

**To: Force Personnel/HR Manager/Payroll Manager**

**Cc: Police and Crime Commissioners**

---

19 July 2017

**PSC PAY AND REWARD REVIEW**

**PSC HANDBOOK – MATERNITY AND ADOPTION PROVISIONS**

Dear Sir/Madam

As part of the new agreement on the revised terms and conditions in the PSC Handbook, there were enhancements to the provisions in section five (maternity leave and pay) and section three, paragraph four (adoption leave and pay).

The Employers' Side view is that these enhancements should take effect, as with all the other provisions, on 1 April 2017. The Trade Union Side's initial position had been that all employees on maternity or adoption leave on 1 April 2017 should be eligible to access the new provisions and on 18 May advised their branches to lodge grievances with forces and the submission of case forms in respect of claims on behalf of members in these categories. On the 4 July, UNISON refined their position and advised their branches to submit claims on behalf of members who were within the first 18 weeks of their maternity leave or adoption leave on 1 April 2017 for the unlawful deduction of wages.

The Employers' Side decided to seek the advice of legal Counsel on both our position and that of the Trade Union Side on the application and interpretation of the new maternity scheme.

The advice that we have now received from Counsel is that Paragraph 1 of Section 5 of the PSC Handbook which states: "...*The occupational maternity scheme shall apply to all pregnant employees regardless of the number of hours worked per week*" means that those employees who were pregnant on or after 1 April 2017 would be eligible to access the new provisions. We therefore would advise you to apply the new provisions to any employee pregnant on 1 April onwards and this revises our previous guidance to you on 29 March which stated that the new provisions should only apply to those women whose Estimated Week of Childbirth (EWC) was on or after 1 April 2017.

Provided that the new provisions have been incorporated into an individual contract of employment, the further advice that we have is that a claim for a breach of contract would not be successful where the employee was not pregnant at the

introduction of the scheme on 1 April 2017 and provided that they had complied with paragraph 2 of the maternity scheme.

We have also received supplementary advice from Counsel as to the Trade Union Side's further position outlined above. The advice we have is that any prospective claims for the unlawful deduction of wages would not have a reasonable prospect of success for any employee not pregnant on 1 April 2017 onwards as the new enhancements and wages would only apply to those employees who have had their contract varied.

Finally, as you will be aware, you do have the discretion at force level to vary any provision of the PSC Handbook through a local collective agreement, so you are free to agree a different implementation of the maternity and adoption provisions if you wish but this is entirely a matter for you.

Yours sincerely

A handwritten signature in black ink, appearing to read "David Algie". The signature is written in a cursive style with a horizontal line underneath the name.

David Algie  
Employers' Side Secretariat