

Human Resources Committee

16 March 2007

Family Friendly Legislation



Report of Kim Jobson, Head of Human Resources

Purpose of the Report

- 1 To provide a briefing of the implications of the forthcoming introduction of the Work & Families Act 2006, particularly in relation to maternity, adoption and flexible working employment rights. The policies covering these areas contribute towards our corporate values of promoting equality of opportunity and ultimately being geared towards continuous improvement in our services.

Background

- 2 The Council has gradually been developing a series of corporate employment policies that have extended flexible working opportunities and allow staff to better balance work and life responsibilities. These policies are part of the wider package of employment measures to attract and retain skilled staff and reduce recruitment costs. Availability of a variety of options can contribute to improved morale and have a positive value on sickness absence levels.
- 3 This strategy is also associated with a number of strategic priorities within our People Strategy – particularly, the aim to become an employer of choice and the focus on embracing new ways of working to ensure that we support suitable work/life balance measures to best meet organisational and personal needs.
- 4 A number of reports have been brought to the HR Committee in the past, one of the more significant being in April 2003. This report prompted the most recent major changes to our maternity and family leave policies. The Government's new legislation has now required a further examination as changes will be necessary from April 2007.

Changing Policies

- 5 The legislation will require changes to areas of two existing policies:
 - Maternity & Paternity Policy
 - Family Leave Policy
- 6 The main changes have been identified in the table shown at *Appendix 2*. Considering the maternity scheme, the new entitlements become valid for all

mothers where the baby is **due**¹ on or after 1 April 2007. Thus, two leave and payment schemes will have to run side by side for a period of time.

- 7 One of the fundamental changes is the introduction of KIT days – “keeping in touch” days. The principle involved here is where both manager and employee agree, an employee may come in and work for up to 10 days during their maternity leave without loss of Statutory Maternity Pay (SMP). This could be useful, for example, where an employee wants to continue with a training programme while on leave.
- 8 One of the more controversial proposals has actually been delayed by the Government. This involves creating the option for a mother to transfer the last six months of any maternity entitlement across to the father to take as extended paternity leave. However, it is understood that the intention is to proceed with this development within the next two years.
- 9 Other changes prompted by the legislation will affect the adoption leave and flexible working elements of the Family Leave Policy. Adoption leave entitlements are being extended in a similar vein to the maternity arrangements. Potentially of wider significance is the extension of the right to request flexible working². Currently, this option is only available to employees who have children under the age of six (up to 18 if the child is disabled). However, from April, this right will also be extended to any individual who has caring responsibilities for an adult.

Recommendations and reasons

- 10 At this stage, this report is for information purposes. The summary of the variations will need to be implemented as part of the implications from the Work & Families Act 2006. There are certain elements of detail still requiring clarification, particularly in relation to linking the changes into national occupational maternity schemes. In addition, there also remains some doubt over the applicability of the flexible working scheme to parents who care for children aged between 7 and 17 – a further report may be necessary to clarify this issue.

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¹ It is the ‘due’ date that is critical. New scheme arrangements apply to mothers where the baby is born earlier than the 1 April, as long as the due date was on or after that date. Current entitlements will still apply to mothers whose due date is pre-1 April, even if the baby arrives after that date.

² An employee can request changes to their working hours / arrangements – clear business reasons have to be identified by any manager who rejects any such request.

Appendix 1: Implications

Finance – the additional costs stemming from the extension of SMP payments to 39 weeks will largely be recouped. SMP weekly payments are expected to rise in April from £108.85 to about £112.75, but employers can reclaim up to 92% of such payments. Guidance is still awaited from the national employers, but at this stage there appears to be no plans to change the occupational maternity scheme.

Staffing – the new maternity entitlements will affect all mothers where the baby is due on or after 1 April. The extension of the flexible working entitlements obviously extends the numbers of people who might seek to apply.

Equality and Diversity – the revised policies will be applicable across the County Council. The policy will be recommended to schools that will need to make their own decision about implementation processes.

Accommodation – none direct

Crime and disorder – none direct

Sustainability – none direct

Human rights – none direct

Localities & Rurality – none direct

Young people – none direct

Consultation – details of the amendments to the policy will be circulated across relevant groupings, including the trade unions.

Health – none direct

Comparison table showing the main changes brought about by the Work & Families Act 2006

Topic	Current Situation	Future Requirement
Maternity Leave	All employees have a right to 26 weeks of Maternity Leave. However, certain qualifying rules allow some women to take 52 weeks of leave.	All women will be entitled to up to 52 weeks of maternity leave.
Maternity Payments	SMP payments are only paid for the first 26 weeks of any absence – the SMP scheme is augmented by our occupational maternity schemes.	SMP will become payable for the first 39 weeks of any absence.
Returning to Work	A woman cannot return to work within 2 weeks of the actual birth. If an employee works during any week that she is entitled to SMP, the right to that payment is lost.	A woman can agree with her manager to carry out up to 10 KIT days of work while on maternity leave – this will not adversely affect SMP rights. KIT days cannot be worked in the 2 weeks after the birth.
Administration of SMP	SMP normally starts on the Sunday following the day on which maternity leave started.	SMP can start on any day of the week, provided the leave also starts at that time.
Adoption Pay	Current adoption leave payments are applicable up to 26 weeks.	Adoption payments will be extended up to 39 weeks of any absence.
Right to Request Flexible Working	An employee can apply where they have a child under the age of 6 (up to 18 if the child is disabled).	Extended right to allow applications from an employee who has caring responsibilities for an adult ³

³ The definition of a 'carer' includes caring for a husband/wife or a civil partner or partner. It also includes for a 'near relative' (parents, parent-in-law, adult child, adopted adult child, siblings, uncles, aunts, grandparents and step-relatives). It can also apply to an adult who is not covered by the above, but is living at the same address as the employee.

