

EMPLOYMENT MATTERS COMMITTEE

7 DECEMBER 2010

PATERNITY POLICY AND REVISIONS TO ADOPTION POLICY, MATERNITY POLICY AND SPECIAL LEAVE POLICY

Report from: Tricia Palmer, Assistant Director, Organisational Services

Author: Sandra Steel, Employee Services Manager

Summary

The report seeks agreement to the Paternity Policy and changes to the Adoption, Maternity and Special Leave policies.

1. Budget and Policy Framework

- 1.1 The Policy (and revision to existing policies) lie within the Council's policy and budget framework and the Committee's terms of reference. Therefore, this is a matter for the Employment Matters Committee.

2. Background

- 2.1 The Additional Paternity Leave Regulations 2006 providing for additional paternity leave became law on 6 April 2010. Under these provisions the last six months of maternity or adoption leave will be able to be transferred to the child's father, the civil partner or partner of the mother. This means that parents or adopting parents will be able to split the year's leave and pay between the two parents.
- 2.2 This right will apply where the child is due on or after 3 April 2011 or in the case of adoption is expected to be placed on or after that date.
- 2.3 Under these regulations the right is not restricted to "fathers", it also applies to:
- partners and civil partners of mothers;
 - the partner or civil partner or a person adopting a child from Great Britain; and
 - those adopting from overseas where the child enters Great Britain on or after 3 April 2011.

3. Advice and analysis

- 3.1 The changes have an impact on a number of existing policies, these are, Maternity, Adoption and the Special Leave Provisions and these have been amended accordingly and are attached to the report as appendices 1, 2 and 3. Where changes have been made to these revised policies, these are italicised for ease of reference.
- 3.2 Due to the complex nature of the new regulations and the potential for more changes in the future it was considered prudent at this time to produce a *Paternity Policy* to ensure a degree of clarity exists for the employee. This is attached as appendix four. Having a separate Paternity Policy will also help with administering the new provisions.
- 3.3 In order to avoid any confusion, the new Paternity Policy relates to childbirth only, the Adoption Policy incorporates the revised paternity provisions relating to adoption.
- 3.4 The majority of the changes made to the existing policies are based on statutory provisions and have been amended to incorporate the new regulations.
- 3.5 The only exception to this is that the council, under its special leave provisions, provides for a more generous entitlement at or around the time of birth or in the case of adoption placement for adoption.
- 3.6 Under Medway Council provisions, an employee, regardless of length of service, is able to take two weeks "Maternity/Adoption Support Leave" at or around the time of birth and receive full pay. However, compared to the statutory provision an employee would need 26 weeks continuous service at the 15th week before the expected date of childbirth or placement for adoption in order to qualify for a statutory payment (known as Ordinary Paternity Leave and Pay).
- 3.7 In practice, where an employee is taking Maternity or Adoption Support Leave and they have the necessary qualifying service for the statutory payment the council is able to reclaim and offset the statutory amount against the normal pay for the individual.

4. Consultation

- 4.1 The revised policies and the new Paternity Policy (Childbirth) were shared with the trade unions at the Corporate Consultative Committee on Wednesday, 9 June 2010. Written comments were invited.
- 4.2 The Teaching Associations requested parity between the school teachers adoption provisions and maternity provisions outlined within the School Teachers Pay and Conditions document. This was agreed and the documents amended accordingly.
- 4.3 Because the majority of changes made are statutory it was considered unnecessary to consult more widely on this occasion.

5. Risk Management

- 5.1 There is a potential risk that an employee may apply for Maternity or Adoption Support Leave inappropriately.
- 5.2 There is also a potential risk with the new provisions where both partners do not work for the same employer that they could each inappropriately claim Additional Paternity Leave and pay.

The council has put in place measures to address these risks, these are as follows:

- a) Maternity/Adoption Support Leave: the employee to provide proof that there is an expected week of childbirth or date of placement in cases of adoption. This is done by self-declaration and in the case of pregnancy by providing a copy of the form MatB1.
- b) Statutory Additional Paternity Leave and Pay: the employee to complete an application for Additional Paternity Leave and Pay. This application has a section for the employee's partner to complete providing their employers details in order for a check to be undertaken to ensure they have returned to work with their employer before using their full entitlement and the employer has stopped paying them Statutory Additional Maternity/Adoption Pay.

6. Diversity Impact Assessment

- 6.1 A Diversity Impact Assessment has been undertaken and is attached as appendix five. The findings from this initial screening were that there is no evidence to raise concerns that there could be a differential impact to any of the Protected Characteristics as defined within the Equality Act 2010. This is because the entitlements under the Paternity Pay Regulations sets a clear eligibility criteria irrespective to any minority group. Furthermore the eligibility criteria explicitly identifies equal rights to same sex couples.

7. Financial and legal implications

- 7.1 The leading statutory authority is set out as follows:

Work and Families Act 2006
Additional paternity Leave Regulations 2010 (SI 2010/1055)
Additional Statutory Paternity Pay (General) Regulations 2010 (SI 2010/1056)
Additional Statutory Paternity Pay (Weekly Rates) Regulations 2010 (SI 2010/1060)
Additional Statutory Paternity Pay (Birth, Adoption and Adoptions from Overseas) (Administration) Regulations 2010 (SI 2010/154)

- 7.2 There are no direct financial implications arising from this report.

8. Recommendation

- 8.1 The Committee is asked to agree:
- (i) the Paternity Policy, as set out in appendix 4 to the report;
 - (ii) the revisions to the Maternity Policy, as set out in appendix 1 to the report;
 - (iii) the revisions to the Adoption Policy, as set out in appendix 2 to the report and;
 - (iv) the revisions to the Special Leave Provisions, as set out in appendix 3 to the report.

Lead officer contact

Sandra Steel, Employee Services Manager, HR Services
Sandra.steel@medway.gov.uk
Tel 01634 334083

Background Papers:

ACAS guidance
Local Government Employers guidance



Medway Council Maternity Policy

1.0 Introduction

- 1.1 This policy applies to all Medway Council employees regardless of the number of hours worked (except those appointed by School Governing Bodies, and teaching staff covered by the Pay and Conditions Document).
- 1.2 The guiding principle of this policy is that an employee who becomes pregnant should suffer no discrimination or detriment in terms and conditions of employment (apart from remuneration) as a result of that pregnancy. This principle is best implemented by treating the employee on maternity absence in the same way as if she would have been treated if she were still at work.

2.0 Health & Safety

- 2.1 On being notified that an employee is pregnant a risk assessment will be undertaken to ensure any risks to the health and safety and any adverse effects on pregnant or breast-feeding employees and their children, including the unborn, have been identified. If there is any risk appropriate action will then be undertaken to eliminate or reduce the risk to an acceptable level. If the risk remains the employee will be offered a temporary variation to working hours, duties or working conditions (on terms and conditions not substantially different from those on which she is normally employed). If no suitable alternative work is available, the employee will be suspended on full pay so long as the risk remains.

3.0 Ante-natal Care

- 3.1 Time-off with pay will be granted. After the initial appointment the line manager may request sight of the MAT B1 and/or evidence of the appointment.

4.0 Notification of Pregnancy

- 4.1 In order to assist the Council in its health and safety responsibilities it is advisable that notification is made at an early stage in the pregnancy and preferably written notification of pregnancy (using form PMC003) together with the MAT B1 should be given to the employee's line manager in or before the 15th week before the Expected Week of Childbirth* (EWC); the minimum notice period is 28 days before the absence commences. That notification must include the fact that the employee is pregnant, the EWC and the intended start date of maternity leave (28 days notice of any subsequent change to this date must be given by the employee).
- 4.2 The line manager should pass this notification to HR Services who will, within 28 days of this notification, reply in writing informing the employee of their entitlements.

5.0 Maternity Leave and Pay

5.1 Commencement of Maternity Leave

- 5.1.1 The employee can choose to start their maternity leave at any time from the 11th week before the EWC up to the day of the birth (when maternity leave will automatically commence on the following day). If, however, the employee is absent for a pregnancy-related reason after the beginning of the 4th week before the EWC then maternity leave period will begin on the following day.

5.2 Maternity Leave and Pay Entitlement

- 5.2.1 All employees whose Expected Week of Childbirth is on or after 1st April 2007 will be entitled to take 26 weeks Ordinary Maternity Leave and 26 weeks Additional Maternity Leave.

- 5.2.2 During maternity leave employees will be entitled to the following pay:

- ❖ Less than 26 weeks service by end of 15th week before EWC (or all employees whose earnings are below the Lower Earnings Limit) – no entitlement to a payment from Medway Council but may be entitled to maternity allowance from Benefits Agency.
- ❖ More than 26 weeks' but less than 1 years' service at 11th week before EWC – 6 weeks' at 9/10ths of contractual pay followed by 33 weeks SMP (or 9/10ths of contractual pay if this is less than SMP).
- ❖ For employees intending to return to work for at least 3 months and with at least 1 years' service at the 11th week before the EWC – 6 weeks' at 9/10ths of contractual pay followed by 12 weeks' at ½ pay plus SMP (or 9/10ths of contractual pay if this is less than SMP, and not to exceed full pay), followed by 21 weeks' at SMP (or 9/10ths of contractual pay if this is less than SMP).
- ❖ For employees not intending to return to work for at least 3 months and with at least 1 years' service at the 11th week before the EWC – 6 weeks' at 9/10ths of contractual pay followed by 33 weeks' at SMP (or 9/10ths of contractual pay if this is less than SMP).

- 5.3 If an employee declares their intention to return to work and receives the additional ½ pay for twelve weeks and then fails to return to work for a period of 3 months, they will be liable to repay the 12 weeks ½ pay element. This requirement may be waived in exceptional circumstances at the discretion of the Director.

- 5.4 Relevant employees can request that the additional ½ pay for 12 weeks is distributed in another mutually agreed way. An employee may also choose to defer the additional ½ pay for 12 weeks' and receive this pay after having completed the necessary 3 months service after returning to work.

- 5.5 Line managers should keep in touch with employees who are on maternity leave and intending to return to work. The employee should be advised of vacancies

within the council, significant workplace developments and learning and development opportunities.

Note: Under the Additional Paternity Leave Regulations 2010 and Additional Statutory Paternity Pay Regulations 2010 mothers will be able to transfer the last six months of their Statutory Maternity Leave to the child's father, their partner or civil partner. This right will apply where the child is due on or after 3 April 2011. Further details can be found in the Paternity Policy.

6.0 Employment Conditions

6.1 During maternity leave annual leave will accrue and sick leave entitlement will be earned. However, when choosing a date to commence maternity leave employees should take into account the rules governing the carry over of annual leave from one leave year to the next. These rules state that employees will be entitled to carry over a maximum of 3 days annual leave from one leave year to the next. All carried over leave must be taken by 31st May in the new leave year. Alterations to this rule will only be made in exceptional circumstances and at the discretion of the Director. It is important therefore that employees ensure that annual leave is used up prior to commencing maternity leave to ensure that no entitlement to leave is lost. Annual leave requested at the end of the maternity leave period will be with the approval of the line manager as with all annual leave requests.

6.2 Individual employees are advised to check to see how their pensions contributions will be affected. In summary, when commencing maternity leave and whilst in receipt of maternity pay, pensions contributions will be based on the pay entitlement of the employee. On returning from leave the employee has the option of paying pension contributions for the period of unpaid maternity leave. This will be based on the amount of pay in receipt at the end of the paid element of maternity leave. For pension purposes, if contributions are paid, the period of maternity leave will be treated as if the employee had remained at work and the absence had not occurred.

6.3 Employees who have Essential Car User status are entitled to receive the appropriate lump sum allowance during their period of maternity leave. Payment in full will be made for the 26 weeks of the ordinary maternity leave period.

Note: those with an EWC on or after 5 October 2008 will be entitled to receive the essential car user allowance for their full period of maternity leave.

6.4 Employees with lease cars shall retain the use of the car during the maternity leave period and continue to make contributions through the payroll system.

6.5 Keeping in Touch Days

Employees on maternity leave will be able to do ten days work during their maternity leave. Working for part of a day will count as one day. The employee will be paid for the work that she undertakes and the council will offset the SMP for the day against any pay due.

7.0 Returning To Work

- 7.1 It will be assumed the employee will return to work at the end of appropriate maternity leave period. If they wish to return to work before this date they must notify their line manager in writing before their new intended return date, or if that is not reasonably practical, as soon as reasonably practicable (7 days notice is required if they are on ordinary maternity leave or 21 days notice if they are on additional maternity leave). Where the required notice is not given, line managers may postpone the early return to meet the notice periods set out above, but not beyond the end of the maternity leave period. Return to work is not permitted within 2 weeks of childbirth.
- 7.2 Where an employee is unable to return on the expected day due to sickness the absence will be covered by the sickness scheme in the normal way.
- 7.3 An employee will be able to return to the job she was employed in before she commenced her maternity leave and on terms and conditions no less favourable than those that would have applied had she not been absent.
- 7.4 If a re-organisation occurs whilst the employee is on maternity leave she will be treated as if she was not absent. For example, if the employee's post becomes redundant due to a reduction in staffing levels, she is entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done is suitable to her and appropriate to the circumstances, and the capacity and place in which she is employed and on terms and conditions that are not substantially less favourable than those of her original post. It is unlawful for an employee to be selected for redundancy because she is on maternity leave or for any reason associated with her pregnancy.

8.0 Maternity Support Leave and Paternity Policy

- 8.1 Maternity Support Leave – a block of five or ten days paid leave of absence is granted to the child's father or the partner or nominated carer of the mother at or around the time of birth to provide assistance and support. A 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 birth. Employees wishing to go on Maternity Support Leave should access the full details within the Special Leave provisions.
- 8.2 *Paternity Policy - Where a child is due to be born on or after the 3 April 2011 and the employee is the father, partner or civil partner of the mother they should refer to the Paternity Policy to ascertain their eligibility for additional Paternity Leave and Pay.*

9.0 Right to apply to work flexibly

- 9.1 Parents of young, or disabled children have a statutory right to request flexible working. Eligible employees are parents of children aged under 16, or of disabled children aged under 18. In considering any request, the line manager has to strike an objective balance between the business and operational needs and the preferences of the individual employee and her personal circumstances. Full details of this right and the procedure to be followed have been included in the Council's Flexible Working Scheme.



Medway Council Adoption Policy

1.0 Introduction

This policy applies to all Medway Council employees regardless of the number of hours worked (except those appointed by School Governing Bodies). The principles of this policy are commended to Governing Bodies for adoption.

This adoption policy gives adoptive parents the right to leave and pay that is broadly similar to the maternity policy. School teachers entitlement to adoption leave and pay will mirror that of the Maternity provisions as detailed in the School Teachers Pay and Conditions Document.

For those parents whose placement is due before 3 April 2011 the leave and pay is only available to one member of a couple where a couple adopt jointly (the other member of the couple is entitled to Adoption Support Leave as set out in paragraph 3.0.). The leave and pay is not available in circumstances where a child is not newly matched for adoption, i.e., when a stepparent is adopting a partner's child.

For those parents whose placement is due on or after the 3 April 2011 there is an opportunity for both parents to take adoption leave and pay. Details of these arrangements can be found in paragraph 4.0 Additional Statutory Paternity Leave and Pay.

The guiding principle of this policy is that an employee who adopts a child should suffer no discrimination or detriment in terms and conditions of employment (apart from remuneration) as a result of that adoption. This principle is best implemented by treating the employee on adoption leave in the same way as if they would have been treated if they were still at work.

2.0 Notification of Adoption

In order to assist the Council in planning service provision and in accommodating the needs of the individual it is advisable that the employee notifies their line manager of their intention to adopt at an early stage in the process. Once the employee has been informed by the adoption agency that they have been matched with a child for adoption, the employee must (within seven days) supply to their line manager written notification of when the child is expected to be placed with them and when they would like their leave to start (28 days notice of any subsequent change to this date must be given by the employee) together with a copy of the 'matching certificate' or other documentary evidence from the adoption agency and a signed self-declaration.

The line manager should pass this notification to HR Services who will, within 28 days of this notification, reply in writing informing the employee of their entitlements.

3.0 Adoption Support Leave – Paternity Leave

Adoption Support Leave of either five or ten days paid leave is available to the adoptive parent who is not taking adoptive leave/pay as outlined in paragraph 4.0.

Employees must notify their line manager of their intention to take Adoption Support Leave within seven days of being notified by the adoption agency that they have been matched with a child for adoption. They must inform their line manager of the expected date of placement, whether they wish to take five or ten days leave and the date they

wish to start their leave (28 days notice is required for any change to this date). All employees requesting Adoption Support Leave must sign a self-declaration.

One parent cannot take both Adoption Leave and Adoption Support Leave.

Adoption support leave and pay granted under the contractual arrangements runs concurrent with the statutory provision of Ordinary Paternity Leave and Statutory Paternity Pay which means that ten days will be the maximum leave granted. The contractual pay will be reduced by the amount of Statutory Paternity Pay received (where eligible) so that full pay is not exceeded.

4.0 Statutory Adoption Leave and Pay

This relates to the partner who is **not** opting to take Adoption Support Leave. This does not relate to teachers in schools. *School teachers entitlement to adoption leave and pay will mirror that of the Maternity provisions as detailed in the School Teachers Pay and Conditions Document.*

Commencement of Adoption Leave

The employee can choose to start their adoption leave on any day of the week and it can be taken from the date of the child's placement or a fixed date, which can be up to 14 days before the expected date of placement. If the placement is delayed for whatever reason and the employee has already begun their adoption leave, they cannot stop leave and start it again at a later stage.

Adoption Leave and Pay Entitlement

Employees are entitled to 26 weeks' Ordinary Adoption Leave immediately followed by a further 26 weeks' Additional Adoption Leave (a total of 52 weeks' adoption leave).

During adoption leave employees whose earnings are above the Lower Earnings Limit are entitled to the following pay:

Less than 26 weeks service – no entitlement to a payment from Medway Council.

More than 26 weeks' but less than 1 years' service at 11th week before expected week of adoption – 39 weeks Statutory Adoption Pay (SAP) (or 9/10ths of contractual pay if this is less than SAP).

For employees intending to return to work for at least 3 months and with at least 1 years' service at the 11th week before the expected week of adoption – 12 weeks' at ½ pay plus SAP (or 9/10ths of contractual pay if this is less than SAP, and not to exceed full pay), followed by 27 weeks' at SAP (or 9/10ths of contractual pay if this is less than SAP).

For employees not intending to return to work for at least 3 months and with at least 1 years' service at the 11th week before the expected week of adoption – 39 weeks' at SAP (or 9/10ths of contractual pay if this is less than SAP).

Employees whose earnings are below the National Insurance Lower Earnings Limit and who have at least 1 years' service at the 11th week before the expected week of adoption and intend to return to work for at least 3 months will be entitled to the occupational adoption pay element only – 12 weeks at ½ pay only.

If an employee declares their intention to return to work and receives the additional ½ pay for twelve weeks and then fails to return to work for a period of 3 months, they will be liable to repay the 12 weeks ½ pay element. This requirement may be waived in exceptional circumstances at the discretion of the Director.

An employee may also choose to defer the additional ½ pay for 12 weeks' and receive this pay after having completed the necessary 3 months service after returning to work.

Line managers should keep in touch with employees who are on adoption leave and intending to return to work. The employee should be advised of vacancies within the council, significant workplace developments and learning and development opportunities.

If the placement of the child is disrupted after the employee has commenced adoption leave, the leave will normally finish eight weeks after the end of the week in which the disruption took place. Pay will also finish at this point or at the end of the adopter's 39 weeks adoption pay period if that is sooner.

5.0 Additional Paternity Leave (APL) and Additional Statutory Paternity Pay (ASPP)

Statutory entitlements for the partner taking Adoption Support Leave

(i) Additional Paternity Leave (APL)

Eligible employees will be able to take up to 26 weeks' Additional Paternity Leave (APL) within the child's first year. It must be taken in a single continuous block, the minimum period of APL is two weeks and the maximum 26 weeks. This will normally be available during the second six months of the placement for adoption, the first 20 weeks will be preserved for their partner to take Adoption Leave. An employee intending to take APL is required to give eight weeks' notice to their line manger.

The employee does not have to start APL immediately after their partner returns to work but the APL must finish within one year of the placement for adoption.

(ii) Eligibility for Additional Paternity Leave

APL is available for employees:

- *who are adopting and have not taken Statutory Adoption Leave as set out in paragraph 4, or*
- *whose partner is adopting.*

To be eligible the employee must either be:

- *the member of a jointly adopting couple who has chosen **not** to take Statutory Adoption Leave and Statutory Adoption Pay or the spouse, civil partner of the adopter, and*
- *be responsible for the upbringing of the child.*

For an employee to take APL, the partner must have returned to work and forfeited a portion of their statutory adoption leave. The effect of this requirement will be that both adoptive parents cannot take Adoption Leave and APL at the same time.

(iii) Proof of adoption

The employee intending to take APL will need to self-certify their eligibility for APL and their partner will also be required to sign the same declaration to confirm when they intend to return to work giving details of their employer's name and address to enable a check to be undertaken by HR Services.

(iv) Additional Statutory Paternity Pay (ASPP)

A qualifying employee will also be able to receive ASPP provided their partner has some of their entitlement to Statutory Adoption Pay (SAP) left at the time of their return to work.

The rate of pay will be either the prescribed SPP rate or 90 per cent of the employee's weekly earnings, whichever is the lesser amount. Both adoptive parents will therefore together, be entitled to statutory adoption pay (SAP) and statutory paternity pay (SPP) for 39 weeks

6.0 Employment Conditions for employees on Adoption Leave and Paternity Leave

During adoption and paternity leave annual leave will accrue and sick leave entitlement will be earned. However, when choosing a date to commence either adoption leave or paternity leave employees should take into account the rules governing the carry over of annual leave from one leave year to the next. These rules state that employees will be entitled to carry over a maximum of 3 days annual leave from one leave year to the next. All carried over leave must be taken by 31st May in the new leave year. Alterations to this rule will only be made in exceptional circumstances and at the discretion of the Director. It is important therefore that employees ensure that annual leave is used up prior to commencing adoption leave to ensure that no entitlement to leave is lost. Annual leave requested at the end of the adoption leave period will be with the approval of the line manager as with all annual leave requests.

Pension

Individual employees are advised to check to see how their pensions contributions will be affected.

Local Government Pension Scheme

Local Government LGPS benefits will continue to accrue as if the employee was working on full pay but pension contributions will be paid on the actual pay that the employee is receiving. Any period of unpaid adoption or paternity leave will not count for pension purposes however, the employee can choose to pay back pension contributions for the unpaid period upon their return to work should they wish to do so. The cost of paying back is based on the last rate of pay that the employee received, ignoring any increase in pay due to working a Keeping in Touch Day.

Essential car user allowance

Employees who have Essential Car User status are entitled to receive the appropriate lump sum allowance during their period of adoption leave and paternity leave.

Lease car users

Employees with lease cars shall retain the use of the car during the adoption leave period and paternity leave period and continue to make contributions through the payroll system.

7.0 Returning To Work

It will be assumed the employee will return to work at the end of appropriate adoption or paternity leave period. If they wish to return to work before this date they must notify their line manager in writing 28 days' before their new intended return date. Where the required notice is not given, line managers may postpone the early return to meet the notice period set out above.

Where an employee is unable to return on the expected day due to sickness the absence will be covered by the sickness scheme in the normal way.

An employee will be able to return to the job they were employed in before they commenced their adoption and paternity leave and on terms and conditions no less favourable than those that would have applied had they not been absent.

If a re-organisation occurs whilst the employee is on adoption leave they will be treated as if they were not absent. For example, if the employee's post becomes redundant due to a reduction in staffing levels, they are entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done is suitable and appropriate to the circumstances, and the capacity and place in which they were employed and on terms and conditions that are not substantially less favourable than those of the original post. It is unlawful for an employee to be selected for redundancy because they were on adoption or paternity leave for any reason associated with the adoption.

8.0 "Keeping in Touch Days"

Employees on both Adoption Leave and Paternity Leave will be able to do ten days work during their leave period. Working for part of a day will count as one day. The employee will be paid for the work that they undertake and the council will offset their statutory pay for the day against any pay due.

The employee will be able to return to the job they were employed in before they commenced their leave and on terms and conditions no less favourable than those that would have applied had they not been absent.

9.0 Right to apply to work flexibly

Parents of young, or disabled, children have a statutory right to request flexible working. Eligible employees are parents of children aged under 16, or of disabled children aged under 18. In considering any request, the line manager has to strike an objective balance between the business and operational needs and the preferences of the individual employee and her personal circumstances. Full details of this right and the procedure to be followed have been included in the Employee Guide to Flexible Working.



Medway Council Special Leave provisions

1.0 Justices Of The Peace

Employees are allowed a maximum of 18 days paid leave of absence within any 12 month period. Approval of time off is to be authorised by the Director.

2.0 Local Authority Members

Employees are allowed a maximum of 18 days paid leave of absence within any 12 month period. Approval of time off is to be authorised by the Director

3.0 Members of a Committee, Tribunal, Panel, Board of Prison Visitors or similar bodies or public duties.

Employees are allowed a maximum of 18 days paid leave of absence within any 12 month period. From April 2009 this is extended to include a wider range of civic duties to cover roles such as members of probation boards, members of court boards, and youth offender panel members. Speak to HR Services if you are in any doubt. Approval of time off is to be authorised by the Director.

4.0 School Governors

Employees are allowed a maximum of 18 days paid leave of absence in any 12 month period. Approval of time off is to be authorised by the Director.

5.0 Retained Fire-Fighters

Employees are allowed paid leave of absence in order to attend fire duties during normal working hours. Up to 2 weeks paid leave is allowed for the employee to attend recognised courses if their annual leave entitlement is 4 weeks or less and a minimum of 2 weeks paid leave if their annual leave entitlement is more than 4 weeks.

6.0 Election duties

Director's to approve paid leave of absence for employees engaged in duties pertaining to Parliament, County or district council elections.

7.0 Training for visually impaired employees

Paid leave of absence is to be granted for the duration of any training with guide dogs

8.0 Interviews

Paid leave of absence is to be granted as necessary for employees to attend interviews within local government.

9.0 Leave for examinations

Paid leave of absence is to be granted as necessary for employees to sit examinations applicable to local government service.

10.0 Study (revision) leave

The granting of paid leave of absence applies to those employees who are taking exams for the first time, the criteria being as follows:-

- (a) total of 3 days paid leave of absence where the course is of one year or less in duration.
 - (b) total of 5 days paid leave of absence where the course is longer than one year in duration.
- Up to 3 additional days may be granted prior to intermediate examinations.

11.0 Service in Non-Regular Forces

Up to two weeks paid leave of absence for employees to attend summer camp.

12.0 Reserved Armed Forces

Entitlement as governed by the Reserves Forces Act 1996. Employees must advise their Director of their reservist category and seek agreement if necessary.

13.0 Special Constabulary Service

Up to a total of 10 days paid leave of absence for employees to attend court, or carry out other duties in connection with their service in the Special Constabulary.

14.0 Medical Screening

Necessary paid time off will be granted for the purpose of cancer and other medical screening.

15.0 Unpaid Leave

(a) Unpaid leave can be approved by the Director dependant upon the employees individual circumstances. This will normally apply where the employee requests a period of absence which cannot be managed within the annual leave provisions.

(b) Director's can authorise unlimited unpaid leave of absence for non-pensionable employees and up to one month for pensionable employees, however, if the leave is in excess of 30 days Form C1 needs to be completed and passed to the Personnel/Payroll Operations team for pension purposes.

(c) Employees may take a reasonable amount of unpaid leave to deal with incidents involving a dependant. Further details can be found in the procedures for taking 'Time Off for Dependants' in Section Seven.

16.0 Maternity Support Leave

A block of five or ten days paid leave of absence is to be granted to the child's father or the partner or nominated carer of the mother at or around the time of birth to provide assistance and support. A 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 birth.

Employees must notify their line manager of their intention to take Maternity Support Leave by the 15th week before the Expected Week of Childbirth (EWC). They must inform their line manager of the EWC, whether they wish to take five or ten days leave and the date they wish to start their leave (28 days notice is required for any change to this date). All employees requesting Maternity Support Leave must sign the self-certification and request form (available from hradvice@medway.gov.uk or

phone (33) 4499) and supply a copy of the expectant mother's MAT B1 certificate. The line manager must send these documents to HR Services.

Maternity Support Leave granted under the contractual arrangements runs concurrent with the statutory provision for Paternity leave and pay, which means that 10 days will be the maximum leave granted. The contractual pay will be reduced by the amount of Statutory Paternity Pay received so that full pay is not exceeded.

Note: Where a child is due to be born on or after the 3 April 2011 and the employee is the father, partner or civil partner of the mother they should refer to the Paternity Policy to ascertain their eligibility for additional Paternity Leave and Pay.

17.0 Adoption Support Leave

Adoption support leave of either five or ten days paid leave is available to the adoptive parent who is not taking adoptive leave or pay. One parent cannot take both adoption leave and adoption support leave. Notification and self-declaration rules apply and are detailed within the Adoption Policy.

Note: Additional Paternity Leave and Pay is now available for eligible employees for those whose placement is to be either on or after 3 April 2011. Employees should refer to the Adoption Policy to ascertain their eligibility for Additional Paternity Leave and Pay.

18.0 Subpoenaed Witnesses and Jurors

(a) Employees should inform their Director who will grant leave. Allowances should be claimed by the employee, these will then be deducted from pay.

(b) The above provision does not apply when attending court in a professional capacity as an employee of Medway Council

19.0 Compassionate Leave

The following guidelines set out the types of circumstances in which paid compassionate leave may be granted:

- a) up to a maximum of 10 days will normally be allowed in any one year following the death of an immediate relative, ie spouse/partner (including same sex partner), parent or child.
- b) up to a maximum of 5 days will normally be allowed in any one year in the following circumstances:
 - Death of a close relative, including where the employee is the nearest relative responsible for dealing with the estate;
 - Serious illness and/or hospitalisation of a spouse, partner (including same sex partner), parent or child or other close relative;
 - Other domestic crisis, eg relationship break-down, fire, flood etc

However, in respect of (b) above, in exceptional circumstances, where the particular requirements of the situation cannot be satisfactorily managed within this timescale (including taking into account any remaining annual leave), Director's will have the discretion to extend the period of paid leave for up to a further 5 days per annum. The number of additional days will depend on the individual circumstances of each case.

20.0 Leave for cultural/religious festivals

Employees are entitled to paid holiday in respect of statutory public or bank holidays. Although some of these holidays are linked to Christian festivals paid leave is given in recognition of the public holiday and not because of any religious connection. Any employee who wishes to celebrate a religious or cultural festival not falling on a nationally recognised public holiday is required to agree this in advance as annual leave.

In accordance with the principles of the council's Equal Opportunities Policy, managers should consider the following points when they receive such a request:

- If an employee makes a request to take annual leave or flexi-leave for a religious/cultural festival, this should be considered sympathetically and wherever possible granted.
- Where a request conflicts with other requests for annual/flexi leave such leave should be regarded as having priority.

Where it is not possible to grant such leave due to other leave/work conflicts, the reasons should be fully explained to the employee.

Medway Council Draft Paternity Policy

1.0 Introduction

The right to paternity leave and pay arises in relation to biological children and children adopted from the UK. This policy covers paternity leave and pay entitlement for parents in relation to childbirth. Employees who wish to apply for paternity leave for adoption should refer to the Council's Adoption Leave and Pay Policy.

This policy applies to all Medway Council employees regardless of the number of hours worked (except those appointed by School Governing Bodies) and will have effect for eligible employees whose children are born on or after 3 April 2011. The principles of this policy are commended to Governing Bodies for adoption.

This paternity policy is aimed at giving mothers and fathers more choice in child care responsibilities and a more equitable sharing of leave entitlements.

2.0 Maternity Support Leave – at or around the time of birth

The Council's special leave provisions allow for a block of five or ten days paid leave of absence at or around the time of birth to provide assistance and support to:

- the child's biological father or spouse of the mother, or the
- civil partner of the mother.

Maternity Support Leave should be taken at the time of birth or within 56 days of the child's birth or, if the child is born early, up to 56 days after the Expected Week of Childbirth (EWC).

Employees must notify their line manager of their intention to take Maternity Support Leave by the 15th week before the EWC. They should inform their line manager of the EWC, whether they wish to take five or ten days leave and the date they wish to start their leave (28 days notice is required for any change to this date). All employees requesting Maternity Support Leave should sign the self-certification and request form and supply a copy of the expectant mother's MAT B1 certificate. The line manager will send these documents to HR Services, 3rd floor, Gun Wharf.

Paid Maternity Support Leave granted under the contractual arrangements runs concurrent with the statutory provision of Ordinary Paternity Leave and Statutory Paternity Pay which means that ten days will be the maximum leave granted. The contractual pay will be reduced by the amount of Statutory Paternity Pay received (where eligible) so that full pay is not exceeded.

3.0 Additional Paternity Leave (APL)

APL is available in addition to Maternity Support Leave. Families of babies who are born on or after 3 April 2011 will be able to choose whether the mother should forfeit up to six months' of her maternity leave, which can then be taken by their partner as additional paternity leave (APL). To be eligible to take APL the employee must meet the following criteria:

- be the child's father or be married to, or be the civil partner of, or be the partner of, the child's mother;
- have or expect to have, responsibility for the child's upbringing

Section Four

- have at least 26 weeks continuous local government service at the 15th week before the expected week of the child's birth; and
- be taking the leave to care for the child or support the child's mother in her caring for the child.

For an employee to take APL, the mother must have returned to work and forfeited a portion of her maternity leave. The effect of this requirement will be that both parents cannot take maternity leave and APL at the same time.

Proof of eligibility

The employee taking APL will need to self-certify their eligibility and the mother will also be required to sign the same declaration to confirm when she intends to return to work giving details of her employer's name and address to enable a check to be undertaken. HR Services will undertake the check.

APL entitlement

The minimum period of APL is two weeks and the maximum 26 weeks. Eligible employees will be able to take up to 26 weeks' APL within the child's first year. It must be taken in a single continuous block. This will normally be available during the second six months of the child's life – the first 20 weeks will be preserved for the mother to take maternity leave. Employees are required to give eight weeks' notice of their intention to take APL to their line manager.

The employee does not have to start APL immediately after the mother returns to work but the APL must finish on or before the child's first birthday.

Additional Statutory Paternity Pay (ASPP)

A qualifying employee will also be able to receive ASPP provided the mother has some of her entitlement to Statutory Maternity Pay (SMP) or Maternity Allowance left at the time of their return to work. The rate of pay will be either the prescribed SPP rate or 90 per cent of the employee taking APL's normal weekly earnings, whichever is the lesser amount. Both parents will therefore together, be entitled to statutory maternity pay (SMP) and ASPP for 39 weeks.

4.0 Employment Conditions

During APL annual leave will accrue and sick leave entitlement will be earned. However, when choosing a date to commence APL employees should take into account the rules governing the carry over of annual leave from one leave year to the next.

Pension

Individual employees are advised to check to see how their pensions contributions will be affected.

Local Government Pension Scheme (LGPS)

For those employees on the LGPS, benefits will continue to accrue as if the employee was working on full pay but pension contributions will be paid on the actual pay that the employee is receiving. Any period of unpaid paternity leave will not count for pension purposes however, the employee can choose to pay back pension contributions for the unpaid period upon their return to work should they wish to do so. The cost of paying

back is based on the last rate of pay that the employee received, ignoring any increase in pay due to working a Keeping in Touch Day.

Essential Car User Status

Employees who have Essential Car User status are entitled to receive the appropriate lump sum allowance during their period of APL.

Lease Car Users

Employees with lease cars shall retain the use of the car during the APL period and continue to make contributions through the payroll system.

5.0 Returning To Work

It will be assumed the employee will return to work at the end of the paternity leave period. If they wish to return to work before this date they must notify their line manager in writing 28 days' before their new intended return date. Where the required notice is not given, line managers may postpone the early return to meet the notice period set out above.

Where an employee is unable to return on the expected day due to sickness the absence will be covered by the sickness scheme in the normal way.

An employee will be able to return to the job they were employed in before they commenced their paternity leave and on terms and conditions no less favourable than those that would have applied had they not been absent.

If a re-organisation occurs whilst the employee is on paternity leave they will be treated as if they were not absent. For example, if the employee's post becomes redundant due to a reduction in staffing levels, they are entitled to be offered a suitable alternative vacancy where one exists, provided that the work to be done is suitable and appropriate to the circumstances, and the capacity and place in which they were employed and on terms and conditions that are not substantially less favourable than those of the original post. It is unlawful for an employee to be selected for redundancy because they were on paternity leave.

5.0 Keeping in Touch Days

Employees on APL will be able to do ten days work during their APL. Working for part of a day will count as one day. The employee will be paid for the work that they undertake and the council will offset the APP for the day against any pay due.

The employee will be able to return to the job they were employed in before they commenced their APL and on terms and conditions no less favourable than those that would have applied had they not been absent.

6.0 Right to apply to work flexibly

Parents of young, or disabled, children have a statutory right to request flexible working. Eligible employees who are parents of children aged under 16, or of disabled children aged under 18, have the right to apply to work flexibly. In considering any request, the line manager has to strike an objective balance between the business and operational needs and the preferences of the individual employee and her personal circumstances. Full details of this right and the procedure to be followed have been included in the Council's Flexible Working Scheme.

Application for Additional Paternity Leave

This form should only be used when requesting Additional Paternity Leave, it should not be used for Maternity or Adoption Support Leave.

Name		Job title	
Employee post number (see payslip)			
Section/School:		Directorate:	
Child's expected date of childbirth or date of placement if adopting a child			
Relationship to child:			
Partners' declaration and details:			
Full name:			
Employer details			
Employer name:			
Employer Address:			
.....			
Employer telephone number.			
I certify that I intend to return to work with the above employer on ___/___/___			
Signed			
Print name:			
Period of paternity leave requested:		From: ___/___/___	To: ___/___/___
Employee signature:		Date: ___/___/___	
Authorised – line manager:			
Job Title:			
Date: ___/___/___			
<i>Once signed this form should be sent to the Payroll Operations Team, HR Services, 3rd floor, Gun Wharf</i>			

Diversity Impact Assessment: Screening Form

Directorate	Name of Function or Policy or Major Service Change		
Business Support Department	Paternity Leave Policy		
Officer responsible for assessment	Date of assessment	New or existing?	
Tricia Palmer, Assistant Director, Organisational Services	29 October 2010	New	
Defining what is being assessed			
1. Briefly describe the purpose and objectives	To advise employees of their statutory right to Paternity Leave and pay.		
2. Who is intended to benefit, and in what way?	Employees who wish to take time off work who have responsibility for either a child born on or after 3 April 2011. The council will benefit by enhancing its employee benefits. This is achieved by providing a more beneficial provision of Maternity Support Leave to employees when compared to the statutory entitlement of Ordinary Paternity Leave.		
3. What outcomes are wanted?	Employees are aware of their statutory entitlements to Paternity leave and pay.		
4. What factors/forces could contribute/detract from the outcomes?	Contribute Effective promotion of the policy. The policy being clear and understandable.	Detract Prospective fathers not being aware of their rights.	
5. Who are the main stakeholders?	Fathers, partners and civil partners of mothers where the child is due on or after 3 April 2011.		
6. Who implements this and who is responsible?	Assistant Director, Organisational Services		

Assessing impact		
7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial groups</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	This policy meets its statutory requirements and the statutory rights relate to any eligible employee irrespective of race. The policy has been shared with the trade unions and no adverse impacts were highlighted.	
8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	This policy meets its statutory requirements and the statutory rights relate to any eligible employee irrespective of disability. The policy has been shared with the trade unions and no adverse impacts were highlighted.	
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	This policy meets its statutory requirements and the statutory rights relate to any eligible employee irrespective of gender. The policy identifies equal rights under the eligibility to same sex couples. The policy has been shared with the trade unions and no adverse impacts were highlighted.	
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	This policy meets its statutory requirements and the statutory rights relate to any eligible employee irrespective of sexual orientation. The statutory rights explicitly identifies equal rights under the eligibility to same sex couples regardless of sexual orientation. The policy has been shared with the trade unions and no adverse impacts were highlighted.	
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	This policy meets its statutory requirements and the statutory rights relate to any eligible employee irrespective of religion or belief. The policy has been shared with the trade unions and no adverse impacts were highlighted. The policy has been shared with the trade unions and no adverse impacts were highlighted.	

12. Are there concerns there <u>could</u> be a differential impact due to people's age?		Brief statement of main issue
	NO	
What evidence exists for this?	This policy meets its statutory requirements and the statutory rights relate to any eligible employee irrespective of age, there is no age limit. The policy has been shared with the trade unions and no adverse impacts were highlighted.	
13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i>?		Brief statement of main issue
	NO	
What evidence exists for this?	This policy meets its statutory requirements and the statutory rights relate to any eligible employee irrespective of where an employee maybe during the transgender process or whether or not they are transsexual.. The policy has been shared with the trade unions and no adverse impacts were highlighted.	
14. Are there any <i>other</i> groups that would find it difficult to access/make use of the function (e.g. young parents, commuters, people with caring responsibilities or dependants, young carers, or people living in rural areas)?		If yes, which group(s)?
	NO	
What evidence exists for this?	This policy meets its statutory requirements and the statutory rights relate to any eligible employee. The policy has been shared with the trade unions and no adverse impacts were highlighted.	
15. Are there concerns there <u>could</u> have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?		Brief statement of main issue
	NO	
What evidence exists for this?	This policy meets its statutory requirements and the statutory rights relate to any eligible employee. The policy has been shared with the trade unions and no adverse impacts were highlighted.	

Conclusions & recommendation		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	YES	N/A
	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	YES	N/A
	NO	
Recommendation to proceed to a full impact assessment?		

NO	This function/ policy/ service change complies with the requirements of the legislation and there is evidence to show this is the case.	
NO, BUT ...	What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)?	Minor modifications necessary (e.g. change of 'he' to 'he or she', re-analysis of way routine statistics are reported)
YES	Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)	Tricia Palmer, Assistant Director, Organisational Services.

Action plan to make Minor modifications		
Outcome	Actions (with date of completion)	Officer responsible

Planning ahead: Reminders for the next review		
Date of next review	December 2012	
Areas to check at next review (e.g. new census information, new legislation due)	Check to see whether the policy has been used and whether employees are aware of the policy and its purpose.	
Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?		
Signed (completing officer/service manager)	Date	
Signed (service manager/Assistant Director)	Date	