

EAST AYRSHIRE COUNCIL

CORPORATE GOVERNANCE COMMITTEE 29 MARCH 2007

MATERNITY AND ADOPTION LEAVE

Report by the Depute Chief Executive/Executive Director of Corporate Support

1. PURPOSE OF REPORT

- 1.1** The purpose of this report is to advise the Committee of the changes to the Maternity Leave and Adoption Leave provisions.

These changes ensure compliance with the Work and Families Act 2006 and come into force for employees whose babies are due to be born on or after 1 April 2007, or who are due to adopt a child on or after 1 April 2007.

1. BACKGROUND INFORMATION

- 2.0** The Government's Employment Relations Act 1999 proposed a package of measures to support a culture of fairness at work. Amongst the proposals were the Government's "family friendly policies" in recognition of the changing patterns of work and demographics, to help men and women cope with the dual demands of work and family life.
- 3.0** The Government's Employment Act 2002 introduced new minimum maternity provisions, as well as new statutory adoption and paternity provisions.
- 4.0** The maternity leave and adoption leave provisions were updated at the Corporate Sub-Committee of the Policy and Resources Committee at its meeting on 11 February 2003.
- 5.0** The Work and Families Act 2006 makes further changes in respect of Maternity and Adoption Leave. The main changes are that the Statutory Maternity or Adoption Pay period has been extended from 26 weeks to 39 weeks, all women are now entitled to 52 weeks maternity leave regardless of length of service and 'keeping-in-touch' days have been introduced for women on maternity or adoption leave. COSLA Human Resource Advice Circular 1/07 contains guidance for Councils on the implications of the Act. The Head of Personnel has revised the Council's existing procedures in light of this guidance.
- 2.5** A revised maternity booklet/procedure and adoption booklet/procedure have been prepared to reflect the legislative changes and expectant parents and adopters can obtain copies of these booklets from their departmental personnel officer.
- 2.6** These new rights, together with existing rights to parental leave and time off for dependents, aim to provide parents with more opportunities to balance work and family life.

3. MATERNITY LEAVE

- 3.1** Under the new provisions, all employees whose expected date of childbirth is on or after 1 April 2007 are entitled to up to 52 weeks statutory maternity leave regardless of their length of service or number of hours worked per week. This period is made up of 26 weeks Ordinary Maternity Leave followed by 26 weeks Additional Maternity Leave. Additional Maternity Leave commences on the day immediately following the end of the period of Ordinary Maternity Leave.
- 3.2** Employees who have less than 26 weeks continuous service at the beginning of the 15th week before their expected week of childbirth are not eligible to receive occupational maternity pay. They may be entitled to Maternity Allowance (MA).
- 3.3** Employees who have at least 26 weeks continuous service at the beginning of the 15th week before their expected week of childbirth are now entitled to up to 39 weeks maternity pay. The first 6 weeks are paid at nine-tenths of their weekly pay, offset against any payments of Statutory Maternity Pay (SMP) or Maternity Allowance (MA) they may be entitled to. The next 12 weeks are paid at half their normal weekly pay, plus any payments of SMP or MA they may be entitled to, subject to the total not exceeding their normal full pay. The remaining 21 weeks are paid at the SMP rate. From April 2007 this has been set at the lower of £112.75 or 90% of the employee's normal weekly earnings per week. Employees who do not have the required service may be entitled to MA or SMP.
- 2.0** Maternity leave can now start on any day of the week and employees who wish to return to work before the end of the Additional Maternity Leave period must now give at least 8 weeks notice of their intention to return to work.

1. ADOPTION LEAVE

- 4.1** There has been no change to the leave rights of adoptive parents under the new legislation. All employees who are adopting children on or after 1 April 2007 are entitled to up to 26 weeks statutory Adoption Leave regardless of their length of service or number of hours worked per week. This period of leave is known as the ordinary adoption leave period and aligns with the Statutory Adoption Pay (SAP) period.
- 4.2** Employees who have at least 26 weeks continuous service prior to the week in which they are notified of being matched with a child for adoption are also entitled to additional adoption leave, which is a further period of up to 26 weeks. Additional adoption leave commences on the day immediately following the end of the period of ordinary adoption leave.
- 4.3** Employees who have less than 26 weeks continuous service prior to the week in which they are notified of being matched with a child for adoption are not eligible to receive occupational adoption pay. They may be entitled to receive Statutory Adoption Pay (SAP) for up to 39 weeks, effective from the date on which adoption leave commences.

- 4.4 Employees who have at least 26 weeks continuous service prior to the week in which they are notified of being matched with a child for adoption are now entitled to up to 39 weeks adoption pay similar to the payments detailed in paragraph 3.3 above.
- 4.5 Where a couple jointly adopt a child, they must choose one person to take the adoption leave (the adopter). The other partner will be entitled to receive Maternity Support Leave and Paternity Leave, if they meet the qualifying criteria.

2. 'KEEPING-IN-TOUCH' DAYS

- 5.1 The new legislation has introduced 'keeping-in-touch' days for those employees whose expected date of childbirth or adoption placement is on or after 1 April 2007. This provision allows employees to work during Maternity or Adoption Leave for up to 10 days by mutual agreement. These 'keeping-in-touch' days facilitate occasional training or attendance at work during Maternity or Adoption Leave without bringing the statutory maternity or adoption period to an end. If an employee opts to work or attend training, it is recommended that they will be paid their normal rate of pay for the hours in attendance which will be offset against any payments of SMP, MA or SAP that they may be entitled to.
- 5.2 Employees can go into work for a whole day or only part of day and it will still be classed as one 'keeping-in-touch' day. There is no obligation either for managers to offer or for employees to accept or attend work on this basis. Managers and employees must be clear as to what is regarded as a 'keeping-in-touch' day for payment purposes.

3. LEAVE ENTITLEMENT

- 1.0 Employees' annual leave entitlement will not be affected by the period of maternity leave and employees will be entitled to time off in lieu for any designated public holidays which occur during the first 39 weeks of their maternity leave.

4. ANTICIPATED CHANGES

- 7.1 Following the Work and Families Act 2006, the Government has provided for a system of Additional Paternity Leave which will be available following the birth or adoption of a child. This means that fathers will have the right to take a transferred portion of their partner's Maternity or Adoption Leave providing their partner returns to work early.
- 7.2 It is anticipated that this change will be introduced by the end of the current Parliament, but as this has not yet been enacted, the current provisions for Maternity Support and Paternity Leave as outlined in Circular Per 1/2003 still apply. Employees will be advised of this change when introduced.

5. POLICY/LEGAL IMPLICATIONS

- 8.1 The Council's policy and procedures have been updated to reflect the legislative changes.

9. FINANCIAL IMPLICATIONS

9.1 The Council will continue to be able to reclaim back 92% of Statutory Maternity Pay and Statutory Adoption Pay.

10. RECOMMENDATIONS

10.1 The Committee is asked to:

- (i) note the Council's position in relation to the rights contained in the Work and Families Act 2006;
- (ii) approve the recommendation to make the necessary changes to the administrative arrangements before 1 April 2007.
- (iii) approve the recommendation to pay employees their normal rate of pay for the hours in attendance at work in respect of 'keeping-in-touch' days during maternity or adoption leave.

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Depute Chief Executive/Executive Director of Corporate Support

15 March 2007

LIST OF BACKGROUND PAPERS

1. COSLA Human Resource Advice 1/07 – Guidance on changes to the statutory maternity and adoption schemes, 1 April 2007
2. Report on Maternity Leave, Maternity Support and Paternity Leave, Adoption Leave, Requests for Flexible Working Arrangements to the Corporate Sub-Committee of the Policy and Resources Committee on 11 February 2003 by the Depute Chief Executive/Director of Corporate Resources

Any person wishing further information should contact Martin Rose, Head of Personnel (01563 576092).