

REPORT OF THE HUMAN RESOURCES MANAGER

GENERAL PURPOSES COMMITTEE – 17 APRIL 2007

MATERNITY AND ADOPTION POLICIES

Recommendation

<i>To adopt the revised Maternity and Adoption Policies.</i>
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Contact Officer: Amanda Nicholls, extension 2023.

Reasons why a decision is required

1. The introduction of Work and Families Act 2006 Legislation and the effect of this legislation on the rights of employees claiming maternity and adoption leave and pay.

Options available to the Council

2.
 - (1) To not change the current Maternity and Adoption Leave Policies is not an option as our scheme would not be compliant with the new statutory regulations.
 - (2) To enhance Adoption Pay to reflect the enhanced occupational Maternity Pay offered by the Council in order to ensure that no discrimination occurs against any particular employee group.
 - (3) The opportunity could be taken to review the occupational maternity and adoption pay and the essential car users lump sum elements of the Council's current maternity and adoption policies, however it is proposed that this should not be done in isolation and form part of a whole review of the terms and conditions.
 - (4) The pay a women who uses 'Keeping in Touch Days' .

Information to be considered in taking the decision

3. The Work and Families Act 2006 requires the Council to extend the paid maternity and adoption leave pay to 39 weeks on the basis of 6 weeks at 9/10ths average earnings and the remainder at the statutory rate for maternity pay and on the basis of 39 weeks at the statutory rate for adoption pay.
4. The new legislation has introduced the provision for employees on maternity and adoption leave to work up to 10 days during their leave without affecting their entitlement to earn Statutory Maternity or Adoption Pay. In introducing these 'Keeping in Touch Days' the Council must decide whether or not they wish to pay employees for any work carried out. There is no obligation for these days to be paid, however, the advisory bulletin released by the Local Government Employers is that 'this will be a matter for agreement between employer and employee. A woman will continue to receive her SMP for the week in which she works, however, in most cases a woman should also be paid for any work she does under the contract.' The recommended policy has been written on the assumption that employee will be paid

for any Keeping in Touch Days that they will work for both the Maternity and the Adoption Policy.

5. The Council has in the past offered an increase on the statutory minimum payments required for maternity pay for employees with over 1 year's service. This increase has entitled pregnant employees to 12 weeks' leave at half pay with Statutory Maternity Pay after 6 weeks' at 9/10th average earnings, this is followed by 8 weeks at the standard rate of Statutory Maternity Pay.
6. The new policy has been written keeping all current benefits in place. The Council also offers essential car user's a lump sum of 6 weeks at 9/10th of average earnings and half pay for the remainder of the maternity pay period.
7. The Council has not historically offered any enhancement on the statutory minimum adoption payments. To date, no employee has used the entitlement to Adoption Leave and Pay but should somebody request it in the future, failure to amend the Adoption Policy to reflect the occupational maternity pay element could lead to claims that the Council is discriminatory.
8. The right to Adoption Leave and Pay is subject to a registered adoption agency matching the couple with a child for placement. Therefore, employees who adopt the children of a spouse or partner would not be entitled to these benefits. Under the Paternity and Adoption Leave Regulations 2002, a child means a person who is under the age of 18 when placed with an adopter for adoption.

The Scheme

9. It is proposed that a number of key elements of the current maternity scheme will be maintained. These include the provision of half pay for 12 weeks for all employees with over 1 year's service and the provision of car users lump sum at 6 weeks at 9/10th average earnings and half pay for the remainder of the maternity pay period.
10. Our current scheme states, in line with previous legislation, that only employees with the required service will be entitled to the 26 weeks Ordinary Maternity/Adoption Leave plus the 26 weeks Additional Maternity/Adoption Leave. Under the Work and Families Act 2006, the length of service criteria has been removed for the Additional Leave and in line with this, the new policy states that all employees will be entitled to 52 weeks total leave.
11. The Work and Families Act 2006 requires the Council to extend the paid maternity and adoption leave pay to 39 weeks on the basis of 6 weeks at 9/10ths average earnings and the remainder at the statutory rate for maternity pay and on the basis of 39 weeks at the statutory rate for adoption pay. The recommendation is that the Council retains the provision of offering 12 weeks at half pay to those employees with 1 year's service or more, following 6 weeks at 9/10th of the average earnings.
12. The proposed Adoption and Maternity Policies have introduced details of the option to work during maternity (Keeping in Touch Days) and also confirmation on contact during maternity leave as defined in the new legislation.
13. The opportunity has been taken to include a section on health and safety in the policy and formalise the requirement for risk assessments to be carried out by line managers. A maternity risk assessment form will be designed in conjunction with the Health and Safety Advisor and Occupational Health.

14. The Council does not provide employees with the option to be paid for any outstanding annual leave not taken during any holiday year. Employees taking maternity or adoption leave will be encouraged to use their holiday by either taking it at the start or the end of the leave period or replacing some of their unpaid maternity leave with holiday.

Background Papers

None

Resource Implications

The effect on resources is difficult to gauge due to the uncertain nature of predicting future maternity or adoption leaves. However in the last three years there have been 26 maternity leave. Should these have included the additional SMP it would have increased the annual cost by approximately £1,000. The Council has not yet used the adoption policy.

Consultation Statement

In developing the approach to the changes, other local authorities in Kent have been canvassed for their views, the proposals have also been discussed with the Trade Unions and no adverse comments have been received.

Attachments

- Appendix 1 – Maternity Policy
- Appendix 2 – Adoption Leave Policy

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