

# National Women's Committee Secretary Kerry Baigent on the union's model maternity policy

**I**N THE last issue of this magazine Sam Rye wrote a moving account of the awful treatment she received when she reported her pregnancy to her brigade. Sam gave an honest and heartfelt account of how this treatment made her feel at what should have been one of the most happy periods of her life. Probably one of the most appalling features of the treatment suffered by Sam is that it is not unique, a fact brought to light by the many women who contacted FBU Women's reps as a result of the article.

It is a sad reflection on the UK fire service that even after many years of pressure many brigades still don't know what to do with women firefighters who are pregnant and delay putting in place appropriate maternity policies until forced to by circumstances. This lack of foresight has only one result: women who are pregnant have to suffer added pressure, stress and worry.

Recent experiences have shown that most brigades still view pregnant women as either aliens from outer space or people who have an illness.

There is no excuse for this disgraceful situation and the FBU is committed to ensuring that all fire services in the UK face up to their responsibilities and put in place effective and appropriate maternity policies as a matter of the utmost urgency.

All the necessary work and information to do this is available and has been for some time. The FBU National Women's Committee (NWC) some years ago drafted a Model Maternity Policy for the FBU to use during negotiations both locally and nationally. It was born out of many resolutions that had been brought to various women's forums, including the national Women's School.

Driving women members' concerns was the fact that they were suffering during pregnancy while working for the UK fire and rescue service. Many brigades didn't have policies and most that did still had no real understanding of how to implement them.

The FBU Model Maternity Policy was used during the negotiations for the Grey Book Scheme of Conditions, Sixth edition 2004 and as a result Section D entitled Maternity, Childcare and Dependency was greatly improved. But there is an important feature of the Grey



**We're not from  
another planet  
nor are we ill.  
We're pregnant.**

Book that many brigades are refusing to acknowledge: the Grey Book is a set of minimum standards which should be used as a basis for implementing improved policies on a local basis.

There are some brigades who have grasped this opportunity and, by working in partnership with the FBU, brigades such as Gloucestershire, Northern Ireland and London now have good policies in place. The common feature in all these brigades is that the management was prepared to work together with the FBU on the basis that the FBU Model Maternity Policy (available on [www.nwcfbu.co.uk](http://www.nwcfbu.co.uk)) was a set of procedures written by women in the fire and rescue service for women in the fire and rescue service.

These brigades should be praised for their forward

# Questions and answers

## **What if I'm not sure about my dates?**

If you are not sure whether or not you were pregnant when you started your present job, or, whether you will have worked for your employer for long enough to qualify for some rights, you should obtain advice about your situation. What you get will depend on what date your midwife puts on your MAT B1 certificate when you are about 20 weeks pregnant, so you should discuss this with her before she fills it in.

## **Am I entitled to maternity leave?**

You are entitled to maternity leave if you are an employee. There are two lengths of maternity leave depending on how long you have been working for your employer: Ordinary Maternity Leave and Additional Maternity Leave.

## **How much maternity leave can I take?**

**Ordinary Maternity Leave (OML)** lasts for 26 weeks. It doesn't matter how many hours you work or how long you have worked for your employer, all employees are entitled to ordinary maternity leave from day one.

**Additional Maternity Leave (AML)** lasts for 26 weeks and starts at the end of ordinary maternity leave. You are entitled to take additional maternity leave if you have worked for your employer for 26 weeks by the 15th week before your baby is due.

## **When can I start maternity leave?**

You can start your leave up to 11 weeks before your baby is due or you can work right up to your due date if you wish. Your employer can only 'trigger' your leave if you are off sick with a pregnancy-related illness in the last four weeks of your pregnancy.

## **Do I have to give notice to take maternity leave?**

Yes, to take maternity leave you must give notice to your employer in or before the 15th week before your baby is due and tell them:

- That you are pregnant
- The expected week of childbirth
- The date on which you intend to start your ordinary maternity leave.

If this is not possible then give notice to them as soon as you can. If you are entitled to additional maternity leave your employer should assume that you will be taking it. Therefore if you do not wish to take additional maternity leave or you want to return to work before the end of it you should give 28 days notice that you are returning to work early.

## **What happens when I go back?**

When you go back to work after OML, you have the right to return to exactly the same job.

When you go back to work after AML, you also have the right to return to exactly the same job. But, if your employer can show that it is not reasonably practicable for you to return to the same job, for example, because the job no longer exists, you have the right to be offered a suitable



**Ultrasound scan on a mother-to-be. It is a sad reflection on the UK fire service that even after many years of pressure, many brigades still don't know what to do with women firefighters who are pregnant and delay putting in place appropriate maternity policies until forced to by circumstances.**

**Left, the Siren article by Sam Rye that prompted many women to contact their union women's rep.**

thinking and progressiveness. But the experiences of many women in the fire and rescue shows that there is much work yet to be done. The NWC is determined that this is a subject which must remain at the top of the agenda until all women are treated fairly and equally.

Listed on the right are some questions and answers on maternity rights sourced from the website of Maternity Alliance, a national charity working to end inequality and promote the well being of all pregnant women, new parents and their babies. These are your legal rights at work, but in some instances, the Grey Book (which is your Conditions of Service) improves upon these rights. If you have any questions, contact a member of the NWC or your local FBU rep for advice.

alternative job on very similar terms and conditions.

## **Do I have to give notice of my return from maternity leave?**

You do not need to give any notice of return if you are going back to work at the end of maternity leave. You simply go to work on the day that you are due back:

- If you are entitled to OML you will be due back to the work on the day after the end of the 26 week period.
- If you are entitled to AML you will be due back to work on the day after the 52 week period.

If you want to return to work before the end of your maternity leave, you must give your employer at least 28 days' notice of the date you will be returning. If you do not give this notice and just turn up at work before the end of your maternity leave, your employer can send you away for up to 28 days or until the end of your leave, whichever is earlier.

**Note:** if you are entitled to AML but only wish to take OML you must give 28 days notice of your return as you are in fact returning early.

The law does not allow you to work for two weeks after childbirth and this period is known as Compulsory Maternity Leave. You will not be allowed to return to work during this time.

## **Am I entitled to Statutory Maternity Pay?**

Statutory Maternity Pay 'SMP' is maternity pay lasting 26 weeks. For the first six weeks you receive 90% of your average pay. After that you receive a 'basic rate' for 20 weeks which is £106.00 per week (or 90% of your average earnings if that is less).

You will be entitled to SMP if:

- you have been employed by your present employer for at least 26 weeks by the end of your 'qualifying week' (the 15th week before your baby is due)
- you are still employed in the 15th week before your baby is due – even if you are off sick or only work part of the week, and
- you actually receive at least £79 per week before tax on average in the eight weeks (if you are paid weekly) or two months (if you are paid monthly) before the end of your qualifying week.

To claim SMP you must give your employer 28 days notice and give them your MATB1 maternity certificate which your midwife will give you when you are about 20 weeks pregnant.

## **How do I work out the 'qualifying week'?**

The qualifying week for SMP is the 15th week before your baby is due. Find the Sunday before your baby is due and count back 15 weeks. That is the start of your qualifying week.

## **I am on a temporary contract. Can I still get SMP if my contract ends?**

Before the start of your maternity leave: To get SMP you must be employed in all or part of your qualifying week – even for one day. It doesn't matter if you are on holiday or off sick in that week. If your job ends in or after your qualifying week but before the start of your maternity leave you are still entitled to SMP. SMP will start on the Sunday after your employment ends or the Sunday of the 11th week before your baby is due (if that is later). After the start of your maternity leave: If your contract ends after

you have already started your maternity leave your SMP will continue to be paid. Once you have qualified for SMP it is payable for the full 26 weeks even if your contract ends during the SMP period. If your contract ends before your qualifying week and you do not qualify for SMP you may be able to get Maternity Allowance instead.

## **Do I have to repay my maternity pay if I decide not to return to work?**

No, all of the Statutory Maternity Pay (paid for 6 weeks at 90% of your salary and 20 weeks at £106.00 per week) is yours to keep whether you go back or not. Your employer gets most of it back from the government anyway. If your employer pays contractual maternity pay, such as full pay, any additional maternity pay over and above the Statutory Maternity Pay would only have to be repaid if that was agreed in advance or was stated in your contract. You NEVER have to repay the Statutory Maternity Pay.

## **I do not qualify for Statutory Maternity Pay. Can I get any other maternity pay?**

You may be entitled to Maternity Allowance. This is a benefit for women who have changed jobs during pregnancy and/or are self employed or have had periods of low earnings or unemployment during their pregnancy. Maternity Allowance lasts for 26 weeks. It is £102.80 a week for 26 weeks or 90% of your average earnings if that is less.

You can get Maternity Allowance if:

- you have worked for 26 weeks during the 66 weeks before your baby is due, and
- you can find 13 weeks in which you earned over £30 a week.

To claim Maternity Allowance, ask your local Jobcentre Plus for form MA1.

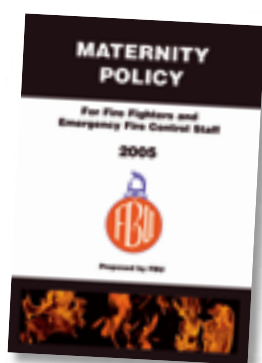
## **Do I have to tell my employer that I am pregnant?**

It is up to you to decide when you want to tell your employer that you are pregnant. Legally you do not have to tell your employer until you give notice for maternity leave and pay in the 15th week before your baby is due but you will need to tell them in order to benefit from the rights below such as paid time off for antenatal care and health and safety protection.

If you go for a job interview you do not have to tell the employer that you are pregnant and it would be sex discrimination to refuse to employ a woman because of pregnancy. Note that you will not receive SMP if you change jobs during pregnancy but you may get Maternity Allowance instead.

## **Can I take sick leave during pregnancy?**

Yes, you should follow your employer's normal sickness reporting policy. You are entitled to any sick pay that your employer normally gives. Your employer should record any pregnancy-related sick leave separately from other sick leave and it should not count towards your total sickness absence for disciplinary or redundancy purposes. It is against the law for your employer to dismiss you or treat you less favourably because of your pregnancy or for having taken sick leave during your pregnancy. Your employer can only 'trigger' your maternity leave if you are off sick for a pregnancy-related reason in the four weeks before your baby is due.



Note that if you only receive Statutory Sick Pay and you are off sick in the middle of your pregnancy it may affect your maternity pay.

### **Can I take paid time off for Antenatal Care and what does 'Antenatal Care' cover?**

Yes, if you are an employee you have the right to reasonable time off work for antenatal care and you have the right to be paid for this time off. The term 'Antenatal Care' can include time off for parent craft or relaxation classes as long as they are taken on the advice of your midwife or doctor.

### **Do I have extra health and safety protection when I am pregnant or when I am breastfeeding?**

If you are pregnant, have recently given birth or are breastfeeding, your employer must make sure that the kind of work you do and your working conditions will not put your health or your baby's health at risk. To get the full benefit of this protection you must notify your employer in writing that you are pregnant or have recently given birth or are breastfeeding.

Your employer should carry out a risk assessment of your working conditions and if any working conditions are found to be a risk to your health or your baby your employer must remove or reduce that risk. If the risks remain they must temporarily alter your working conditions or hours of work to remove the risk. If this is not possible your employer must offer you a suitable alternative job. If they can't offer you a suitable alternative job, your employer should suspend you on full pay for as long as is necessary to avoid the risks.

### **Do I have any rights if I am treated badly at work because of my pregnancy or my maternity leave?**

Yes. It is against the law for your employer to treat you unfairly, dismiss you or select you for redundancy for any reason connected with your pregnancy, childbirth or maternity leave. If you are dismissed while you are pregnant or during your maternity leave, your employer must give you a written statement of the reasons for the dismissal. If you are dismissed or treated unfairly you can bring a claim in an Employment Tribunal for detrimental treatment, unfair dismissal and sex discrimination.

### **What can I do if there is a dispute at work about my maternity rights?**

Most employers and their advisers are not familiar with the law on maternity rights, so if you have a problem it may help you achieve a solution if you show them a Maternity Alliance factsheet explaining the law. Rights such as returning to work part time are not very well known at all and your employer may not know that they are in danger of breaking the law.

You could write a letter to your employer explaining your views and send them one of the Maternity Alliance factsheets explaining your legal rights. Try to sort the problem out amicably. It may be that your employer is just mistaken or confused, rather than deliberately trying to treat you badly. You could ask for a meeting to discuss the problem. You can take someone into the meeting with you such as a friend, colleague, relative or union representative. If you are not happy with how your employer

has handled the situation you could make a formal complaint using the complaints or grievance procedure at your work. If you cannot negotiate a solution you will have to decide whether to take things further by making a claim to an Employment Tribunal. The time limit for making a tribunal claim is three months.

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### **What happens to my holidays during maternity leave?**

You continue to accrue your contractual holiday during your first 26 weeks of ordinary maternity leave. During additional maternity leave you will continue to accrue statutory paid holiday of 20 days per year. Working out your holiday entitlement during maternity leave and when to take your holiday is complicated.

### **What happens if there is a fixed holiday or Bank Holiday during my maternity leave?**

In a recent case, the European Court of Justice said that where a fixed period of annual leave or annual shutdown falls during maternity leave, a woman must be allowed to take her annual leave at another time. It is not clear what happens to Bank Holidays that fall during maternity leave but as they are fixed holidays you could argue that following this case you should be entitled to Bank Holidays as well.

### **My employer has told me my job is redundant. What are my rights?**

It is unfair dismissal and sex discrimination to select a woman for redundancy because she is pregnant or on maternity leave. If the redundancy is not connected to your pregnancy or the fact that you are on maternity leave you may be entitled to redundancy and notice pay. If you are made redundant whilst on maternity leave, your employer must offer you any suitable alternative work that is available. If there is none, they must pay you any notice and redundancy pay that you are entitled to.

