

**TO: EMPLOYMENT COMMITTEE  
1 JULY 2015**

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## **SHARED PARENTAL LEAVE**

**(Director of Corporate Services – Human Resources)**

### **1. PURPOSE OF REPORT**

- 1.1 To note the current position in relation to the new legal framework for Shared Parental Leave (SPL) and Shared Parental Leave Pay (ShPP) which came into effect in April, and to agree the Policy on Shared Parental Leave (attached at Appendix A).
- 1.2 The FAQ document (attached at Appendix B), gives the basics of the new legislation in a form which is easier for employees to understand, and will enable them to decide if they need to look into the detailed policy further and get advice from their HR team.

### **2 RECOMMENDATION**

- 2.1 **That the Shared Parental Leave policy, which reflects Statutory levels of Shared Parental Leave and Pay, is formally adopted.**

### **3 REASONS FOR RECOMMENDATION**

- 3.1 It is a statutory requirement.

### **4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 It would be possible to enhance ShPP (paragraph 5.4 to 5.6) or to allow a greater number of occasions of SPL than the law provides for. It is suggested that the Council adheres only to the statutory requirements until the level of take-up and the potential impact on the workplace can be assessed. (It is estimated that only 2-6% of parents will initially take up the new SPL, but this may increase over time.)

### **5 SUPPORTING INFORMATION**

- 5.1 The new Shared Parental Leave (SPL) Regulations apply to eligible parents of babies born or children adopted on or after 5 April 2015. Basically, during the first year of the child's birth or adoption parents will be allowed to share the care of their child along with sharing statutory maternity leave and pay.
- 5.2 The Regulations are designed to give parents more flexibility in caring for their child. All eligible employees have a statutory right to take Shared Parental Leave on up to 3 occasions and there may also be an entitlement to Shared Parental Pay (ShPP). A draft policy is attached as Appendix A, and sets out an employee's statutory rights and responsibilities. There are standard forms referred to in the policy which are not attached here.

Statutory pay and the option to enhance

- 5.3 There are some concerns expressed nationally that in order to ensure equality for both male and female employees, the SPL arrangements should mirror individual employers maternity and adoption provisions i.e. a man on SPL should receive any enhancements over and above the statutory allowances which would normally be paid to women on maternity leave.
- 5.4 The enhancement which the Council applies is for employees who are on national conditions of service with over 1 years' service, when they receive an additional 12 weeks pay at 50% of their contractual weekly pay as well as the statutory 90% payment for the first six weeks in maternity cases; the Council mirrors this enhancement for adoption cases.
- 5.5 It would be possible to agree to the enhanced maternity/adoption payment being mirrored for employees of both sexes taking up Shared Parental Leave. The Government has yet to provide any specific guidance on this but it has in the past taken the view that not to do so would not amount to unlawful discrimination, because women have special protection as a result of their biological position as the mother which can justify the different treatment and different pay for those on maternity leave. Once the individual has decided to change to Shared Parental Leave, both parents are treated equally.

Most councils have decided not to enhance as they do not have to by law.

- 5.6 Therefore, it is suggested that the Committee take a pragmatic approach on this and agree that if the mother voluntarily chooses to end her maternity leave and pay, and therefore gives up her right to any enhancements to her maternity allowances in order to embark on a period of SPL, the male and female partners are treated and paid equally but revisit this issue in the light of any further government or national advice.

Leave

- 5.7 The Regulations allow an employee to book SPL on up to three occasions, (this is not the number of weeks they can take, but the number of times they can make a request for a period of leave.) The Council has the option under the Regulations, to increase the number of occasions a request can be made. However it is suggested that the more employees come in and out of the workplace, the more difficult it will be to adequately cover the absences. It is therefore suggested that only the statutory three occasions are allowed.
- 5.8 On each occasion for which a request for SPL is made, it can be for almost any pattern of leave– e.g. alternate weeks for each parent – this is known as “discontinuous leave”. In line with the right to ask for Part Time working, managers can refuse any discontinuous pattern requested for specified business related reasons which include, difficulty in covering the work, difficulty in recruiting a replacement, and adverse impact on the quality of work. However, if the request is refused the parent can substitute the request for a period of continuous leave i.e. all in one block,

which the manager must then accept. HR advice will be important in such situations. Requests for continuous leave must always be accepted if the individual is eligible and has given the required notice.

#### Workforce Planning/Impact

- 5.9 Currently, mothers take their maternity leave entitlements in one continuous period and fathers/partners have limited paternity/parental leave options. Under the new system it is difficult to anticipate what the take up will be although there will be workforce planning issues if the take up is extensive. For example It may prove more difficult to arrange cover for shorter periods of leave than it is for a longer spell of maternity leave, and areas where the workforce is predominantly male, may see themselves facing “maternity leave” type issues for the first time. As in paragraph 5.7 it is suggested that this situation is closely monitored and also assessed in the Strategic Risk Register.

#### Communications

- 5.10 All employees have been advised of the new legal framework and what it means for them when they become parents. Information is available on Boris and expectant mothers will also be advised when receiving information about their maternity leave options.

Managers will also be advised how to deal with requests if this situation arises. The policy contains full details of how the leave works and the eligibility criteria, with a set of FAQs as an easier way to introduce staff to the concepts.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

#### Borough Solicitor

- 6.1 Nothing to add.

#### Borough Treasurer

- 6.2 The financial implications associated with this policy are not expected to be significant, although difficult to quantify until actual take up of Shared Parental Leave is known. The effects will need to be managed within existing devolved staffing budgets in the short term, but this will be reviewed when the Commitment Budget is updated in future.

#### Equalities Impact Assessment

- 6.3 The legislation has the objective of allowing partners to be more involved in the care of the child in the first year. It is almost impossible to analyse the impact on the organisations staff without knowing the level of take up. However it does clearly allow the parents more flexibility should they decide to take up SPL options.

#### Strategic Risk Management Issues

- 6.4 Outlined in paragraph 5.10

**7 CONSULTATION**

Principal Groups Consulted

7.1 None, it is a legal requirement, although the matter was discussed at the Local Joint Committee.

Method of Consultation

7.2 N/A

Representations Received

7.3 None

Background Papers

None

Contact for further information

Chief Officer – Human Resources