

Agenda Item No: 8 **Report No:** 108/15
Report Title: Shared Parental Leave Policy
Report To: Employment Committee **Date:** 14 September 2015
Cabinet Member: Councillor Elayne Merry
Ward(s) Affected: All
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Purpose of Report:

To implement a new policy written by HR regarding Shared Parental Leave.

Officers Recommendation(s):

- 1 To note the report and agree the implementation of this policy within the organisation.

Reasons for Recommendations

- 2 On 5 April 2015 the Government introduced new legislation regarding Shared Parental Leave.

Since that date HR have provided support and published information regarding this on the Council's intranet for staff but this formal policy aims to provide detailed clarification to staff and guidance to managers regarding this new legislation.

Information

- 3 The recent legislative changes which occurred have been incorporated into this new policy and reference made to our existing policies for ease of those using it.

This policy has been written with consideration to ACAS guidance regarding best practice on this matter and has been approved by Corporate Management Team. Unison were approached for their comments on this new

policy on 2 July 2015 and as of the date on which this report was submitted (14 August 2015) none have been received.

Financial Appraisal

4 There are no financial implications of this report.

Legal Implications

5 The Legal Services Department have not been asked for comments, this new policy complies with national legislation.

Sustainability Implications

6 I have not completed the Sustainability Implications Questionnaire as this Report is exempt from the requirement because it is a progress report/budget monitoring report/development control report

Equality Screening

7 These policy has been subject to an Equality Impact Initial Assessment undertaken by one of the HR Officers.

Background Papers

Shared Parental Leave Policy

Shared Parental Leave Policy

1. Introduction

- 1.1 This policy sets out information and arrangements for shared parental leave (SPL). Shared parental leave also applies where a child is placed for adoption. The arrangements in relation to adoption are very similar to those that apply in relation to the birth of a child.
- 1.2 Shared parental leave rights are complicated. Any queries about this, either in relation to yourself or someone you manage, should be directed to HR. Staff may find the flowchart at Appendix A useful for understanding the steps involved in requesting SPL.

2. Definitions

- 2.1 For the purposes of this policy the following definitions will apply:
- 2.2 Expected week of childbirth (EWC): the week, beginning on a Sunday in which the doctor or midwife expects your child to be born.
- 2.3 Parent: one of two people who will share the main responsibility for the child's upbringing (And who may be either the mother, the father, or the mother's partner if not the father)
- 2.4 Partner: Spouse, civil partner or someone living with another person in an enduring family relationship but not a sibling, child, parent, grandparent, grandchild, aunt, uncle, niece or nephew
- 2.5 Qualifying Week: the fifteenth week before the EWC

3. What is Shared Parental Leave?

- 3.1 It allows working parents to share periods of leave or pay entitlement following the birth of a child and during the first year of their birth or adoption. It can be taken if you are the mother of a child, the father of a child or the partner of a mother.
- 3.2 Up to 50 weeks statutory maternity leave (SML) and up to 37 weeks statutory maternity pay (SMP) may be available to be shared. The leave can be shared so that it is taken at the same time as your partner or at different times.
- 3.3 How much leave or pay can be shared will depend on how much maternity leave and maternity pay has been used by the child's mother. It is only the untaken balance that can be shared. For example, if the child's mother is entitled to 52 weeks maternity leave and 39 weeks maternity pay and has taken 16 weeks leave and pay, the balance of 36 weeks leave and 23 weeks' pay can be shared.

- 3.4 In order for SPL to be taken the child's mother must bring her entitlement to maternity leave or maternity pay to an end.
- 3.5 If you are the child's mother you must take the compulsory 2 weeks maternity leave following the birth.
- 3.6 If you are the child's father, any entitlement to SPL is on top of any entitlement to statutory paternity leave and pay. The right to take additional paternity leave no longer exists.

4. Eligibility Requirements

- 4.1 You must have at least 26 weeks continuous employment with us by the end of the qualifying week and must still be employed by Lewes District Council (LDC) in the week before the leave is to be taken.
- 4.2 The other parent of the child must have worked (in an employed or self-employed capacity) in at least 26 of the 66 weeks before the EWC and had average weekly earnings of at least £30 during 13 of those weeks.
- 4.3 You and the other parent must give the statutory notices and declarations required by LDC.
- 4.4 You may be required to give us a copy of the birth certificate and the name and address of the other parent's employer as evidence of your entitlement.

5. Shared Parental Leave entitlement

- 5.1 If you are eligible you may have up to 50 weeks SPL during the child's first year in your family. It can be taken at any time until 12 months after the baby is born, it cannot start until 2 weeks after the birth.
- 5.2 SPL cannot be taken in odd days, it can only be taken in complete weeks.
- 5.3 The number of weeks available is calculated using the mother's/adopter's entitlement to maternity/adoption leave, which allows them to take up to 52 weeks' leave. If they reduce their maternity/adoption leave entitlement then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.
- 5.4 Staff can choose to take SPL at the same time as their child's other parent or at different times to their child's other parent. Staff can also choose to take a continuous block of time as SPL or can ask to take it as discontinuous periods. If discontinuous periods are requested we may refuse your request and ask that you take it as a continuous block instead if it is considered that there is an adverse impact on service delivery.
- 5.5 A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

- 5.6 If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting the number of weeks of SMP, SAP or MA taken by the mother/adopter from the 52 week entitlement.
- 5.7 Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter's partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.
- 5.8 SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice.
- 5.9 If the employee is eligible to receive it, Shared Parental Pay (SHPP) may be paid for some, or all, of the SPL period.

6. Notification

- 6.1 Staff will be required to notify their manager in writing detailing their intentions to take SPL and (if applicable) shared parental pay (SHPP). This must be at least eight weeks before any period of SPL.
- 6.2 Documentary evidence will need to be submitted with this notification, including birth/matching certificate and/or partner's employer.
- 6.3 It is possible to submit three notifications specifying leave periods you are intending to take. Each notification may contain either (a) a single period of weeks of leave; or (b) two or more weeks of discontinuous leave, where you intend to return to work between periods of leave.
- 6.4 SPL can only be taken in complete weeks but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish on a Monday. Where you return to work between periods of SPL, the next period of SPL can start on any day of the week.

7. Variations to Arrangements

- 7.1 Once a period of SPL has been booked and agreed it is permitted to vary or cancel it provided that you advise your line manager in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.
- 7.2 Any variation or cancellation notification made, including notice to return to work early, will usually count as a new notification reducing the employee's right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the organisation requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the organisation.

8. Statutory Shared Parental Pay (SHPP)

8.1 Shared Parental pay of up to 39 weeks (less any weeks of statutory maternity pay claimed by the child's other parent) may be available provided you have at least 26 weeks' continuous employment within LDC at the end of the qualifying week and your average earnings are not less than the lower earnings limit set by the government each tax year. SHPP is paid at a rate set by the government each year.

9. Terms and conditions during Shared Parental Leave

9.1 During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. Annual leave will continue to accrue at the rate provided under your contract.

9.2 Pension contributions will continue to be made during any period when the employee is receiving SHPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the organisation's contributions will be based on the salary that the employee would have received had they not been taking SPL.

10. Keeping in touch during Shared Parental Leave

10.1 Before an employee's SPL begins, their line manager will discuss the arrangements for them to keep in touch during their leave. The organisation reserves the right in any event to maintain reasonable contact with the employee from time to time during their SPL. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

11. Shared Parental Leave in Touch days

11.1 An employee can agree to work (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim SHPP for that week. These are known as "Shared Parental Leave In Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

12. Returning to Work

12.1 Before you go on SPL we will agree the date on which we expect you to return. Upon your return you will have the right to return to the same job or a comparable one on terms and conditions no less favourable than those on which you were employed before you went on leave.

12.2 If you want to return earlier than the agreed date, you must give at least 8 weeks' notice (preferably in writing).

APPENDIX A

Shared Parental Leave Flowchart

The process of applying for Shared Parental Leave can commence before or after a child is born or adopted. If it commences before, the process can be revoked within 6 weeks of the birth/adoption.. All notices issued by an employee in connection with Shared Parental Leave, need to be received by the line manager at least 8 weeks in advance.

