

EMPLOYMENT MATTERS COMMITTEE

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FAMILY FRIENDLY POLICIES UPDATE

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Summary

As part of Medway Council's commitment to being a Family Friendly employer a series of improvements are proposed to ensure we keep up to date with current ACAS guidelines and standard good practice. These include revisions to the Parental Leave Policy & Shared Parental Leave Policy, Maternity & Paternity Policy, and additional entitlement and guidelines relating to employees going through In Vitro Fertilization (IVF).

1. Budget and Policy Framework

1.1 The suggested changes would result in a change to current council HR policies in that leave for IVF treatment would be covered by the Maternity and Parental Leave policy and removed from the sickness absence policies. This is a policy change and is therefore a matter for this Committee.

2. Background

2.1 Medway Council HR are committed to continuously reviewing our policies to ensure we are up to date with current legislation and ACAS guidance. We are also committed to being a family friendly employer and therefore look to improve how we support our employees through our policies. Along with a general policy update, there are two minor changes which we currently proposing and a new addition regarding In Vitro Fertilization treatment.

2.2 It is believed that one in six couples are likely to experience fertility issues, and that as such organisations will invariably be affected by employees who are going through in vitro fertilisation (IVF) treatment. Since its inception it has been reported that five million couples worldwide have opted for IVF to enable them to have a family.

2.3 Having a transparent policy that identifies specific support for those going through fertility treatment is best practice. Half of the respondents in a 2016 research survey – The Impact of Fertility Problems – by Middlesex University

and charity Fertility Network UK (please see attached) said they needed more than a week off during one cycle, and the survey found that people who were not supported by their employer often took more time off work. There is also a more recent study from this year which is currently being conducted by [Linked-In and Fertility Network UK](#) which isn't publically available yet. So this is an ongoing issue for HR departments with growing interest in how we can support employees.

- 2.4 This is an area that is growing in awareness and the purpose of this paper is to identify different options the Council could consider adopting moving forward to address this area.

3. Proposals

- 3.1.1 *Shared Parental Leave:* The shared parental leave policy was found to be out of date and unclear in how it was worded. It was therefore necessary to make changes.

- 3.1.2 *Maternity, Adoption and Shared Parental Leave:* A gap was identified in these policies in relation to Fixed Term Contracts. In order to bring our policy in line with government guidance it was necessary to add another section to deal with this scenario.

- 3.1.3 *Parental Leave:* there have been two minor changes to the Parental Leave Policy which have been made to bring us in line with current ACAS guidelines.

- 3.2 The more substantial change proposed is a new entitlement to paid leave for IVF treatment which has not previously been offered by Medway Council. Although there is no statutory right for employees to be given paid time off for Fertility Treatment, such as IVF, a growing number of organisations are recognising the emotional and sometimes physical strain these treatments have on employees. Organisations such as Royal Surrey County Hospital (any many other NHS trusts), University of Cambridge, St Andrews University and Lincolnshire Council have all introduced Special Leave provisions for paid leave to be taken.

4. Advice and analysis

- 4.1 **Shared Parental Leave:** The Shared Parental Leave policy (**Appendix A**) has been reviewed in order to improve clarity and accessibility. This has included re-drafting of the application form. (**Appendix B**). This has been done in consultation with colleagues and Trade Unions.

- 4.2 An entitlement change has also been made to bring Medway's policy in line with ACAS guidance. Previously our policy states that 20 Shared Parental Leave Keeping in Touch Days (SPLIT days) will be offered. The new policy allows for 30 SPLIT days to be shared between both parents. (**Appendix A** Shared Parental Leave)

- 4.4 **Maternity, Adoption and Shared Parental Leave:** These policies are currently unclear when it comes to the entitlement of those on a Fixed Term Contract. In order to bring Medway Council's policy in line with current ACAS and government guidance the below section will be added to each policy:

Individual leaving employment prior to 11th week before expected week of childbirth (EWC)

If the individual ceases employment with the council on or before the 11th week before their EWC they will not be entitled to contractual maternity leave or pay. The employee may be entitled to Statutory Maternity Pay in these circumstances and can check their entitlement on the Gov.Uk website <https://www.gov.uk/maternity-pay-leave>.

- 4.4 **Parental Leave:** Two changes are recommended for the Parental Leave Policy to bring us in line with current ACAS guidance. Managers must now let employees know within 7 days if they need to postpone the requested Parental Leave. The policy previously was 14 days. Employees previously had to give their managers notice equivalent to twice the amount of leave requested or 21 days whichever was longer. This has been changed to just 21 days' notice so employees will never have to give more notice than this; no matter the length of their parental leave request. Finally further guidance has been added in relation to reasons that managers can postpone Parental Leave. **(For full policy with recommended changes see Appendix C)**
- 4.5 **IVF Special Leave:** Medway Council currently has no extra provision for paid time off in these circumstances, and considering our commitment to being a family friendly employer, the recommendation is that we adopt a policy which allows for the provision of some Special Leave. The proposed entitlement will be as follows:
- Eligibility: would be from day one in line with other Special Leave entitlements.
 - Entitlement: Up to five days paid leave within a twelve month period to cover necessary treatment during a fertility cycle.
 - The twelve month period will run from the date the first day of special leave is taken.
- 4.6 **IVF Policy Wording Addition:** The current ACAS advice is that organisations should allow their employees to take time off for Fertility treatment using annual leave, flexible working or unpaid leave. They also advise that any sick leave taken, in relation to IVF treatment, should not be counted towards sickness absence triggers. There is also a period between implantation and a pregnancy test, two weeks before the test and two weeks after even if it's negative, where any appointments would be covered by the employers Maternity Policy as the employee should be considered pregnant. This is not made clear in any of our policies so the following addition is suggested to be made to the Maternity and Paternity Policy:

Vitro Fertilisation (IVF) Treatment

Medical appointments related to IVF can be covered under the Special leave Policy which allows for five days paid leave for IVF within each twelve month period. If the individuals Special Leave entitlement has been exhausted then absence will be treated the same as any other medical appointment as per the Sickness Absence policy. If individuals need half a day or more to attend an appointment, and don't want this recorded as sickness absence, they may arrange with their manager to use annual leave, flexi or unpaid leave. Sometimes employees may not be able to work due to the effects of IVF treatment (if no IVF Special Leave is available or they do not wish to use it) this would be managed under the Sickness Absence Policy, however, any absence will not be counted towards any sickness absence triggers and would not be used for disciplinary purposes.

In the last part of the IVF process, fertilised eggs are placed inside the woman's body. This step is called embryo transfer. If one of the eggs attaches itself inside her body, this is called implantation and she is regarded as pregnant. The individual will then need to wait two weeks to take a pregnancy test to confirm whether implantation was successful. Once an employee reaches the implantation stage of the process they should inform their line manager as from this point on, until they take a pregnancy test, they are considered pregnant and will be covered by the Maternity Policy. If the pregnancy is confirmed the individual would follow the normal Maternity process. It is important to note, that the individual will continue to be treated as pregnant for two weeks after they are informed that implantation was unsuccessful.

If individuals have any appointments related to their pregnancy, during the protected period detailed above, then this time off should be given to them paid as per the Maternity Policy. Managers should also give consideration to any health and safety risks and consider doing a pregnancy risk assessment.

5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Inequality of Application	Managers not consistently applying the entitlement to IVF leave in the same way for all employees.	Guidance will be provided along with the Special Leave Policy to advise managers how it should be applied.	D3

6. Consultation

6.1 Trade Unions have been consulted in relation to the above changes.

7. Financial implications

- 7.1 Additional costs are unlikely to be incurred by the Council as employees undergoing IVF would currently taken other forms of paid leave (sickness absence is often the reasons for medical treatment). No other areas of change have any cost implications.

8. Recommendations

- 8.1 That the Committee agrees to:
- a) the proposed changes to the Shared Parental Leave Policy (as set out in Appendix A);
 - b) the proposed changes to the Parental Leave Policy (as set out in Appendix C), and;
 - c) the proposal to allow for the provision of Special Leave for employees to attend medical appointments related to IVF treatment (as set out in paragraph 4.5), and also the inclusion of the guidance on IVF treatment, as set out in paragraph 4.6, to the Maternity and Paternity Policy (Appendix D).

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Appendices

Appendix A: Shared Parental Leave Policy
Appendix B: Shared Parental Leave Application Form
Appendix C: Parental Leave Policy
Appendix D: Maternity and Paternity Policy
Appendix E : Diversity Impact Assessment