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Council

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Dear Colleague

JNC 16 (Revised)
LEAVE OF ABSENCE/SPECIAL LEAVE POLICY FOR TEACHERS, QUALITY
IMPROVEMENT OFFICERS, EDUCATIONAL PSYCHOLOGISTS AND MUSIC
INSTRUCTORS

Renfrewshire Council Joint Negotiating Committee for Teachers (JNC) has approved an agreement on leave of absence/special leave. The agreement is attached as an appendix.

Yours faithfully

David Marshall (Corporate Services)
Ian McCrone (Teachers' Panel)
Joint Secretaries

**Leave of Absence/Special Leave Policy for
Teachers, Quality Improvement Officers,
Educational Psychologists and Music
Instructors.**

Policy, practical advice and guidance

**Renfrewshire Council
Department of Education and Leisure
Services**

Leave of Absence / Special Leave

There are a number of reasons and circumstances, which would lead to teaching staff accessing or requesting leave of absence.

Prior to the 2001 agreement 'A teaching profession for the 21st century' information on leave of absence was covered by a range of documents. However responsibility for a number of leave of absence arrangements was devolved by the SNCT to local negotiating committees for agreement. This JNC circular attempts to pull together all of the relevant information into one document.

Leave of absence can be categorised as follows;

1. Statutory entitlements
2. Entitlements through national agreement
3. Entitlements through local agreement
4. Requests which may be granted
5. Matters which would not normally lead to leave being granted.

This JNC Circular attempts to separate out situations into these 5 categories, although there may be overlap between categories.

Where relevant, reference is made to applicable national agreements or statutory rights within the text.

Scope

The policy and procedures apply to all staff to whom the Scheme of Salaries and Conditions of Service for Teaching Staff in School Education apply, and whose terms and conditions are negotiated at the Scottish Negotiating Committee for Teachers and the Renfrewshire Joint Negotiating Committee for Teachers (eg Teachers, Educational Psychologists, Quality Improvement Officers, Music Instructors). It does not apply to other groups of employees for whom a separate policy applies.

Head teachers have delegated authority under the Scheme of Salaries and Conditions of Service (section 11.13) to grant up to two days leave. Where a greater number of days are involved this should always be referred to the director of education and leisure.

Principles

In a number of situations leave of absence will result from an urgent or emergency situation and it will be impossible for the employee to provide notice to the head teacher or service manager, but where notice is possible as much advance notice as practicable should be given.

Where the circumstances are such that a teacher needs to request special leave, all requests will be treated sympathetically in light of individual circumstances and in an equitable manner.

This circular should make it clear where a teacher has an entitlement to leave or where a request is necessary.

While every effort has been made to provide a comprehensive list of situations that may arise, clearly the list cannot be exhaustive. Where a situation does not appear to be covered by the circular advice may be sought from the JNC Joint Secretaries who will if necessary liaise on the matter.

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APPENDICES

- Appendix I SNCT 49 – Maternity and Adoption Leave and Pay
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1. Statutory entitlements

1.1 Maternity Support Leave, Adoption Support Leave and Paternity Leave

Teachers' statutory entitlements to paternity leave and pay are encapsulated in a National Agreement SNCT/49, (Appendix 1) (For more information on maternity support leave, adoption support leave and paternity leave for teachers see paragraph 2.9)

1.2 Adoption Leave

Teachers' Statutory entitlements to adoption leave are encapsulated in a National Agreement SNCT/49, (Appendix 1) (For further information on adoption leave see paragraph 2.8).

1.3 Family/Dependent Care Leave

Where an employee is required to be absent from duty to make special domestic arrangements arising from family/dependent emergency such as the sudden unexpected illness of a relative/partner/dependent paragraph 2.1 below would apply.

2. Entitlements to Special Leave through National Agreement

All of the situations described in this section are national agreements reached either at the Scottish Negotiation Committee for teachers (SNCT) or its predecessor the SJNC and are built into teachers conditions of service.

As these are entitlements a teacher would not require to request time off but would inform their head teacher / service manager as soon as practicable of the situation and their need to access special leave.

All items in section 2 involve paid leave of absence

2.1 Family Sickness or Bereavement (Paragraph 11.12 of the Scheme of Salaries and Conditions of Service)

Special leave shall be granted in accordance with the following provisions:-

(a) in the case of absence of a teacher owing to the serious illness of a near relative, in-law, cohabitee or foster parent, the authority shall pay salary for not more than three school days;

(b) in the case of absence through the bereavement of a near relative, in-law, cohabitee or foster parent, full salary shall be paid for not more than five school days.

2.2 Health of Teaching Staff (Paragraph 11.11 of the scheme of Salaries and Conditions of Service)

Teaching staff shall be entitled to take such reasonable time off without loss of pay as is required for the purpose of preventative medical examinations.

2.3 Prolonged Sickness During School Holidays (Paragraph 11.8 of the scheme of Salaries and Conditions of Service)

Where a teacher, owing to certificated sickness, has -

(a) been incapacitated for a continuous period, at least four weeks of which fall within the school summer vacation; or

(b) been incapacitated for a period which, being of at least two weeks' duration, incorporates at least one full week of another school vacation,

the teacher will accrue credit of two days special leave entitlement in respect of each complete week of the vacation which had been lost as a result of the prolonged sickness, subject to a maximum of ten such days credit in respect of sickness periods in any one leave year.

This allowance shall be taken up by the teacher, in agreement with the authority, during the term following the vacation concerned, subject to the overriding needs of the service.

For the purposes of this paragraph a week is defined as seven consecutive days.

2.4 Court Attendance (Paragraph 11.10 of the Scheme of Salaries and Conditions of Service)

A teacher receiving a summons to serve on a jury shall report the fact to the Head teacher and shall be granted special leave with pay to attend (unless exemption is secured). The teacher shall be under an obligation to reimburse the authority for any loss of earnings allowance received under the Jurors Allowance Regulations and accordingly the teacher must claim such allowance.

When required to attend for jury service a teacher shall be furnished with an official note of salary expressed in terms of a daily rate.

Where the teacher has been called as a witness by the authority the teacher shall be regarded as being on authorised school business.

Where the teacher has been called as a witness by persons other than the authority the absence will be treated as special leave with pay. The teacher shall be under an obligation to reimburse the authority for any loss of earnings allowance received during

the period of absence where such a loss of earnings allowance is recoverable from the person(s) issuing the citation to attend as a witness.

2.5 Moving Home as a result of a Compulsory Transfer (Extract from Paragraph 14.7 of the Scheme of Salaries and Conditions of Service)

Where a teacher is required to move home as a result of the place of employment being changed and where this move occurs within a period of three years, the following (leave) allowances shall apply (please note allowances other than leave also apply):

- Search for New Accommodation - Where it is necessary for a teacher to visit the new place of employment to find accommodation, the employing authority at that time shall grant up to a maximum of three days' paid leave where necessary, and
- Authorities shall grant two days paid leave to teachers when moving their homes as a result of the place of employment being changed.

2.6 Leave for Examinations (Paragraph 9.3 of the Scheme of Salaries and Conditions of Service)

Special leave with pay shall be granted to teachers for the purpose of sitting examinations applicable to their teaching service. Special leave, with or without pay, may be granted for the purposes of final revision in the period preceding an examination, according to the circumstances of each case.

It has been agreed within Renfrewshire's JNC that leave of absence with pay for periods up to a maximum of 20 days over the duration of the course shall be given to teachers to prepare for and sit examinations. Applications in exceptional cases for longer leave should be submitted to the director of education and leisure for approval. This condition shall apply to any course approved by the director of education and leisure whether or not leave of absence has been granted to the teacher to enable him/her to take the course.

2.7 Maternity Leave

The following extract is taken from SNCT/49, (Appendix 1) which must be referred to for full details of teachers' maternity leave and pay.

- An employee whose Expected Week of Childbirth (EWC) falls on or after 1 April 2007 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.
- ML can begin from a date not earlier than the 11th week before the 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 employee's contractual terms and conditions, with the exception of remuneration, continue to apply.

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

2.8 Adoption Leave

The following extract is taken from SNCT/49 (Appendix 1) which must be referred to for full details of teachers adoption leave:

Where the expected date of an adoption placement is on or after 1 April 2007 an employee will be entitled to 52 weeks of Adoption Leave (AL) regardless of length of service. The 52 weeks comprises 26 weeks' Ordinary Adoption Leave and 26 weeks' Additional Adoption Leave.

The AL may begin:

- (a) from the date of the child's placement; or
- (b) from a fixed date up to 14 days before the expected date of placement.

Where more than one child is placed as part of the same adoption arrangement, only one period of leave will be granted.

Where a couple jointly adopts a child, the couple must choose one person to take the adoption leave.

2.9 Maternity and Adoption Support Leave, Statutory Paternity Leave

The following extract is taken from SNCT/49 (Appendix 1) which must be referred to for full details of teachers maternity and adoption support leave, and paternity leave.

Support Leave of 1 week with normal pay will be granted to the spouse or partner or nominated carer of an expectant mother or of someone taking adoption leave at or around the time of birth or placement. The nominated carer is the person nominated by the mother or the person taking adoption leave to assist in the care of the child and to provide support to her/him.

Maternity Support Leave and Adoption Support Leave can be taken:-

- a) from the date of the child's birth or placement for adoption
- b) from another date after the child's birth or placement for adoption and is subject to paragraphs 51 and 54 of SNCT/49 (Appendix 1).

In addition to the maternity support leave described above, an employee who is the spouse or partner of an expectant mother and who has at least 26 weeks' continuous service at the start of the 15th week before the baby is due is entitled to a further week's Statutory Paternity Leave (SPL).

In addition to the adoption support leave described above, an employee who is the spouse or partner of a person taking adoption leave and who has at least 26 weeks' continuous service at the start of the notification week is entitled to a further week's SPL.

SPL can be taken:-

- a. from the date of the child's birth or placement for adoption
- b. from another date after the child's birth or placement for adoption

An employee who wishes to take SPL must inform the council of her/his intention to take paternity leave by the 15th week before the week in which the child is expected, where reasonably practicable. In the case of adoption employees must inform their employers of their intention to take paternity leave within seven days of the employee being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practicable. They must state in writing:

- a. the week in which the child is due or when the child is expected to be placed for adoption;
- b. when they want the leave to start.

Employees may alter the date on which their leave starts by giving 28 days' notice in writing, where this is reasonably practicable.

2.10 Ante-Natal Care

A pregnant teacher shall be allowed to take such reasonable time off without loss of pay as is required to attend for ante-natal care, on production, if required by the authority, of evidence of appointments.

2.11 Pre-Adoption Meetings

Teachers who are adopting will be allowed to take such reasonable time off without loss of pay as is required to attend pre-adoption meetings, on production, if required by the council, of evidence of appointments.

3. Entitlements to Special Leave resulting from Local Agreement

The items in this section are agreements reached through the JNC on situations where teachers (and other staff employed under conditions of service are agreed through the SNCT) should be granted leave of absence.

3.1 Bereavement (not covered in 2.1(b))

In circumstances not covered in 2.1(b) above, where a teacher is required to conduct business in connection with a bereavement, paid leave as necessary up to 5 days should be granted.

In dealing with cases of bereavement covered by items 2.1(b) and 3.1 it is expected that management will be sympathetic to the situation faced by the employee. In exceptional circumstances additional leave may be approved.

3.2 To attend funerals in circumstances not already covered

The time necessary to attend the service up to a maximum of 1 day with pay should be granted. If considerable travelling is involved a second day without pay may be granted.

3.3 Bone Marrow, Kidney etc. Donations

An employee who has been accepted as a bone marrow, kidney etc. donor will be granted a maximum of five days paid leave at the time when the donation is required.

3.4 Victims of Domestic Violence

Where a teacher is required to be absent from duty to make special domestic arrangements arising from being a victim of domestic violence, leave with pay for one day for each incident up to a maximum of 2 days per annum will be granted. Any requests for leave in addition to this entitlement would be granted as unpaid leave.

3.5 Service in Non-Regular Forces

A teacher who is a member of the non-regular forces and attends an annual training camp for a period of not less than one week will be granted special leave with pay equal to the period which the employee actually attends the training camp, but not exceeding a period of 15 days and subject to the deduction of service pay and allowances received in respect of the period of special leave. (see also paragraph 6.3)

3.6 National or International Sporting or Cultural Events

An employee who is representing his/her country at a national or international event (e.g sporting) will be granted reasonable leave with pay. Requests may also relate to duties such as being a national or international coach and umpiring/refereeing at national and international events.

Any remuneration received should be notified to education and leisure services to ensure the equivalent deduction from pay.

All requests for special leave in respect of national or international events must be referred to the director of education and leisure.

3.7 Leave in connection with parliamentary elections

Leave of absence, without pay, will be granted to teachers who are parliamentary candidates or election agents. The leave will be granted prior to the date of the agreed election and will be for a maximum period of four weeks. Requests for leave as the spouse of a candidate will not normally be granted.

3.8 Leave in connection with local authority elections

Leave of absence, without pay, will be granted to teachers who are local authority candidates or election agents. The leave will be granted prior to the date of the election and will be for a maximum period of one week. Requests for leave as the spouse of a candidate will not normally be granted.

Legislation prevents current employees of Renfrewshire Council serving as elected members of Renfrewshire Council.

3.9 Emergency Services

Employees who participate in emergency services e.g. retained fire-fighters, lifeboat crew or who are members of recognised international emergency aid organisation (Eg International Rescue) will be granted leave of absence with pay to attend emergencies which occur during working hours.

3.10 Voluntary Service Overseas

Employees applying for voluntary service overseas with organisations such as VSO shall be granted leave of absence without pay for a period of up to two years, provided they have at least two years continuous service with the Council. Following completion of the period of absence, resumption of duties with the Council will be on the basis that the employee will be reinstated on the salary grade and placing held immediately prior to the commencement of the period of leave, but not necessarily to the same post.

During the period of absence, the post held by the employee may be filled. Any requests received should be forwarded to the director of education and leisure for approval.

3.11 Attending meetings of Professional bodies

Leave of absence with pay will be granted to employees attending meetings of a professional nature concerned with e.g. GTC(S), SQA, Learning & Teaching Scotland etc.

3.12 Eye Examinations

Where an employee is designated as a display screen "user" or is to be designated as a "user" and the employee requests an eye examination, the department must allow the employee appropriate time-off with pay for the test. Time-off with pay also requires to be granted for any initial fitting of spectacles and for repeat NHS examinations at intervals determined by the ophthalmic optician. In the case of an employee who is to be designated as a "user", the examination shall take place before the employee becomes a "user".

Time-off will be granted taking account of the exigencies of the service, but as soon as practicable after the display screen "user's" request.

Employee and manager are recommended to consult the Eye Examination for Employees Policy in respect of this issue. The current version of the policy is contained in Circular PER 2/00).

3.13 Religious Festivals (other than Christian)

Teachers who are members of religious groups other than Christians, should be granted up to a maximum of three separate days leave of absence with pay per year to participate in certain principal religious festivals which fall outwith the fixed annual leave periods.

3.14 Religious Ceremonies of a Family Nature

Up to one day's leave of absence with pay should be granted to attend the ordination of, or similar service for, a near relative. Requests for additional leave, which will normally be without pay, should be referred by the head teacher to the Personnel Services Manager.

3.15 Interviews

An employee seeking employment with another local authority, other recognised education provider or national education body (e.g. HMI, GTCS) who is required to attend for interview will be granted leave with pay for a maximum of one day for each post. If considerable distance is involved, a second day with pay may be granted.

3.16 Attending Public Bodies/Undertaking Public Duties

(a) DSS Appeals/Tribunals, School Boards etc.

Leave with pay, as necessary, will be granted to employees to facilitate their attendance at meetings as members of DSS Appeals Tribunals, School/College Councils, School Boards, Board of Visitors for Prisons and Young Offender Institutions, or business arising therefrom.

(b) Children's Panels/Duties as Justice of the Peace

Leave with pay, up to a maximum of 12 days per annum, will be granted to employees, to facilitate their attendance at meetings of Children's Panels or to undertake duties as Justices of the Peace, or business arising therefrom. Any requests for leave in addition to this entitlement would be granted as unpaid, subject to the exigencies of the service.

(c) Health Boards/Community Councils/Health Councils

Leave with pay, up to a maximum of 2 days per annum, will be granted to employees, to facilitate their attendance at meetings as members of Health Boards, Community Councils or Health Councils, or business arising therefrom. Any requests for leave in addition to this entitlement would be granted as unpaid, subject to the exigencies of the service.

3.17 Duties of Elected Members

Time off as detailed below should be granted to a teacher to perform duties as an elected member of a local authority (ie Councils other than Renfrewshire Council), provided such time off does not interfere with the efficient discharge of the functions of the Council:

- leave with pay to a maximum of 208 hours in any financial year;
- further leave will be without pay.

In respect of an employee who has been appointed as Convener of a local authority, leave with pay may be granted but the maximum of 208 hours does not apply.

4. Requests for Special Leave which may be granted

A teacher seeking leave under this section should request leave of absence from their head teacher / service manager, and should provide as much notice as practicable.

As this list is not exhaustive, where a request is made which does not match the situations identified the request should be referred to the Director of Education and Leisure Services.

4.1 Personal Business

Up to one day's paid leave may be granted, to enable teachers to attend to personal business that cannot be taken care of outwith normal working hours.

4.2 Weddings

Normally one day with pay may be granted to attend a wedding other than the teacher's own wedding. A second day, which would be without pay, may be granted.

4.3 Council Elections

One week's leave with pay may be granted to allow employees to undertake official duties at Council Elections.

4.4 Attendance at Annual General Meetings of organisations such as Rotary, Round Table, Ladies Circle or other similar charitable organisations.

Leave without pay may be granted for an employee to attend an Annual General Meeting, e.g if that employee holds an important office.

4.5 Attendance at National Mod

Up to 2 days leave with pay may be granted for employees attending as competitors or adjudicators at the National Mod. A third day with pay may be granted in exceptional circumstances.

4.6 Accompanying groups of children

Leave with pay may be granted, as required, to teachers who have been selected to accompany groups of children, other than their immediate charges, who have gained a study trip from an external body. Leave shall be with pay subject to the deduction of any grants made to the teacher.

4.7 Youth Organisation Holiday Camps etc.

Leave of absence without pay may be granted taking account of the needs of the service, the organisation and the individual.

4.8 Leave to undertake Expeditions

Leave if granted will normally be without pay. If there is an educational content arising from the activity, and the teacher agrees to undertake as part of the activity a degree of work that would prove beneficial in educational terms (e.g. taking photographs, video footage journals) for subsequent use in schools, a proportion of the leave may be granted with salary.

4.9 House removal

Where a removal cannot be arranged for a holiday period, normally one day with pay may be granted. A second day if required, which would be without pay, may be granted.

4.10 Special Purposes

Leave with pay will be granted for all duties as services of an honorary nature, charitable, philanthropic and civic character to be undertaken (e.g. The General Assembly of the Church of Scotland). Normally this leave will not exceed two days per annum.

5. Matters which would not normally lead to leave being granted

A teacher seeking leave for items in this section should request leave of absence from their head teacher/service manager, which would then be forwarded to the Director of Education and Leisure Services. As much notice as possible should be provide. The list is not exhaustive.

5.1 Visiting Relatives Overseas

Other than in exceptional circumstances (e.g. compassionate grounds) teachers will not normally be granted leave to visit relatives overseas. Any leave granted would be unpaid.

5.2 Holidays during term time

Apart from compensatory time off in lieu as defined in The Scheme of Salaries and Conditions of Service for Teaching Staff in School Education section 11.8.1 leave with or without pay is not normally granted during term time.

5.3 Accompanying spouses on business trips

Leave of absence will not normally be granted for this purpose. Any leave granted in exceptional circumstances will be without pay.

5.4 Attendance at exhibitions of teacher's own work

Leave of absence will not normally be granted for this purpose. Any leave granted in

exceptional circumstances will be without pay.

5.5 Attendance at international conferences for personal interest

Leave of absence will not normally be granted for this purpose. Any leave granted in exceptional circumstances will be without pay.

5.6 Study tours not connected with teacher's job

Leave of absence will not normally be granted for this purpose. Any leave granted in exceptional circumstances will be without pay.

5.7 Participation on non-representative sporting events

Leave of absence will not normally be granted for this purpose. Any leave granted in exceptional circumstances will be without pay.

5.8 The occasion of a teacher's own wedding

Leave of absence will not normally be granted for this purpose. Any leave granted in exceptional circumstances will be without pay.

6. Miscellaneous

6.1 Time off For Trade Union Duties

Time off for trade union duties is covered by a separate agreement

6.2 Absence due to adverse weather conditions

In the event of being prevented from attending work due to adverse weather conditions, teachers should contact their head teacher / service manager to advise them of the reason for nonattendance. Where possible teachers should report to their nearest Renfrewshire Council school. Where it would be unreasonable to expect a teacher to travel to or from work in adverse weather conditions any day where the teacher could not attend would be considered paid leave.

6.3 Tours of duty/active service with TA reserve forces

Applications should be submitted to the Director of Education and Leisure Services

- **What or who are 'reservists'?**

The two main types of reservist are the 'regular' and 'volunteer' reserves of the armed forces. The forces for these purposes include the Royal Navy, Army and Royal Air Force.

- **Services in Non-Regular Forces**

An employee who is a member of the non-regular forces and attends an annual training camp for a period of not less than one week will be granted special leave with pay equal to the period which the employee actually attends the training camp, but not exceeding a period of 15 days and subject to the deduction of service pay and allowances received in respect of the period of special leave.

- **What is the situation if the Government calls out reservists to support possible future operations such as those which happened in Iraq?**

If the Government calls out reservists to support possible future operations call-out orders can be issued under Section 54(1) of the Reserve Forces Act 1996.

- **Is the council obliged to re-employ any employee who was last employed by him in the 4 week period prior to being called out for duties as a reservist?**

The council is obliged to re-employ any employee who was last employed in the 4 week period prior to being called out. Re-employment should be to the same role and on terms and conditions no less favourable that would have applied if they had not been called out. If reinstatement is not possible, for example, where there has been a reorganisation of the business or the role has been made redundant, then the employee should be offered the most favourable terms and conditions possible in the circumstances.

Scottish Negotiating Committee for Teachers

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13 December 2006

Dear Colleague

SNCT/49
MATERNITY AND ADOPTION LEAVE AND PAY

Following new provisions set out by the government in the Maternity and Parental Leave etc and the Paternity and Adoption Leave (Amendment) Regulations 2006 (SI 2006/2014) the SNCT have agreed the following changes to Conditions of Service.

On 1 April 2007 SNCT/49 will replace SNCT/22, SNCT/43 and SNCT/44.

The provisions in SNCT/49 apply to pregnant employees whose Expected Week of Childbirth falls on or after 1 April 2007 and employees who have a child placed for adoption on or after 1 April 2007.

The pay arrangements are set out in the Statutory Maternity Pay, Social Security (Maternity Allowance) and Social Security (Overlapping Benefits) Amendment Regulations 2006 (SI 2006/2379) and the Statutory Paternity Pay and Statutory Adoption Pay (General) and the Statutory Paternity Pay and Statutory Adoption Pay (Weekly Rates) (Amendment) Regulations 2006 (SI 2006/2236).

Yours sincerely

Joe Di Paola (Employers' Side)
Drew Morrice (Teachers' Panel)
Stephanie Walsh (Scottish Executive)
Joint Secretaries

To: Chief Executives
Directors of Education
Directors of Personnel

MATERNITY LEAVE

- (1) An employee whose Expected Week of Childbirth (EWC) falls on or after 1 April 2007 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.
- (2) ML can begin from a date not earlier than the 11th week before the 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 employee's contractual terms and conditions, with the exception of remuneration, continue to apply.

COMPULSORY MATERNITY LEAVE

- (3) An employee is required to take compulsory maternity leave of 2 weeks commencing with the day on which childbirth occurs.

MATERNITY PAY

- (4) An employee with less than 26 weeks' continuous service at the beginning of the 11th week before the EWC will have no entitlement to maternity pay. However, she may be entitled to Maternity Allowance payable through the Department of Work and Pensions.
- (5) An employee with at least 26 weeks' continuous service at the beginning of the 11th week before the EWC (where her EWC falls on or after 1 April 2007) 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 employee's normal salary;
 - (b) SMP for the remaining 26 week period provided that the employee's average weekly earnings are not less than the lower earnings limit for National Insurance contribution liability.
- (6) Other than for "Keeping In Touch Days", as described in paragraph 42 below, when an employee 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

- (7) To qualify for maternity leave and pay an employee must notify the council 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;
 - (c) the date she wishes ML to commence (the notified leave date).
- (8) The notification set out above must be given to the council not later than 21 days before maternity leave commences, or as soon as is reasonably practicable.
- (9) 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

- (10) An employee should notify the council, as soon as is reasonably practicable, of the date of the birth of her child.

NOTIFICATION OF RETURN FROM MATERNITY LEAVE

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

ANTENATAL CARE

- (13) A pregnant employee 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 if required by the council.

STILLBIRTH

- (14) In the event of a stillbirth after 24 weeks of pregnancy an employee is entitled to maternity leave and pay provisions.

SICK LEAVE AND MATERNITY LEAVE

- (15) Where an employee is absent before the start of the maternity leave period due to illness, the absence will be treated as sickness absence except when paragraph 16 below applies. This includes absence due to miscarriage (ie prior to the 24th week of pregnancy).
- (16) If an employee is absent because of a pregnancy related illness and there are fewer than 4 weeks before her baby is due, she will be deemed to have commenced ML.
- (17) Where an employee 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 as set out in Paragraph 13.4 of the Scheme of Salaries and Conditions of Service for Teachers in Schools Education will apply.

ACCRUAL OF LEAVE - MATERNITY

- (18) An employee who is entitled to paid ML shall be entitled to receive pay in lieu of accrued leave for the period up to the day before the commencement of ML. For teachers and music instructors SNCT/26 will apply and for education support officers, quality improvement officers and educational psychologists Paragraph 11.14.9 of the Scheme of Salaries and Conditions of Service for Teachers in Schools Education will apply.
- (19) Where an education support officer, quality improvement officer or educational psychologist notifies the council that she intends to return to work after maternity leave she will accrue leave during the period of paid ML in accordance with Paragraph 11.14.9 of the Scheme of Salaries and Conditions of Service for Teachers in Schools Education.
- (20) Where a teacher or music instructor notifies the council that she intends to return to work after ML and where the paid ML period incorporates at least 4 weeks of the school summer holiday or incorporates in full another school holiday period of at least 1 weeks' duration the teacher or music instructor will accrue credit of 2 days' special leave entitlement for each complete week of the vacation which has been lost. For the purpose of this paragraph a week is defined as 7 consecutive days. A maximum credit of 10 days' special leave entitlement may be accrued in any leave year.
- (21) This special leave entitlement shall be taken by the teacher or music instructor, in agreement with the council, following his or her return to work. The timing of this leave is subject to the overriding needs of the service and should normally be taken in the term in which the return to work takes place

or within the following term. In exceptional circumstances the teacher may be paid for any days of special leave which she is unable to take.

- (22) Where an employee gives written notice to the council that she does not intend to return to work at the end of her ML period, the council will make a payment in lieu of leave accrued during the paid ML period. For teachers and music instructors SNCT/26 will apply and for education support officers, quality improvement officers and educational psychologists Paragraph 11.14.9 of the Scheme of Salaries and Conditions of Service for Teachers in Schools Education will apply.

ADOPTION LEAVE

- (23) Where the expected date of an adoption placement is on or after 1 April 2007 an employee will be entitled to 52 weeks of Adoption Leave (AL) regardless of length of service. The 52 weeks comprises 26 weeks' Ordinary Adoption Leave and 26 weeks' Additional Adoption Leave.
- (24) The AL may begin:
- (a) from the date of the child's placement; or
 - (b) from a fixed date up to 14 days before the expected date of placement.
- (25) Where more than one child is placed as part of the same adoption arrangement, only one period of leave will be granted.
- (26) Where a couple jointly adopts a child, the couple must choose one person to take the adoption leave.

ADOPTION PAY

- (27) An employee who has less than 26 weeks' continuous service prior to the week in which she/he is notified of being matched with a child for adoption is entitled to 52 weeks' AL without pay.
- (28) An employee who has 26 weeks' continuous service prior to the week in which she/he is notified of being matched with a child for adoption will be entitled to be paid:
- (a) Occupational Adoption Pay (OAP) and Statutory Adoption Pay (SAP) for the first 13 weeks. Taken together these payments will be equal to the employee's normal salary;

- (b) SAP for the next 26 weeks provided that the employee's average weekly earnings are not less than the lower earnings limit for National Insurance contribution liability.
- (29) Other than for "Keeping In Touch Days", as described in paragraph 42 below, when an employee returns to work before the full AL period then her/his entitlement to any balance of adoption leave and adoption pay ceases. The employee will receive her/his normal salary from the date of her/his return to work.

NOTIFICATION OF START OF ADOPTION LEAVE

- (30) An employee must inform the council in writing of her/his intention to take AL within 7 days of being notified by their adoption agency that they have been matched with a child for adoption, where this is reasonably practicable.
- (31) Such notification must include:
 - (a) the expected date of placement; and
 - (b) the date on which they intend to start their adoption leave; and
 - (c) a matching certificate from the adoption agency.
- (32) An employee who wishes to change the date on which her/his adoption leave starts must give the council 28 days' written notice, where this is reasonably practicable.
- (33) The council will respond in writing to an employee's notification to change the start date of adoption leave within 28 days and will also state the latest date on which the employee is expected to return to work.

NOTIFICATION OF RETURN FROM ADOPTION LEAVE

- (34) An employee who wishes to return to work prior to the end of the adoption leave period must give the council 28 days' notice. If the appropriate notice is not given, the council may postpone her/his return for up to 28 days or to the end of the adoption leave period if this is earlier.

PRE-ADOPTION MEETINGS

- (35) An employee who is adopting will be allowed to take such reasonable time off without loss of pay as is required to attend pre-adoption meetings, on production of evidence of appointments if required by the council.

TERMINATION OF PLACEMENT

- (36) Where the adoption placement ends, for any reason, during the adoption leave, the employee will notify the council. The employee will be entitled to remain absent on AL for up to 8 weeks after the end of the placement, except where the placement ends during AL. In that circumstance the leave shall end at the expiry of the AL period or 8 weeks after the placement ends whichever is sooner. In such circumstances notice of the intended date of return should be given in accordance with paragraph 34 above.

ACCRUAL OF LEAVE - ADOPTION

- (37) An employee who is entitled to paid AL shall be entitled to receive pay in lieu of accrued leave for the period up to the day before the commencement of AL. For teachers and music instructors SNCT/26 will apply and for education support officers, quality improvement officers and educational psychologists Paragraph 11.14.9 of the Scheme of Salaries and Conditions of Service for Teachers in Schools Education will apply.
- (38) Where an education support officer, quality improvement officer or educational psychologist notifies the council that she/he intends to return to work after AL she/he will accrue leave during the period of paid AL in accordance with Paragraph 11.14.9 of the Scheme of Salaries and Conditions of Service for Teachers in Schools Education.
- (39) Where a teacher or music instructor notifies the council that she/he intends to return to work after AL and where the paid AL period incorporates at least 4 weeks of the school summer holiday or incorporates in full another school holiday period of at least 1 week's duration the teacher or music instructor will accrue credit of 2 days' special leave entitlement for each complete week of the vacation which has been lost. For the purpose of this paragraph a week is defined as 7 consecutive days. A maximum credit of 10 days' special leave entitlement may be accrued in any leave year.
- (40) This special leave entitlement shall be taken by the teacher or music instructor, in agreement with the council, following his or her return to work. The timing of this leave is subject to the overriding needs of the service and should normally be taken in the term in which the return to work takes place or within the following term. In exceptional circumstances the teacher may be paid for any days of special leave which she/he is unable to take.
- (41) Where an employee gives written notice to the council that she/he does not intend to return to work at the end of the AL period, the council will make a payment in lieu of leave accrued during this period. For teachers and music instructors SNCT/26 will apply and for education support officers,

quality improvement officers and educational psychologists Paragraph 11.14.9 of the Scheme of Salaries and Conditions of Service for Teachers in Schools Education will apply.

KEEPING IN TOUCH DAYS

- (42) During both ML and AL the employee is allowed up to 10 days at work with normal pay as 'Keeping In Touch Days', without bringing the ML or AL period to an end. Normal pay will be an amount inclusive of SMP, SAP or Maternity Allowance, as appropriate. These days do not have to be consecutive and can be used for training or any other activity which enables the employee to keep in touch with the place of employment. 'Keeping In Touch Days' can only be taken following agreement between the employer and the employee to both the activity and timing.

PENSION

- (43) The employer shall continue to make full pension contributions during the period of paid ML or AL.

MATERNITY AND ADOPTION SUPPORT LEAVE AND PAY

- (44) Support Leave of 1 week with normal pay will be granted to the spouse or partner or nominated carer of an expectant mother or of someone taking adoption leave at or around the time of birth or placement. The nominated carer is the person nominated by the mother or the person taking adoption leave to assist in the care of the child and to provide support to her/him.
- (45) Maternity Support Leave and Adoption Support Leave can be taken:-
- (a) from the date of the child's birth or placement for adoption
 - (b) from another date after the child's birth or placement for adoption

and is subject to paragraphs 51 and 54 below.

STATUTORY PATERNITY LEAVE AND PAY

- (46) In addition to the maternity support leave described above, an employee who is the spouse or partner of an expectant mother and who has at least 26 weeks' continuous service at the start of the 15th week before the baby is due is entitled to a further week's Statutory Paternity Leave (SPL).
- (47) In addition to the adoption support leave described above, an employee who is the spouse or partner of a person taking adoption leave and who has at least 26 weeks' continuous service at the start of the notification week is entitled to a further week's SPL.

- (48) SPL can be taken:-
- (a) from the date of the child's birth or placement for adoption
 - (b) from another date after the child's birth or placement for adoption
- (49) Leave can start on any day of the week, but must be taken within 56 days of the actual birth or placement date of the child. If the child is born early, leave must be taken within the period from the actual date of the birth up to 56 days after the expected week of birth.
- (50) An employee who is on SPL shall receive Statutory Paternity Pay (SPP).
- (51) An employee who wishes to take SPL must inform the council of her/his intention to take paternity leave by the 15th week before the week in which the child is expected, where reasonably practicable. In the case of adoption employees must inform their employers of their intention to take paternity leave within seven days of the employee being notified by their adoption agency that they have been matched with a child, unless this is not reasonably practicable. They must state in writing:
- (a) the week in which the child is due or when the child is expected to be placed for adoption;
 - (b) when they want the leave to start.
- (52) There can only be one period of leave. Where an employee elects to take 2 weeks' leave these weeks must be consecutive. Where an employee elects to take only 1 week of leave then this will be taken as a complete week of leave. The first week will be support leave and paid at full pay and the second week will be paternity leave and SPP will be paid.
- (53) Where leave incorporates 1 complete week of a school vacation the employee will accrue credit of 2 days' special leave entitlement, to be taken up by the employee, in agreement with the council during the term following the vacation concerned subject to the overriding needs of the service.
- (54) Employees may alter the date on which their leave starts by giving 28 days' notice in writing, where this is reasonably practicable.
- (55) Only one period of leave is available to employees irrespective of whether more than one child is placed for adoption.
- (56) An employee shall be entitled to the provisions of this circular in circumstances where the child is stillborn after 24 weeks or has died or where the child's mother has died within the period of leave.

- (57) The paternity leave and pay provisions allow for up to 2 weeks' SPL and SPP for employees who meet the criteria. The provisions set out above provide for normal pay for the first week and SPP for the second week. In the first week SPP is offset against normal pay.

CONTINUOUS SERVICE

- (58) All periods of maternity, adoption, paternity and maternity support leave count towards continuous service.

RIGHT TO RETURN TO WORK

- (59) An employee has the right to return from the periods of leave described in this Circular to the post in which she/he was employed under the original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her/him had she/he not been on maternity or adoption leave.
- (60) Where it is not practicable by reason of redundancy for the council to permit the employee to return to work in her/his post the employee is entitled to be offered a suitable alternative vacancy where one exists.
- (61) Suitable alternative employment may also be offered in exceptional circumstances other than redundancy (eg a general reorganisation) which would have occurred if the employee had not been on maternity or adoption leave, and necessitate a change in the post in which she/he was employed prior to her/his leave commencing.
- (62) A temporary employee will not have the right to return to work where her/his contract would have expired during the leave period but will be entitled to all other provisions in this Circular provided she/he meets the criteria where these are stated.

Scottish Negotiating Committee for Teachers

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26 March 2007

Dear Colleague

SNCT/51

CODE OF PRACTICE – KEEPING IN TOUCH DAYS

1. Agreement has been reached by the SNCT on a Code of Practice on Keeping in Touch Days. This advice will provide supplementary advice to SNCT/49, Maternity and Adoption Leave and Pay.
2. Each LNCT should consider local operational arrangements for Keeping in Touch Days.
3. Keeping in Touch Days will be effective from 1 April 2007.
4. The Code of Practice will be incorporated into the new SNCT Handbook of Conditions of Service.

Yours sincerely

Joe Di Paola (Employers' Side)
Drew Morrice (Teachers' Panel)
Stephanie Walsh (Scottish Executive)

Joint Secretaries

SNCT Code of Practice
KEEPING IN TOUCH DAYS
Supplementary Advice on SNCT/49

Background

- 1.1 SNCT/49 set out contractual changes to maternity and adoption pay and leave.
- 1.2 As part of the Government's policies on work and families the concept of Keeping in Touch Days has been introduced.
- 1.3 The SNCT has considered further advice on Keeping in Touch Days from the Department of Trade and Industry (DTI). The SNCT is now able to provide advice for councils.
- 1.4 It is expected that each Local Negotiating Committee for Teachers will set out operational arrangements for Keeping in Touch Days.

Contact

- 2.1 Councils should have clear arrangements for maintaining contact with employees on maternity and adoption leave.
- 2.2 Prior to the commencement of maternity or adoption leave a meeting should be arranged to discuss how contact can be maintained. Both the employer and employee should have a clear understanding of the nature and frequency of contact.
- 2.3 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.
- 2.4 Employers 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.

Keeping in Touch Days

- 3.1 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.
- 3.2 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.
- 3.3 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.
- 3.4 The SNCT 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.
- 3.5 Where the employee on maternity or adoption leave holds a promoted post the SNCT 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 3.4(v) above.
- 3.6 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.

Payment for Keeping in Touch Days

- 3.7 Pay arrangements for Keeping in Touch Days should be agreed by the employer and employee. The SNCT has agreed normal contractual pay for such days, which will be an amount inclusive of SMP, SAP or Maternity Allowance, where these are still being paid.
- 3.8 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.

Recording Keeping in Touch Days

- 3.9 The agreement on Keeping in Touch Days should normally be recorded on an individual basis.

Reviewing Keeping in Touch Days

- 3.10 It is acknowledged that circumstances may well change and it must be open to both parties to review arrangements.

Appeals

- 3.11 It is expected that Keeping in Touch Days will be subject to amicable agreement.
- 3.12 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.