

EAST AYRSHIRE COUNCIL

CORPORATE SUB - COMMITTEE OF THE POLICY AND RESOURCES COMMITTEE - 11 FEBRUARY 2003

MATERNITY LEAVE, MATERNITY SUPPORT AND PATERNITY LEAVE, ADOPTION LEAVE. REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS.

Report by the Depute Chief Executive/Director of Corporate Resources

1. PURPOSE OF REPORT

1.1 The purpose of this report is to advise the Sub-Committee:

- (a) of the changes to the Maternity Leave, Maternity Support and Paternity Leave provisions;
- (b) of the new statutory Adoption Leave provisions; and
- (c) of the new right for parents of young children to request a flexible working arrangement.

These changes ensure compliance with the Employment Act 2002 and come into force for employees whose babies are due to be born on or after 6 April 2003, or children adopted by employees on or after 6 April 2003. From April 2003 parents of young children or disabled children under 18 years of age can apply to work on a flexible basis.

2. BACKGROUND INFORMATION

2.1 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.

2.2 The Government's Employment Act 2002 introduced new minimum maternity provisions, as well as new statutory adoption and paternity provisions. COSLA Human Resource Advice Circular 1/02 contains guidance for Councils on the implications of the Employment Act 2002. The Head of Personnel has revised the Council's existing procedures in light of this guidance.

2.3 A revised maternity booklet/procedure and a new 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/representative.

2.4 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 week of childbirth is on or after 6 April 2003 are entitled to up to 26 weeks statutory maternity leave regardless of their length of service or number of hours worked per week. This period of leave is known as the ordinary maternity leave period and aligns with the Statutory Maternity Pay period.
- 3.2 Employees who have at least 26 weeks continuous service at the beginning of the 15th week before their expected week of childbirth are also entitled to a further period of up to 26 weeks leave. This period of leave is known as additional maternity leave and commences on the day immediately following the end of the period of ordinary maternity leave.
- 3.3 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 Statutory Maternity Pay (SMP) or Maternity Allowance (MA).
- 3.4 Employees who have at least 26 weeks continuous service at the beginning of the 15th week before their expected week of childbirth are entitled to up to 26 weeks occupational 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 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 8 weeks are paid at the SMP rate. From April 2003 this has been set at the lower of £100 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.
- 3.5 It is **recommended** that the Council make the necessary changes to the administration arrangements before 6 April 2003.

4. MATERNITY SUPPORT AND PATERNITY LEAVE

- 4.1 The Council currently provides Maternity Support Leave of 5 days with full normal pay to the child's father or the partner or nominated carer of an expectant mother at or around the time of the birth regardless of their length of service. The nominated carer is the person nominated by the mother to assist in the care of the child and to provide support to the mother at or around the time of the birth.
- 4.2 Under the new provisions, fathers or partners of an expectant mother who have at least 26 weeks continuous service at the beginning of the 15th week before the expected week of childbirth are also now entitled to Paternity Leave, which is an additional period of 5 days leave paid at the Statutory Paternity Pay (SPP) rate. From April 2003 this has been set at the lower of £100 or 90% of the employee's normal weekly earnings per week. If the baby is expected before but is born after 6 April 2003 they will still be entitled to this additional period of leave.
- 4.3 An adopting partner will be entitled to receive Maternity Support Leave of 5 days with pay. Adopting partners 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 Paternity Leave, which is an additional period of 5 days leave paid at the Statutory Paternity Pay rate (see 4.2 above).

- 4.4** Maternity Support and Paternity Leave can be taken as a block of 2 weeks or as 2 single weeks. The leave can start on any day of the week, but must be taken within 56 days of the actual birth of the child. If the child is born early, the leave must be taken within the period from the actual date of the birth up to 56 days after the expected week of birth.
- 4.5** For both Maternity Support Leave and Paternity Leave, employees must notify their Line Manager in writing by the 15th week before the expected week of childbirth, or as soon as it is reasonably practicable. Employees may alter the date on which their leave starts by giving 28 days notice to their Line Manager, where this is reasonably practicable.
- 4.6** It is **recommended** that the Council make the necessary changes to the administration arrangements before 6 April 2003.

5. ADOPTION LEAVE

- 5.1** Under the new provisions, all employees who are adopting children on or after **6 April 2003** 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.
- 5.2** 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.
- 5.3** 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 26 weeks, effective from the date on which adoption leave commences.
- 5.4** 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 entitled to up to 26 weeks occupational adoption pay. The first 6 weeks are paid at nine-tenths of their weekly pay, offset against any payments of Statutory Adoption Pay (SAP) they may be entitled to. The next 12 weeks are paid at half their weekly pay, plus any payments of SAP they may be entitled to, subject to the total not exceeding their normal full pay. The remaining 8 weeks are paid at the SAP rate. From April 2003 this has been set at the lower of £100 or 90% of the employee's normal weekly earnings per week.
- 5.5** 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.

- 5.6 Should the child's placement end while the employee is still on adoption leave, the employee is entitled to remain absent on adoption leave for up to 8 weeks after the end of the placement.
- 5.7 It is **recommended** that the Council make the necessary changes to the administration arrangements before 6 April 2003.

6. REQUESTS FOR FLEXIBLE WORKING ARRANGEMENTS

- 6.1 The Employment Act 2002 also includes a new right for parents of young children under six years of age, or disabled children under 18 years of age, to request a flexible working arrangement.
- 6.2 In order to make a request under the new right an employee must have 26 weeks continuous service at the date their application is made. Employees must make the application to enable them to care for their child and will only be able to make one application per year. An accepted application will mean a **permanent** change to the employee's conditions of employment.
- 6.3 Employees do not have an *automatic* right to work flexibly as there will always be circumstances when it may not be possible to accommodate the employee's desired work pattern. However, all requests must be considered seriously.
- 6.4 Employees must think carefully about their desired working pattern when making an application. The application must be made no later than two weeks before the child's 6th birthday or 18th birthday in the case of a disabled child.
- 6.5 As members will be aware, the Corporate Sub-Committee at its meeting on 4 June 2002 approved the introduction of employment policies relating to Work Life Balance including Career Break Scheme, Homeworking Scheme and Flexible Working Scheme. The Career Break Scheme and Homeworking Scheme are in operation and the Flexible Working Scheme is being piloted prior to full introduction on 1 April 2003. The Flexible Working Scheme will introduce variable working, flexi time and compressed hours. This new right is therefore considered to be met within the spirit of the Council's existing arrangements although the relevant documentation requires to be updated to reflect this.

7. POLICY/LEGAL IMPLICATIONS

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

8. FINANCIAL IMPLICATIONS

- 8.1 There is now a statutory right to payment for paternity and adoption leave. The Council will be able to reclaim back 92% of Statutory Paternity Pay and Statutory Adoption Pay in the same way that they currently reclaim Statutory Maternity Pay.

9. RECOMMENDATIONS

9.1 The Sub – Committee is asked to:

- (i) note the Council's position in relation to the rights contained in the Employment Act 2002;
- (ii) approve the recommendation to make the necessary changes to the administrative arrangements before 6 April 2003.

Fiona Lees
Depute Chief Executive/Director of Corporate Resources
20 January 2003

LIST OF BACKGROUND PAPERS

1. COSLA Human Resource Advice 1/02 - Scottish Joint Council for Local Government Employees: Changes to Maternity Provisions, Statutory Adoption and Maternity Provisions
2. Report to Personnel and Property Sub-Committee of the Policy and Resources Committee on 25 January 2000.

Any person wishing further information should contact Graham Haugh, Head of Personnel (extension 6092).