



People, Performance and Development Committee  
29 April 2020

### Proposed changes to HR policies

#### **Purpose of the report:**

Proposed amendments to HR policies are brought for consideration by the Committee on End of Employment policy, Special Leave and Annual Leave.

This report is being brought to People, Performance and Development Committee for decision in accordance with the Scheme of Delegation for determining council policy on the terms and conditions of all staff.

**Please note:** The policy changes in respect of carrying forward annual leave due to 'operational reasons' are for when the situation returns to normal. For the 2020/21 annual leave year CLT have agreed alternative arrangements due to the current Covid-19 pandemic in line with government guidance. A separate report is being presented to committee to explain this.

#### **Recommendations:**

It is recommended that the Committee considers and approves:

- i Proposed amendments to the End of Employment policy as set out in annex 1;
- ii Proposed amendments to the Special Leave policy as set out in annex 2; and
- iii Proposed amendments to the Annual Leave policy, as set out in annex 3.

## Introduction

1. It has been necessary to review the end of employment, special leave and annual leave HR employment policies for the following reasons:
  - **End of employment:** Contractual changes to notice periods and feedback from managers prompted a review. Consultation has taken place with SSCTU representatives and their feedback is included in the revised policy.
  - **Special leave:** new statutory legislation on parental bereavement leave prompted a review. Consultation has taken place with SSCTU representatives and their feedback is included in the revised policy.
  - **Annual leave:** Statutory changes in relation to the calculation and entitlement for holiday pay prompted a review. In addition, there was a need to add clarity to the current policy to ensure it remained legally compliant.

## End of employment

### Key amendments

2. To amend the notice period for probationary employees to one week for those individuals without continuous service and one months' notice for those individuals with continuous service.
3. The policy includes the arrangements for flexible retirement for those who are members of LGPS and over the age of 55. This section will be amended to state that; the Council expects employees will retire within a 24-month period of their flexible retirement effective date if their application is approved.
4. To add to the policy a section on how to end a fixed term contract or job share arrangement and the procedure to follow. In addition, details on the employee appeals process will also be included.
5. Finally, in order to reduce duplication and the risk of misalignment, the section on severance which is covered by the Redundancy and Severance policy will be deleted.

## Special Leave

### Key amendments

6. To add to the policy new sections on bereavement leave: Family bereavement leave which is up to two weeks' paid leave following the death of a close relative and Parental bereavement leave which is up to two weeks' paid leave following the death of a child. Paid leave will be inclusive of the statutory leave to be introduced in April 2020.

7. To clarify that compassionate leave may be granted by an Assistant Director for times other than bereavement and leave may be granted of up to 5 days' paid leave and 5 days' unpaid leave.
8. The current policy allows 15 days paid leave for those standing in Parliamentary elections. To add 1 day paid special leave for those standing for local elections.

## Annual Leave

### Introduction

9. Pay received by an employee while they are on holiday should reflect what they would have earned if they had been at work, i.e. their 'normal earnings'. However, the calculation for holiday pay becomes more complicated when an employee does not work fixed or regular hours and so does not receive the same amount of pay each month. This can be the result, for example, of working additional hours or overtime or the type of contract, such as part time, bank, annualised or part year.
10. All employees are entitled to the minimum 28 days statutory annual leave per year (pro-rata for part time and/or part year worked). This is made up of; 20 days from the EU Working Time Directive (WTD) and 8 bank holidays from the UK Working Time Regulations (WTR).
11. Following rulings from the European Court of Justice, holiday pay for the 20 days leave guaranteed under the WTD must be based on "normal remuneration". The additional 8 days weeks provided under the WTR do not need to reflect "normal remuneration". In addition, case law has established that regular overtime pay should be included in holiday pay calculations for the WTD 20 days.

### Key amendments

12. For simplicity and to reduce the administrative burden of treating different periods of holiday differently all holiday pay will be calculated on the same basis and will include all elements that make up "normal remuneration", (i.e. enhancements and allowances).
13. To add a provision in the policy stating that all additional hours worked by part time staff, up to the full-time equivalent hours for the role will attract holiday pay at the appropriate contractual leave accrual rate.
14. To add a provision in the policy stating that holiday pay on 'regular' overtime accrues at 12.07% (i.e. the minimum statutory leave rate) and to include in the policy definitions for additional hours, overtime and regular overtime to provide clearer guidance to managers.
15. In order to avoid a potential overpayment, it is proposed that the council awaits the Supreme Court outcome in relation to any changes to the calculation of holiday entitlement of term-time employees before taking any action.

16. The carry forward of annual leave for operational reasons to be reduced to a maximum of 5 days. In addition, to state that any days carried forward to be taken by 31 March of the new leave year.
17. To add to the policy that where sickness absence has prevented an employee from taking their annual leave, up to 20 days can be carried forward, to be taken within 24 months.
18. To amend the policy to state that annual leave continues to accrue during periods of sickness absence, paid and unpaid maternity/paternity and adoption leave based on the council's contractual annual rate.
19. To add to the policy that where maternity/adoption or paternity leave has prevented an employee from taking their annual leave, up to 28 days can be carried forward, to be taken within 12 months.
20. To add to the policy that annual leave is reduced on a pro rata basis for periods of unpaid leave of 30 days or more, and any leave that is carried forward following a period of unpaid leave is treated in the same way as leave carry forward for operational reasons, i.e. capped at 5 days.
21. To amend the policy to state that the cost of purchasing annual leave will be calculated at an employees' **substantive** grade/rate of pay as at the 1 January, (i.e. the start of the leave year in which they purchase leave).

<b>Conclusions:</b>
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22. The proposed change to these policies includes revised statutory requirements as well as providing clearer guidance to both employees and managers.

### **Financial and value for money implications**

37. There is an additional cost attached to the introduction of Family and Parental Bereavement leave. However, these costs are not considered to be significant.
38. The requirement to pay contractual holiday pay on additional hours worked by part-time staff up to the full-time equivalent hours for the role, will be met within service budgets.
39. There is a cost attached to the accrual of holiday pay on 'regular' overtime hours, however this cost has been limited to a statutory level and is not considered to be significant.

### **Equalities and Diversity Implications**

40. The proposed amendments will not impact on residents or staff with different protected characteristics, so a full Equality Impact Assessment is not needed.
41. The proposed changes to these policies ensure that the council remains legally compliant particularly in relation to the accrual and payment of holiday pay, the

carry forward of annual leave in cases of maternity/adoption, paternity and long-term sickness absence and bereavement leave.

**Risk Management Implications**

- 42. The proposed changes to the annual leave policy remove the risk of receiving claims for discrimination from part-time staff being treated less favourably than full-time staff.
- 43. HR&OD will continue to monitor the position in relation any changes in the calculation of holiday pay for term-time staff.

**Next steps:**

- To amend the relevant pages on SCC Info and communicate the changes using Jive
- To ensure an appropriate business process is in place for the calculation and payment of holiday pay.

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