

People, Performance and Development Committee
27 October 2017

Family leave policies

Purpose of the report:

The People, Performance and Development Committee is asked to consider and endorse changes to the Human Resources policies of Surrey County Council related to maternity, adoption, shared parental leave and associated matters, and their consolidation into a single policy document.

Recommendations:

It is recommended that the People, Performance and Development Committee

- i. agrees to the proposed change to the Council's policy with regards to maternity, adoption, paternity, parental/shared parental leave:
- ii. The proposed change concerns the consolidation of the 'returner's payment' for new mothers/adopters into the Council's Occupational Maternity/Adoption Pay.
- iii. notes that the revised policy incorporates a provision to allow term-time only employees to be paid for the equivalent of contractual annual leave accrued during maternity/adoption leave. This is a practice that has been adopted in 2016 following the receipt of relevant legal advice.

Introduction:

1. A recent review of the family leave policies identified the need for amendments to the current document to update the document to reflect legislative change and amendments needed in the light of case law, in addition to simplifying the provisions and reducing duplication between policies.
2. A change to the timing of occupational maternity and adoption pay is being proposed in order to reduce the cash-flow impact of maternity or adoption leave on officers. This is a cost-neutral proposal which reflects the approach taken by other local authorities, including East Sussex County Council.

Key Issues and Amendments:

3. Legal requirements and Council policy on maternity, adoption, and shared parental leave share a common philosophy, and a number of similar or identical provisions. Furthermore, those provisions form a key part of the Council's employment offer in the areas of diversity, inclusion, and work-life balance.
4. The proposed draft policy amalgamates and consolidates a number of provisions clarifying the Council's position on issues such as maternity and parental leave. A comprehensive glossary has also been added to the policy in order to provide the reader with more context and detailed definitions, which also reaffirm the Council's commitment to equality, diversity and inclusion (e.g. by clarifying that the provisions relating to domestic partners apply regardless of the gender of an employee or that of their partner).
5. Officers in the HR and OD Service had been asked by PPDC in 2016 to explore the possibility of changing the timing of Occupational Maternity Pay by consolidating the returner's payment [a sum equivalent to 50% of eight weeks' pay, which the Council currently pays six months after the employee's return to work] into it. The revised policy contains this modification, which will provide new mothers [and adopters] with access to occupational maternity [or adoption] pay during their maternity [or adoption] leave.
6. Additionally, the proposed change described in the previous paragraph would align Surrey County Council provisions with those at East Sussex County Council, providing scope for HR synergies and an element of harmonisation of employment terms within the Orbis partnership.
7. The policy has also been modified to reflect current Council practice on payments in respect of annual leave to term-time-only employees who take maternity or adoption leave. This approach was adopted in 2016, following legal advice which identified a requirement for such payments to be made to officers who work to term-time contracts. Term-time-only contracts typically involve the employee being required to work for 39 weeks every year, and do not come with a 'traditional' annual leave entitlement- the employee's annual salary is paid in 12 equal instalments and includes an element of holiday pay.

Financial and value for money implications:

8. It is expected that the proposed amendments to the Policy will not result in any discernible financial impact to the Authority. The change of timing to the payment of Occupational Maternity/Adoption Pay may cause some minor additional costs in respect of payments made to officers whose posts are made redundant shortly after their return from maternity or adoption leave.

Equality and Diversity implications:

9. The proposed policy change is not expected to result in any substantial changes to the way in which the Council manages equality and diversity in employment. However, it is hoped that the adoption of a comprehensive policy as a single point of reference for parenthood-related issues would encourage employees to consider options such as shared parental leave.

Risk Management implications:

- 10. The change in timing of Occupational Maternity/Adoption Pay may result in some employees having to repay a portion of it to the Council after the termination of their employment, and a proportion of that debt may not be straightforward for the Council to recover in a cost-effective manner.
- 11. The Policy and Reward Board has decided against proposing changes to the Council’s arrangements on shared parental leave at this stage. Members may wish to note that a recent legal case (Ali v Capita) has created a non-binding precedent that may result in a need for shared parental pay to mirror provisions for Occupational Maternity Pay. Officers within the HR and OD Service are monitoring legal developments and will alert the Committee of any further policy changes that may be required in the future.

Next Steps:

Develop relevant guidance (e.g. pre-maternity/adoption discussion checklist, tables on what happens in a redundancy situation to reflect changes to returner’s payment) and publish the policy on s-net.

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Sources/background papers:

The proposed changes have been developed through consultation between officers within the Council’s HR service, and with reference to information sourced from HR policies in Orbis partner organisations.

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