

**To: The Chair of the Probation Board/Trust
The Chief Officer of the Probation Board
The Chief Executive of the Probation Trust
(Copy enclosed for the Head of Human Resources)
The Secretary of the Probation Board/Trust
Members of the NNC**

14 April 2008

CIRCULAR NO.8/2008

Dear Madam/Sir

**STATUTORY UNPAID PARENTAL LEAVE – GUIDANCE
NEW SECTION C10 TO THE NNC AGREEMENT ON PAY AND TERMS AND
CONDITIONS**

Section A13 of the NNC Agreement on Pay and Terms of Conditions (the Handbook) outlines employees' statutory entitlements in respect of parental leave. Guidance on the statutory rights to apply to work flexibly, statutory adoption leave and pay and paternity leave and pay is already included at Section C4, C5 and C6 of the Handbook. The attached (new) Section C10 provides additional information and guidance on the statutory position in relation to unpaid parental leave.

A revised Section C Index Page is also attached.

The statute provides for unpaid leave to be taken by parents in the early years after a child is born, adopted or fostered or later where a child has a disability. The NNC recognises that employees have responsibilities and commitments outside of work and the entitlement to unpaid parental leave enables them to contribute fully to service delivery whilst participating in family life and undertaking family commitments.

Section C10 provides information, definitions and model documentation. Boards and Trusts are encouraged to be as flexible as possible when considering requests for parental leave.

The Joint Secretaries are available to give further advice if necessary. Guidance may also be sought from Nick Jones, NOMS PACU HR.

Yours faithfully

**Christine Lawrie and
Judy McKnight
Joint Secretaries**

STATUTORY PARENTAL LEAVE

1. This guidance covers employees' statutory unpaid parental leave entitlements under the Maternity and Parental Leave etc Regulations 1999.

Entitlement

2. An employee who is either
 - the parent of a child under five years of age or
 - the parent of a child who has been awarded Disability Living Allowance and is under 18 years of age
 - the adoptive parent of a child (within five years of the date of adoption or where the child is under 18 years of age whichever is the sooner)

has a statutory entitlement to take up to 13 weeks' unpaid parental leave

3. Where there is more than one child, the right to parental leave arises in respect of each child.

Definitions

4. For the purpose of the Regulations a parent is defined as:
 - a. the mother;
 - b. the father of the child if he was married to the mother at the time of the birth or if 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;
 - d. a guardian appointed under the Children Act;
 - e. adoptive parents;
 - f. a foster parent/carer registered with either a local authority or an Independent Fostering Provider (IFP);
 - g. a spouse or partner of any of the above, of either sex, if s/he is living with the child.

Eligibility

5. Employees must:
 - satisfy the definition of a 'parent' and
 - have completed one year's continuous service.
6. Employees may be asked to provide documentary evidence of parenthood or parental responsibility. This may be in the form of, for example, the child's full birth certificate, adoption papers or a document certifying that the child has

been awarded Disability Living Allowance.

Length of parental leave

7. The NNC has endorsed the DBERR recommendation that parental leave is ordinarily taken in blocks or multiples of one week only up to a maximum of four weeks in a single year.
8. Where the employee's child has been awarded Disability Living Allowance, the leave may be taken one day at a time or in blocks or multiples of one day.

Notice of intention to take parental leave

9. Employees will be required to give at least 21 days' advance notice of the date on which a period of parental leave is to start and the duration of that period of unpaid leave.
10. An expectant/soon to be parent who wants to take parental leave to attend at the birth of her/his child must specify the expected week of childbirth as well as the start date and duration of the period of leave.
11. Employees wishing to take parental leave from the date of the child's placement for adoption must, in giving the 21 days' notice, specify the week in which placement is expected to occur.

Contractual Implications

12. Employees are entitled to the benefit of their normal terms and conditions of employment, except for terms relating to pay (unless their contract of employment provides otherwise) throughout a period of parental leave.
13. Continuity of employment is not broken by a period of unpaid parental leave.
14. During parental leave employees will continue to be contractually bound including in respect of such matters as conduct, secondary employment, and non-disclosure of confidential information.
15. Employees should seek advice as appropriate to determine the effect of the proposed period of parental leave on their pension, national insurance contributions and other benefits.
16. HR should ensure that the deduction(s) of pay are made during the pay period(s) in which the unpaid leave is taken.
17. Should an employee wish to resign during a period of parental leave s/he should write to her/his line manager giving the period of notice due under her/his contract in the normal way.

Return to work after paternity leave

18. Employees will be entitled to return to the same job following a period of parental leave lasting four weeks or less (other than where this follows immediately after taking additional maternity leave).
19. If, exceptionally, an employee has taken a period of parental leave lasting more than four weeks, s/he will be entitled to return to the same job or, if it is not reasonably practicable, to another job which is both suitable and appropriate for the employee in the circumstances.
20. An employee who takes four or fewer weeks' unpaid parental leave at the end of her additional maternity leave period is entitled to return to work in the job in which she was employed before her absence began unless it would not have been reasonably practicable for her to return to that same job at the end of her period of additional maternity leave and is still not reasonably practicable at the end of the period of parental leave.

Application for unpaid parental leave

21. The following model documentation is attached at Appendix A:
A model Parental Leave Application form
A model Parental Leave Agreement form
A model Parental Leave Postponement form
22. Where one does not currently exist, Boards are advised to introduce an explicit procedure for employees wishing to apply for unpaid parental leave.

Timing of the leave

23. The timing of leave will be determined by mutual agreement between the employee and the line manager. Where leave is granted, Boards are expected to make reasonable workload adjustments around the time at which parental leave is to be taken. Consideration of a request must take into account the timing of the employee's specific parental needs.

Inability to grant parental leave on the dates requested

24. An employer is entitled to refuse the request if it would result in serious operational difficulties. The line manager should discuss the reasons for refusal and alternative dates with the employee. If the line manager refuses to approve an eligible request but agrees to defer to a later date that would not otherwise be eligible (e.g. it delays the period of leave until after the child's fifth birthday) the request should still be treated as eligible under this scheme.
25. Leave cannot be postponed or deferred when the employee gives notice to take it immediately after ordinary maternity or adoption leave.
26. In the event that there is no agreed postponement, then the employer can postpone the leave for no longer than six months after the beginning of the period that the employee originally wanted to start his/her parental leave. For further information, see the DBERR booklet entitled 'Parental Leave: a short

guide'.

Right of Appeal

27. Where exceptionally it is not possible to agree an application for parental leave, clear reasons will be provided and these will be discussed with the individual. Alternative ways of meeting the individual's needs will also be considered if at all possible.
28. If the employee is not satisfied with the decision, s/he should initially attempt to resolve any difficulties with her/his line manager in consultation with HR.
29. In the event that the individual remains dissatisfied with the decision, a grievance should be registered in accordance with existing procedure.

Record Keeping

30. There is no statutory obligation on employers to maintain records of the amount of parental leave employees have taken. It is however recommended that Boards do so and, if asked, supply details of parental leave taken by a former employee to her/his employer.

Parental Leave Application Form

Name: Job Title:

Unit: Contact No:

I wish to apply for unpaid parental leave in accordance with my statutory entitlement and confirm that I am eligible to do so. I am happy to provide documentary evidence of my eligibility on request.

I am applying to take leave immediately after *my/my partner's child is *born/adopted/fostered. (Please strike out whichever is not applicable)

Yes/No

I would like my leave to commence on:(date)

and I shall return to work on: (date)

I understand that it is my responsibility to seek advice on the effect of this request on:

- my pay and benefits,
- my pension.

Signed:

Date:

This form will be kept on your personal file and the information will be used for monitoring purposes and in accordance with the Data Protection Act 1998.

One copy of this form should be given to the manager and one forwarded by the employee to Human Resources.

Parental Leave Agreement Form

To be completed within 7 days of receipt of the employee's application for unpaid parental leave and following consultation with HR.

Line Manager's Name: Job Title:

Unit: Contact No:

'Dear

Application for unpaid parental leave (insert dates of leave)

Following receipt of your application on..... (date) I have considered your application for parental leave.

- I am pleased to confirm that I am able to agree to your request.
- I am unable to accommodate your original request. However, I am able to offer the alternative postponement which we have discussed and you agreed would be suitable to you.

Your parental leave will begin on:.....Date

And you will return to work on:.....Date

HR will ensure that the appropriate deduction is made from your pay at the due date.

Signed:

Date:

Parental Leave Postponement Form

To be completed within 7 days of receipt of the employee's application for Parental Leave and following consultation with HR

Line Manager's Name: Job Title:

Unit: Contact No:

'Dear:

Application for unpaid parental leave – (insert dates of leave)

Following receipt of your application for Parental Leave and our meeting on (date).

I have considered your application for parental leave during the period requested. I am sorry but I am unable to agree to your request for the following reasons:

Please continue on a blank sheet if necessary

I am however, able to offer the following alternative dates:

Parental leave commencing on:Date

Returning to work on:Date

I hope this will be acceptable to you.

Signed: Date:

One copy of this form should be given to the employee and one forwarded to Human Resources.