

**WRITTEN QUESTION TO THE CHIEF MINISTER
BY DEPUTY G.P. SOUTHERN OF ST. HELIER
ANSWER TO BE TABLED ON TUESDAY 10th DECEMBER 2013**

Question

Further to his statement of the 19th November 2013 on public sector pay in which he referred to “a harmonised maternity policy”, will the Chief Minister inform members what the terms of this policy are, which employee groups are affected and how it compares with UK equivalents?

Answer

The current Maternity Policy, which was re-drafted and agreed in consultation with Trades Union representatives, applies to all employees of the States of Jersey.

Before this policy was agreed there were a number of maternity policies applicable to different pay groups. This meant women in different areas were treated differently, which was inequitable. The new policy has ensured a consistent approach across the organisation.

You can read the full Maternity Policy below.

Under the UK’s maternity legislation a qualifying employee is entitled to 90% pay for the first 6 weeks (offset against Statutory Maternity Pay, SMP), then for up to a further 12 weeks they can be paid their SMP and half pay. Between 19 weeks and 39 weeks, they are paid their SMP entitlement, then from week 40 to 52 any further leave is unpaid. It is compulsory for an employee to take 2 weeks leave after the birth of the baby. An employee becomes eligible for maternity benefits after 26 weeks continuous employment in the UK.

MATERNITY LEAVE

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Version	v 1.0
Author	Employment Relations
Effective Date	01 May 2013
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Policy Status	Contractual
Application	All Pay Groups
This policy supersedes all previous policies, circulars and agreements connected with Maternity within the States of Jersey and applies to all Pay Groups	

Contents

Page

1. Policy Statement	3
2. Policy Aims	3
3. Who does this Policy apply to	3
4. Key Principles	3
5. Links to Other Policies	4
6. Roles and Responsibilities	4
7. Policy Provisions	5
8. Glossary of Terms	10

This policy should be read in conjunction with the Management and Employee Guidelines on Maternity Leave.

1 Policy Statement for Maternity Leave

- 1.1 It is the aim of the States of Jersey to ensure that as far as possible all employees are able to combine their career and family responsibilities.
- 1.2 The States of Jersey values the contributions of all its employees and every effort will be made to support female employees throughout the maternity period and to encourage them to return to work from their Maternity Leave.
- 1.3 The States of Jersey aims ensure equality and consistency in terms and conditions which relate to the management of employees who are entitled to Maternity Leave and related pay.

2 Policy Aims

- 2.1 The purpose and aim of this policy is to:
- Provide clear guidance to managers and employees about Maternity Leave and related pay entitlements.

3 Who does this Policy apply to?

- 3.1 This policy applies to all pregnant female employees¹ of the States of Jersey on permanent and non-permanent contracts of employment.
- 3.2 It does not apply to:
- Workers who are engaged on zero hours agreements
 - Workers who are engaged on UK training contracts
 - Workers who work for the States of Jersey through a contract for services on an interim, locum, self-employed, or agency basis;
 - Voluntary staff or those on honorary contracts where there is no implied contract of employment.

4 Key Principles

- 4.1 A standard set of underpinning principles has been developed for this Policy and will apply to all States of Jersey Human Resources Policies, and terms and condition of service. These principles can be found under Policies on the States intranet.

In addition the following principles also apply:

¹ Throughout this policy the term 'employee' is used to include all employees and all office holders of the States of Jersey.

- No female employee will suffer detriment of any kind as a result of being pregnant or taking Maternity Leave;
- A female employee may not be dismissed for reasons of pregnancy or for taking Maternity Leave irrespective of their length of employment.

5 Links to other Policies

5.1 Other policies and documents which may be helpful when considering this policy are:

- Equality & Diversity
- Flexible Working
- Career Break
- Parental Leave
- Adoption leave
- Health & Safety & Wellbeing
- Sickness Entitlement & Leave
- Redeployment

6 Roles and Responsibilities under this Policy

In addition to the generic policy responsibilities which can be found on the Policy intranet page, specific to this policy:

6.1 **Employees** are responsible for:

- Providing written notification of their Maternity Leave to their Line Manager in line with the timescales in this policy.

6.2 **Line Managers** are responsible for ensuring that:

- They maintain regular contact with the employee during their Maternity Leave, and that they are kept informed of any changes within the department and any vacancies which arise as a result of organisational change which may affect them;
- They consider any requests from the employee if they want to return to work on a part-time, job share or other flexible working arrangements, in line with the States Flexible Working Policy;
- They inform the Payroll Officer, Treasury & Resources, of the date that the employee will return to work;
- Ensuring that a health and safety risk assessment is carried out where the employee's work activity could put the health of her and her baby at risk.

6.3 **Human Resources (HR)** are responsible for:

- Together with Line Managers and Payroll ensuring that employees are properly recompensed during the period of their Maternity Leave.

7 Maternity Leave Provisions

7.1 **Entitlement (See also 7.3)**

	ENTITLEMENT			
	Ordinary Leave	Maternity	Extended Leave	Maternity
WHO	2 weeks paid at 100% ³	10 weeks paid at 90% ^{2,3}	Further 6 weeks unpaid	18 weeks up to 26 weeks unpaid ¹
All pregnant employees see 7.1.1	√	-	-	-
Employees who have completed 1 years' service, including a satisfactory probation period (or if the probationary period is longer than 1 year completed it successfully so far) at the end of their qualifying week (i.e the end of the 15 th week before her expected week of childbirth) and are still employed during that week can apply for 18 weeks Maternity Leave.	√	√	√	√
Pregnant employees on a fixed term contract, with over 1 years' service	√	√ ⁴	√ ⁴	√ ⁴
Table Foot Notes				
<p>1. After a total of 18 weeks, a further extension up to 26 weeks is at the employee's request.</p> <p>2. Subject to the employee returning to work for at least 13 weeks following Maternity Leave. If they subsequently choose not to return to work for all of the 13 weeks, then the 10 weeks of 90% pay will be recovered proportionally to the amount of weeks actually worked following Maternity Leave.</p> <p>3. Less Social Security Maternity Allowance.</p> <p>4. Subject to a minimum of 1 year remaining on their contract at the end of the Maternity Leave period.</p>				

	ENTITLEMENT			
	Ordinary Leave	Maternity	Extended Leave	Maternity
WHO	2 weeks paid at 100% ³	10 weeks paid at 90% ^{2,3}	Further 6 weeks unpaid	18 weeks up to 26 weeks unpaid ¹

7.1.1 All pregnant employees are required to take 2 weeks Maternity Leave following the birth of their baby regardless of length of service.

7.2 Notification of Maternity Leave

7.2.1 The employee must decide, following medical advice, when she will start her Maternity Leave. She must notify her Line Manager, in writing as soon as possible but no later than the end of the 15th week (the 'qualifying' week) before her expected week of childbirth (EWC).

7.2.2 The employee must also state in writing her intention to return to work on the same number of hours as she worked prior to taking Maternity Leave. (See also section 7.8.5)

7.2.3 As far as possible, at least 28 days (4 weeks) written notice must be given if the employee wishes to change the start of her Maternity Leave.

7.3 Maternity Pay

7.3.1 Regardless of length of service the employee will be paid 100% of their normal pensionable pay (non-pensionable pay is excluded) for the first 2 weeks of her Maternity Leave.

7.3.2 If the employee has worked for the States of Jersey for over a year on a permanent contract or is on a fixed term contract with at least one year remaining at the end of the period of Maternity Leave, they will be paid 90% of their normal pensionable pay (this does not include standby, call-out and allowances which are not pensionable) for a further 10 weeks of their Maternity Leave.

7.3.3 The Social Security Maternity Allowance will be offset against maternity payments regardless of whether the employee is receiving the allowance.

7.4 Pensions

7.4.1 The full period of Maternity Leave will only count as pensionable service under the Public Employees Contributory Retirement Scheme (PECRS) or Jersey Teachers

Superannuation Fund (JTSF) if the employee is a member of the scheme and opts to continue her contributions as if her pay had not been interrupted for the period of unpaid leave. The Employer will continue to pay its percentage of contributions in this case. The whole period of Maternity Leave will then count as pensionable service.

7.4.2 The first 12 weeks of paid maternity leave are subject to deductions for pension contributions.

7.4.3 An employee who has opted to continue paying pension contributions into either the PECRS or JTSF scheme during the period of paid leave could be disadvantaged if she discontinues these payments during the same period of unpaid leave.

7.4.4 If an employee opts to discontinue her contributions to the relevant scheme, the period of Maternity Leave will not count as pensionable service. However, the period will still count towards qualifying service.

7.5 **Time off for Ante-natal Care**

7.5.1 Expectant mothers will be given paid time off to attend ante-natal appointments.

7.5.2 The Employer may require the employee to show evidence of their appointment to their Line Manager and give reasonable notice of such appointments.

7.6 **Annual Leave**

7.6.1 Annual leave will accrue during the paid weeks of Maternity Leave.

7.6.2 The remaining 6 unpaid weeks (or 14 weeks if the employee extends their Maternity Leave to a total of 26 weeks) will count as continuous service for employment purposes, but does not attract annual leave.

7.7 **Employee Benefits**

7.7.1 During paid Maternity Leave the employee has a right to continue to benefit from the terms and conditions of employment which would have applied had they been at work instead of on leave, except for the terms of providing for the employee's salary.

7.7.2 Whilst on Maternity Leave employees are still obliged to follow the Code of Conduct applicable to them.

7.8 **Returning to work**

7.8.1 It is expected that the employee will normally return to work within 1 month of the notified date of return. (For Teachers the return to work would be expected to be the start of the next full or half term.) If this is not possible the employee must discuss this with her Line Manager and HR and agree an alternative date.

- 7.8.2 Except during the first 2 weeks from the day of childbirth, all employees who take Maternity Leave have the right to return to work at any time during either Ordinary Maternity Leave (first 12 weeks) or Additional Maternity Leave (up to 26 weeks), subject to her following the correct notification process.
- 7.8.3 Where it is not possible for the employee to return to her former post, every effort will be made to appoint them to another post in the same grade in the same department. Failing this, employment will be at the same grade elsewhere in the States of Jersey.
- 7.8.4 If an employee wants to return to work earlier than the date agreed when notifying Maternity Leave (7.2.2), she must put her request in writing to her Line Manager, giving 28 days (or 4 weeks) notice of her return to work. Where possible the new date will be accommodated.
- 7.8.5 An employee may apply to work reduced hours on returning to work subject to the agreement of her Line Manager depending on business and operational need.
- 7.8.6 Any further period of unpaid leave is not deemed to be Maternity Leave and will be considered under the relevant policy (see section 5).

7.9 Not returning to work

- 7.9.1 If the employee chooses not to return to work at the end of her Maternity Leave, she should submit the requisite contractual notice to terminate her contract.
- 7.9.2 In such circumstances then the employee must repay 10 weeks of 90% pay (less any Maternity Allowance received).

7.10 Sickness & Maternity Leave

The following provisions (7.10.1 and 7.10.3) are subject to the usual certification requirements when an employee is absent for reasons of sickness.

7.10.1 Sickness before commencement of Maternity leave

If an employee is absent for a pregnancy related reason in the 4 weeks before their EWC and does not return, her Maternity Leave is automatically triggered. This applies even if she has already notified a later Maternity Leave start date.

If the employee is absent for a non-pregnancy related reason her original Maternity Leave start date still applies and normal entitlement to sick pay applies, until her EWC.

7.10.2 Sickness during Maternity Leave

Illness whilst on paid or unpaid Maternity Leave does not entitle the employee to contractual sick pay.

7.10.3 **Sickness on return from Maternity Leave**

If an employee is ill and unable to return to work on a date previously notified, she must provide a doctor's medical certificate to cover any period of sickness absence. An employee will be required to return to work before entitlement to sick pay can be triggered. If there are exceptional circumstances which affect this, they will be looked at on a case by case basis.

7.11 **Keeping in Touch ('KIT') Days**

7.11.1 If the employee wishes, they may after the first 2 weeks of their Maternity Leave, come into their department for an agreed period of time. This work is unpaid and the employee is expected to make appropriate childcare arrangements for this visit. The employee's Line Manager is also expected to keep in regular contact with them during their Maternity Leave.

7.12 **Health & Safety**

7.12.1 The employer is required to protect the health and safety at work of all employees and others, including new and expectant mothers, by carrying out a risk assessment. It is the responsibility of the Line Manager to arrange this where the work activity of the pregnant employee could put her and her baby at risk.

7.12.2 If a risk is identified that could jeopardise the health and safety of a new or expectant mother or her baby, first consideration will be given to removing the hazards or preventing exposure to the risk. If the risk still cannot be avoided, further steps to protect the health and safety of the pregnant employee must be taken - changes in her working conditions or hours or offers of suitable alternative work should be considered as options.

7.13 **Early Birth**

7.13.1 Employees who give birth before their Maternity Leave start date or their EWC are still entitled to the same number of weeks' Maternity Leave, but this will commence automatically from the date of the baby's birth.

7.14 **Miscarriage or Stillbirth**

7.14.1 A miscarriage or stillbirth earlier than the 24th week of pregnancy does not qualify the employee for Maternity leave, Maternity pay or Maternity Allowance. Any sickness absence from work following such an event will be treated as normal sickness.

7.14.2 A stillbirth during or after the 25th week of pregnancy qualifies an employee for Maternity Leave and pay in the usual way.

7.15 **Breastfeeding**

- 7.15.1 A mother who is breastfeeding may request short term flexible arrangements with her Line Manager to accommodate this. Any such request should be discussed prior to return from Maternity Leave and will be looked at alongside operational demands and available facilities. Any breaks away from the workplace are without pay.

8 **Glossary of Terms** used in this Policy

Term	Meaning
Expected week of childbirth (EWC)	EWC means the week, starting on a Sunday during which the doctor or midwife expects the employee to give birth
Qualifying week	the 15 th week before the expected week of childbirth
Ordinary Maternity Leave	The period of Maternity Leave taken up to and including the 12th week which may be paid.
Extended Maternity Leave	The period of Maternity Leave taken between 18 and 26 weeks which is unpaid.
Normal pensionable pay	The amount of an employee's remuneration which is pensionable.
PECRS	Public Employees Contributory Retirement Scheme
JTSF	Jersey Teachers Superannuation Fund
Pensionable service	The length of Scheme membership measured in years and days. It can also include extra service credited to an employee under a transfer from another pension arrangement, and extra years purchased if you pay additional voluntary contributions.
Qualifying service for pensions	This is the length of Scheme membership measured in years and days including service as a member of other pension schemes from which a transfer value has been received.