes to sub-paragraph 5 in order to clarify when maternity leave actually commences:

- (c) Members who have completed not less than one year's continuous local government service at the beginning of the eleventh week before the EWC shall have an entitlement to eighteen weeks' ~~leave of absence~~ *ordinary maternity leave* with pay (see sub-paragraph 5 below) and to remain absent ~~for up to twenty-nine weeks~~ *on additional maternity leave up to twenty-nine weeks* from the beginning of the week in which the birth occurs.
- (d) 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 commence on the day that the birth occurs.*
- (e) *Additional maternity leave commences on the day after the last day of the member's ordinary maternity leave.*

Returning to work after maternity leave

16. An employee who wishes to return to work before the end of ordinary or additional maternity leave must now give her employer twenty-one days' notice of her intention. An employer may no longer postpone an employee's return to work after the end of the relevant maternity leave period. These changes require the following amendments to sub-paragraph 7:

- (a) Members who have less than one year's continuous service.

A member who qualifies for leave under sub-paragraph 4(a) above shall notify the authority, in writing if requested, at least ~~seven~~ *twenty-one* days before the day on which she proposes to return of the date of her intended return if this is before the end of ~~the eighteen weeks²~~ *her ordinary maternity leave. This notice period may be reduced with the consent of the authority.*

- (b) Members who have completed not less than one year's continuous service.

A member who qualifies for leave under sub-paragraph 4(c) above shall notify the authority, in writing if requested, at least twenty-one days before the day on which she proposes to return of the date of her intended return *if this is before the end of the period of additional maternity leave. This notice period may be reduced with the consent of the authority.* ~~The authority may postpone her return to work until a date not more than twenty eight days after the notified date of return. to do this the authority's notification shall be conveyed to the officer before the notified date of return and shall give the reasons for postponing her return until the later date.~~

- (c) All members.

- (i) *If a member returns to work before the end of a maternity leave period without having provided the necessary notice under (a) or (b) above, the 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).*

- (ii) For a member where, because of an interruption of work (whether due to industrial or some other reason), it is unreasonable to expect her to return *at the end of her maternity leave* ~~or on the notified day or on the day notified under (a) or (b) above~~, she may instead return when work resumes or as soon as reasonably practicable thereafter.

17. The current sub-paragraph (7)(c)(i) has been deleted as sickness is no longer regarded as a postponement of return from maternity leave (see paragraph 19 below).

18. The current sub-paragraph (7)(c)(iii) has been deleted as there is no longer an obligation to provide a date of return (see paragraph 13 above).

Relationship with sickness

19. Sickness is no longer regarded as a postponement of return from maternity leave. This requires the insertion of a new sub-paragraph 8(b):

- (b) *Where a member is unable to return to work on the expected date due to sickness she 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 Section IV.*

Relationship with annual leave

20. All maternity leave now counts towards the accrual of the minimum annual leave entitlement under the Working Time Regulations (currently four weeks). The NJC has agreed that this principle should apply to all annual leave in the Grey Book. This requires the following amendment to sub-paragraph 8(b) (and its redesignation as 8(c)):

- (c) ~~Paid maternity leave and authorised unpaid maternity leave of up to and including twenty two weeks² duration~~ *Maternity leave shall be regarded as service for the purpose of calculating annual and long service leave entitlements.*

Relationship with public holidays

21. The statutory entitlement under the Employment Relations Act for all the normal terms and conditions of employment (other than terms relating to remuneration) to continue during ordinary maternity leave includes the right to time off in lieu of any public holiday that falls during this period. This requires the insertion of a new sub-paragraph 8(d):

(d) *Time off in lieu shall be granted for any public holiday that falls during the period of ordinary maternity leave.*

Health and safety

22. The NJC has agreed to incorporate the following sub-paragraph 13 into the maternity leave provisions to remind authorities of their statutory obligations under health and safety legislation:

(13) **HEALTH AND SAFETY**

Authorities are reminded that:

- (a) *The Workplace (Health, Safety and Welfare) Regulations 1992 require employers to provide, where reasonable, suitable rest facilities for pregnant women and nursing mothers.*
- (b) *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.*

Modified duties and working hours

23. The NJC has agreed the following amendments to the note at the foot of the maternity provisions in the Grey Book in order to make it clear that any proposal to modify a member's duties or move her away from working night shifts should be undertaken in consultation with the member and should be based on medical advice, not solely because she is pregnant:

Authorities are advised that, ~~in the case of firefighters,~~ when pregnancy is suspected, medical advice should be sought immediately as to whether the member can continue ~~in a firefighting capacity to perform her current duties.~~ At the point when her doctor advises her that she can no longer continue ~~as a firefighter to perform her current duties or work her current pattern of hours~~ the member should be ~~transferred to light duties~~ ~~immediately~~ consulted immediately ~~over any appropriate change in either of these.~~ ~~In either case she shall continue to receive while retaining~~ her normal pay (in the case of retained members normal pay for this purpose shall be calculated in accordance with sub-paragraph 11(b) above). Similarly, on her return to work following the birth and normal maternity leave, there may be a period during which ~~light duties~~ ~~a change in her 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.

24. A revised Section XII paragraph 2 of the Grey Book is **attached** at Appendix A.

Parental leave

25. The NJC has agreed a number of amendments to the parental leave provisions at Section XII paragraph 5 of the Grey Book. Most of these arise from legislative changes contained in the Employment Relations Act 1999 and the Maternity and Parental Leave Regulations 1999.

Length of parental leave entitlement

26. The NJC has agreed to express the entitlement as thirteen weeks rather than three months to make it consistent with the legislation. This requires the following amendment to the introductory part of sub-paragraph (1) (the deletion of the phrases “whether fathers or mothers” and “to be taken before the child’s eighth birthday” arises from other amendments explained below):

- (1) All members (~~whether fathers or mothers~~) shall be entitled to take up to ~~three months’~~ *thirteen calendar weeks’* unpaid leave in parts or in a block following the birth or adoption of a child, ~~to be taken before the child’s eighth birthday~~, provided that:

Those entitled to take parental leave

27. The definition contained in the legislation is broader than that currently contained in the Grey Book. This requires the insertion of a new sub-paragraph (1)(i) (clause (f) reflects that the NJC has also agreed that other nominated carers should be included, including those of the same sex, where the fire authority is satisfied that that person is taking parental responsibility):

- (i) *the member is:*
- (a) *the mother of the child;*
 - (b) *the father of the child if he was married to the mother at the time of birth or he is registered as the child’s father;*
 - (c) *the father (if not covered by the above) if he has acquired parental responsibility under the Children Act 1989 or Children (Scotland) Act 1985. This is done either by a court order or an agreement between the mother and father which complies with legal requirements;*
 - (d) *a guardian appointed under Section 5 of the Children Act 1989;*
 - (e) *an adoptive parent;*
 - (f) *any other nominated carer where the fire authority is satisfied that that person is taking parental responsibility.*

Qualifying service

28. The legislation provides an entitlement to parental leave after one year’s service whereas the current Grey Book agreement provides an entitlement after initial training, which will usually be shorter but could in some circumstances be longer. The NJC has agreed the following amendment to sub-paragraph (1)(i) (redesignated as sub-paragraph (1)(ii)) to reconcile this disparity:

- (ii) *the member has successfully completed initial training or after one year’s service, whichever is the sooner;*

Notice period

29. The legislation specifies a minimum period of twenty-one days’ notice of intention to take parental leave. This has been incorporated in the NJC’s agreement and requires the following amendment to sub-paragraph (1)(ii) (redesignated as sub-paragraph (1)(iii)):

- (iii) *reasonable notice (a minimum of twenty-one days) is provided to the fire authority of when leave is to be taken;*

Postponement

30. The legislation defines a maximum postponement period and the process for handling postponement. This requires the following amendment to sub-paragraph (1)(iii) (redesignated as sub-paragraph (1)(iv)):

- (iv) the fire authority may postpone, *for not longer than six months from the start date of the time requested*, when such leave is to be taken for pressing operational reasons (eg where a replacement cannot be found during the notice period for a post that has to be filled or a significant number of members have applied for parental leave at the same time). *Where the authority requires such postponement, the situation should firstly be discussed with the member. The member must then be advised, in writing, by no later than seven days after his or her notice to take leave of the reason for the postponement and the new dates of the parental leave. The length of leave should be equivalent to the member's original request. If no agreement can be reached after consultation the authority will determine the appropriate dates. Leave cannot be postponed where a member has given twenty-one days' notice prior to the beginning of the expected week of childbirth to take the leave immediately after the time the child is born. In cases of adoption, leave cannot be postponed where the member has (except in exceptional circumstances) given twenty-one days' notice of the expected week of placement.*

Period during which leave may be taken

31. The current Grey Book agreement says that the leave must be taken by the child's eighth birthday but the legislation extends this entitlement in the case of adopted children and children with disabilities. The NJC has also agreed to encourage authorities to use their discretion to extend these provisions in the case of children with disabilities. These changes require the insertion of the following new sub-paragraph (2):

- (2) *The period during which leave may be taken is as follows:*
- (i) *in the case of leave following the birth of a child, the leave is to be taken by the child's eighth birthday;*
- (ii) *in the case of adoption, the leave is to be taken within eight years of the placement or before the child's eighteenth birthday, whichever is the sooner;*
- (iii) *in the case of a child with a disability, the leave is to be taken by the child's eighteenth birthday though authorities may wish to give sympathetic consideration to extending this time limit and/or increasing the amount of leave that can be taken.*

Return to work

32. The existing sub-paragraph 2 has been replaced by the following sub-paragraphs (3)(i) and 3(ii), which reflect the different legislative provisions for leave of four weeks or less, leave in excess of four weeks and leave following additional maternity leave:

- (i) *At the end of parental leave, the member is guaranteed the right to return to his or her current post if the leave was for a period of four weeks or less; if it was for a longer period the member is entitled to return to his or her current post, or, if that is not practicable, a similar post which has the same or better status, terms and conditions as the current post.*
- (ii) *Where parental leave lasts for four weeks or less and follows additional maternity leave the member is entitled to return to the same post as she would have been entitled to*

return to after her additional maternity leave. If the parental leave is for a longer period than four weeks, she can return to the same post as she would have been entitled to return to after her additional maternity leave, unless it is not reasonably practicable to keep that post open. If that is the case, she is entitled to a similar post which has the same or better status, terms and conditions as the old post.

Relationship with maternity support leave

33. Members are currently entitled to paid maternity support leave of five working days under Section XII paragraph 3 of the Grey Book. As paid maternity support leave entitlement sits alongside the entitlement to parental leave, it is of greater benefit to the member to use their maternity support leave for the first five working days of parental leave. This requires the following sub-paragraph (4) to be inserted in the parental leave agreement:

(4) The entitlement to thirteen calendar weeks' parental shall be reduced by the period of any maternity support leave taken under paragraph 3.

34. A revised Section XII paragraph 5 of the Grey Book is **attached** at Appendix B.

Maternity support leave

35. The NJC has agreed that authorities may consider giving reasonable time off to partners of expectant mothers to attend ante-natal, relaxation and parentcraft classes. This requires the addition of a new sub-paragraph (2) to Section XII paragraph 3:

(2) Subject to the exigencies of duty, the authority may wish to give sympathetic consideration to reasonable time off for partners of expectant mothers to attend ante-natal, relaxation and parentcraft classes.

36. The changes to the parental leave agreement at paragraph 33 above require the addition of the following sub-paragraph (3) to the maternity support leave provisions:

(3) The entitlement to thirteen calendar weeks' parental leave under paragraph 5 shall be reduced by the period of any maternity support leave taken.

37. A revised Section XII paragraph 3 of the Grey Book is **attached** at Appendix C.

Time off for dependants

38. The Employment Relations Act gives employees the right to take a reasonable period of time off work to deal with an emergency involving a dependant. This came into force on 15th December 1999. There is no qualifying period of employment and the leave is without pay though the NJC has agreed to give authorities the discretion to determine that such leave is with pay. This is consistent with the existing Grey Book provision for special leave.

39. A new Section XII paragraph 10 of the Grey Book is **attached** at Appendix D.

Special leave

40. The NJC has agreed to make the following amendment to the special leave provisions at Section XII paragraph 6(3)(i) of the Grey Book to emphasise that there are existing family care provisions that exceed those contained in the new agreement on time off for dependants:
- (i) family leave (to cover periods of care for an elderly relative or other family member with a disability or who becomes ill or who requires assistance for other non-medical reasons *that are not covered by paragraph 10 below*).
41. A revised Section XII paragraph 6 of the Grey Book is **attached** at Appendix E.

Yours faithfully
CHARLES NOLDA
ANDY GILCHRIST
Joint Secretaries

APPENDIX A

Revised section XII paragraph 2 of the Grey Book

2. Maternity provisions

(1) APPLICATION OF THESE PROVISIONS

The following shall apply to all pregnant members of brigades regardless of the number of hours worked per week. Nothing in these provisions shall be construed as providing rights less favourable than statutory rights.

(2) INITIAL OBLIGATIONS ON THE MEMBER

A member shall notify the fire authority at least twenty-one days before her absence begins or as soon as is reasonably practicable:

- (a) that she is pregnant and the expected week of childbirth (EWC) (an authority can request the member to produce a certificate from a registered medical practitioner or a certified midwife stating the EWC); and
- (b) in writing, if requested by the authority, of the date of the beginning of her absence; and
- (c) in writing, if requested by the authority, that she intends to return to work with her employer if that is her intention (for members who qualify under sub-paragraph 5(b)(ii) below).

(3) ANTE-NATAL CARE

Any pregnant member has the right to paid time off to attend for ante-natal care, including relaxation and parentcraft classes, and must produce evidence of appointments if requested to do so by the authority.

(4) MATERNITY LEAVE ENTITLEMENT

- (a) Members who have less than one year's continuous local government service at the beginning of the eleventh week before EWC shall have an entitlement to remain absent for up to eighteen weeks.
- (b) At the discretion of the authority the member may be allowed leave without pay in excess of the eighteen-week period.
- (c) Members who have completed not less than one year's continuous local government service at the beginning of the eleventh week before the EWC shall have an entitlement to eighteen weeks' ordinary maternity leave with pay (see sub-paragraph 5 below) and to remain absent on additional maternity leave up to twenty-nine weeks from the beginning of the week in which the birth occurs.
- (d) 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 commence on the day the birth occurs.
- (e) Additional maternity leave commences on the day after the last day of the member's ordinary maternity leave.

(5) MATERNITY PAY

- (a) Payments for members who have less than one year's continuous local government service at the beginning of the eleventh week before the EWC shall be the member's entitlement to Statutory Maternity Pay (SMP).
- (b) Payments for members who have completed not less than one year's continuous local government service at the eleventh week before EWC shall be as follows:
 - (i) for the first six weeks of absence a member shall be entitled to nine tenths of a week's pay offset against payments made by way of SMP or Maternity Allowance (MA) for members not eligible for SMP;
 - (ii) if she has declared her intention to return to work then for the subsequent twelve weeks she shall be paid half a week's pay without deduction except by the extent to which the

combined pay and SMP (or MA and any dependants' allowances if the member is not eligible for SMP) exceeds full pay;

- (iii) for members not intending to return to work payments during the subsequent twelve weeks shall be the member's entitlement to SMP;
- (iv) payments made by the authority during maternity leave under (ii) above shall be made on the understanding that the member will return to fire service employment for a period of at least three months, which may be varied by the authority on good cause being shown and, in the event of her not doing so, she shall refund monies paid, or such part thereof, if any, as the authority may decide. Payments made to the member by way of SMP are not refundable.

(6) **RIGHT TO RETURN TO WORK**

- (a) Subject to sub-paragraph (b) below the member 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 which would have been applicable to her if she had not been absent. For this purpose "job" 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 a member, to return to her work as defined in sub-paragraph (a) above the member 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 (eg a general reorganisation), which would have occurred if the member 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.

(7) **EXERCISE OF THE RIGHT TO RETURN TO WORK**

- (a) Members who have less than one year's continuous service.
A member who qualifies for leave under sub-paragraph 4(a) above shall notify the authority, in writing if requested, at least twenty-one days before the day on which she proposes to return of the date of her intended return if this is before the end of her ordinary maternity leave. This notice period may be reduced with the consent of the authority.
- (b) Members who have completed not less than one year's continuous service.
A member who qualifies for leave under sub-paragraph 4(c) above shall notify the authority, in writing if requested, at least twenty-one days before the day on which she proposes to return if this is before the end of the twenty-nine weeks' additional maternity leave. This notice period may be reduced with the consent of the authority.
- (c) All members.
 - (i) If a member returns to work before the end of a maternity leave period without having provided the necessary notice under (a) or (b) above, the 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).
 - (ii) For a member where, because of an interruption of work (whether due to industrial action or some other reason), it is unreasonable to expect her to return at the end of her maternity leave or on the day notified under (a) or (b) above, she may instead return when work resumes or as soon as reasonably practicable thereafter.

(8) **RELATIONSHIP WITH SICKNESS, ANNUAL LEAVE AND PUBLIC HOLIDAYS**

- (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) Where a member is unable to return to work on the expected date due to sickness she 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 Section IV.
- (c) Maternity leave shall be regarded as service for the purpose of calculating annual and long service leave entitlements.
- (d) Time off in lieu shall be granted for any public holiday that falls during the period of ordinary maternity leave.

- (9) **PREMATURE BIRTH**
Where a baby is born prematurely authorities should consider each case on its merits and the action required. For example, extension of the maternity leave period might be appropriate. The necessary discretion exists under the scheme.

- (10) **DEATH OR STILL BIRTH OF A CHILD**
If the baby dies or is stillborn after twenty-four weeks' pregnancy the scheme applies. Where this occurs before twenty-four weeks (miscarriage) authorities should give sympathetic consideration to the circumstances and where necessary grant special leave or sick leave, as appropriate, on the basis of the individual circumstances. The decision should be advised by the needs of the member and medical opinion.

- (11) **DEFINITION OF A WEEK'S PAY**
 - (a) For whole-time members the term "a week's pay" means the amount payable by the authority to the member under the current contract of employment for working her normal hours in a week.
 - (b) For retained members the term "a week's pay" means the average remuneration in the period of 12 weeks preceding the date on which the last complete week before the commencement of light duties ended, excluding any week in which payments were made under Section IV paragraph 2 or Section VII paragraph 14(2).

- (12) **DEFINITION OF CHILDBIRTH**
Childbirth means the birth of a living child or a still birth after a pregnancy lasting at least twenty-four weeks.

- (13) **HEALTH AND SAFETY**
Authorities are reminded that:
 - (a) the Workplace (Health, Safety and Welfare) Regulations 1992 require employers to provide, where reasonable, suitable rest facilities for pregnant women and nursing mothers;
 - (b) 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.

Note: Authorities are advised that, when pregnancy is suspected, medical advice should be sought immediately as to whether the member can continue to perform her current duties. At the point when her doctor advises her that she can no longer continue to perform her current duties or work her current pattern of hours the member should be consulted immediately over any appropriate change in either of these. In either case she shall continue to receive her normal pay (in the case of retained members normal pay for this purpose shall be calculated in accordance with subparagraph 11(b) above). Similarly, on her return to work following the birth and normal maternity leave, there may be a period during which a change in her 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.

Revised Section XII paragraph 5 of the Grey Book

5. Parental leave

- (1) All members shall be entitled to take up to thirteen calendar weeks' unpaid leave in parts or in a block following the birth or adoption of a child provided that:
 - (i) the member is:
 - (a) the mother of the child;
 - (b) the father of the child if he was married to the mother at the time of birth or he is registered as the child's father;
 - (c) the father (if not covered by the above) if he has acquired parental responsibility under the Children Act 1989 or Children (Scotland) Act 1985. This is done either by a court order or an agreement between the mother and father which complies with legal requirements;
 - (d) a guardian appointed under Section 5 of the Children Act 1989;
 - (e) an adoptive parent;
 - (f) any other nominated carer where the fire authority is satisfied that that person is taking parental responsibility.
 - (ii) the member has successfully completed initial training or after one year's service, whichever is the sooner;
 - (iii) reasonable notice (a minimum of twenty-one days) is provided to the fire authority of when leave is to be taken;
 - (iv) the fire authority may postpone, for not longer than six months from the start date of the time requested, when such leave is to be taken for pressing operational reasons (eg where a replacement cannot be found during the notice period for a post that has to be filled or a significant number of members have applied for parental leave at the same time). Where the authority requires such postponement, the situation should firstly be discussed with the member. The member must then be advised, in writing, by no later than seven days after his or her notice to take leave, of the reason for the postponement and the new dates of parental leave. The length of leave should be equivalent to the member's original request. If no agreement can be reached after consultation the authority will determine the appropriate dates. Leave cannot be postponed where the member has given twenty-one days' notice prior to the beginning of the expected week of childbirth to take the leave immediately after the time the child is born. In the case of adoption, leave cannot be postponed where the member has (except in exceptional circumstances) given twenty-one days' notice of the expected week of placement.
- (2) The period during which leave may be taken is as follows:
 - (i) in the case of leave following the birth of a child, the leave is to be taken by the child's eighth birthday;
 - (ii) in the case of adoption, the leave is to be taken within eight years of the placement or before the child's eighteenth birthday, whichever is the sooner;
 - (iii) in the case of a child with a disability, the leave is to be taken by the child's eighteenth birthday, though authorities may wish to give sympathetic consideration to extending this time limit and/or increasing the amount of leave that can be taken.
- (3)
 - (i) At the end of parental leave, the member is guaranteed the right to return to his or her current post if the leave was for a period of four weeks or less; if it was for a longer period the member is entitled to return to his or her current post, or, if that is not practicable, a similar post which has the same or better status, terms and conditions as the current post.

- (ii) Where parental leave lasts for four weeks or less and follows additional maternity leave the member is entitled to return to the same post as she would have been entitled to return to after her additional maternity leave. If the parental leave is for a longer period than four weeks, she can return to the same post as she would have been entitled to return to at the end of her additional maternity leave, unless it is not reasonably practicable to keep that post open. If that is the case, she is entitled to a similar post which has the same or better status, terms and conditions as the old post.
- (4) The entitlement to thirteen calendar weeks' parental leave shall be reduced by the period of any maternity support leave taken under paragraph 3.

Revised Section XII paragraph 3 of the Grey Book

3. Maternity support leave

- (1) Paid maternity support leave of at least five working days (for members conditioned to the shift duty system this will be four duty shifts) shall be granted to the child's father or the partner or the nominated carer of an expectant mother at or around the time of the birth. A nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth.
- (2) Subject to the exigencies of duty, the authority may wish to give sympathetic consideration to reasonable time off for partners to attend ante-natal, relaxation and parentcraft classes.
- (3) The entitlement to thirteen calendar weeks' parental leave under paragraph 5 shall be reduced by the period of any maternity support leave taken.

Revised Section XII paragraph 10 of the Grey Book

10. Time off for dependants

- (1) For the purposes of this section “dependant” means, in relation to the member:
 - (i) a spouse;
 - (ii) a child;
 - (iii) a parent;
 - (iv) a person who lives in the same household as the member, otherwise than by reason of being his or her employee, tenant, lodger or boarder;
 - (v) in the case of illness or injury, or where care arrangements break down, a dependant may also be someone who reasonably relies on the member for assistance, eg where the member is the primary carer or the only person who can help in an emergency.
- (2) A member is entitled to take a reasonable amount of time off during his or her working hours, normally not more than one or two days, in order to take action which is necessary:
 - (i) to provide assistance on an occasion when a dependant falls ill, gives birth (this does not include taking time off after the birth to care for the child) or is injured or assaulted;
 - (ii) to make arrangements for the provision of care for a dependent who is ill or injured;
 - (iii) in consequence of the death of a dependant;
 - (iv) to deal with an incident which involves a child of the member and which occurs unexpectedly in a period during which an educational establishment which the child attends is responsible for him or her;
 - (v) to deal with unexpected termination or disruption of care arrangements.
- (3) Where time off is taken in any of the above circumstances the member is required to inform the authority of the reason for, and anticipated length of, his or her absence, as soon as reasonably practicable. There may be exceptional circumstances where a member returns to work before it was possible to contact the authority. In such cases, the authority should still be advised of the reason for absence on returning.
- (4) It shall be for the authority to determine whether such leave is with or without pay.

Revised Section XII paragraph 6 of the Grey Book

6. Special leave

- (1) Section IIID provides authorities with enabling provisions to grant special leave either with or without pay.
- (2) Section XII paragraph 10 provides time off for dependants.
- (3) Fire authorities may wish to grant additional paid or unpaid leave under the special leave provisions that would extend the entitlements set out above. Where members have responsibilities for children with special needs they may wish to give particularly sympathetic consideration to such extensions.
- (4) Fire authorities may also wish to consider granting special leave in other circumstances where members have family or other domestic responsibilities for which they might request leave. Such circumstances could include:
 - (i) family leave (to cover periods of care for an elderly relative or other family member with a disability or who becomes ill or who requires assistance for other non-medical reasons not covered by paragraph 10 below);
 - (ii) visiting relatives overseas.